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:	**2022/44/92641/E**
Site Address:	Land Adjacent, 109, Sunny Bank Road, Mirfield, WF14 0JS
Description:	Discharge conditions 9-13, 18 on previous permission 2019/94120 for erection of detached dwelling
Recommending Officer:	Olivia Roberts

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.

Kirsty Nicholls

AUTHORISED OFFICER

Date: 10-Oct-2022

Officer Report

The application seeks to discharge conditions 9-13 and 18 on previous permission 2019/94120 for erection of a detached dwelling.

The wording of the conditions and assessment is as follows:

Condition 9: Phase I Desk Study Report

9. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority. **Reason**: This is a pre-commencement condition, and the specified information is required in order to identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework.

A Phase I Geoenvironmental Risk Assessment prepared by Michael D Joyce Associates LLP dated July 2022 (ref:4226).

Assessment

The Council's Environmental Health officer has been consulted during the course of the application. They have reviewed the submitted document have noted how on Page 20, the report recommends an intrusive investigation, including in-situ ground gas monitoring due to the close proximity of the former landfill site. No recommendations have however been made in terms of intrusive investigations.

The Environment Health officer has noted that 'Any ground gas monitoring undertaken must be in accordance with the idealised monitoring period and frequency detailed in Table 5.5a and 5.5b in CIRIA C665 guidance. Any future Phase 2 Report will not be considered acceptable unless the whole of the gas monitoring has been completed in accordance with current guidance. A report detailing only part of the gas monitoring will not be acceptable. In addition, all contaminated reports shall be prepared in accordance with guidance in:

- *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

Notwithstanding this, the findings of the report are accepted and the condition can therefore be discharged.

Conditions 10-13: Contaminated Land

Condition 10: Phase II Site Investigations

10. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to Condition 9, 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: This is a pre-commencement condition, and the specified information is required in order to identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework.

Condition 11: Remediation Strategy

11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to Condition 10, 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: This is a pre-commencement condition, and the specified information is required in order to identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework.

Condition 12: Remediation

12. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 11. 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 Report] is identified or encountered on site, all groundworks 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 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: This is a pre-commencement condition, and the specified information is required in order to identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework.

Condition 13: Validation Report

13. 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 have been completed for (that part of) the site 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. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.
Reason: This is a pre-commencement condition, and the specified information is required in order to identify and remove unacceptable risks to human health and the environment and in accordance with Policy LP53 of the Kirklees Local Plan and the Chapter 15 of the National Planning Policy Framework.

A Phase I Geoenvironmental Risk Assessment prepared by Michael D Joyce Associates LLP dated July 2022 (ref:4226). No further information specific to Conditions 10-13 have been submitted.

<u>Assessment</u>

The Environmental Health officer has commented that no reports appear to have been submitted to satisfy the requirements of conditions 10-13. As such, these conditions cannot be discharged at this point in time.

Condition 18: Boundary Treatment

18. Notwithstanding the submitted plans and information, before development commences on the superstructure of the dwelling hereby approved, full details

of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained. **Reason**: In the interests of visual amenity and to preserve the character and openness of the adjacent Green Belt land in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 and 13 of the National Planning Policy Framework.

A drawing reference 19/202 Rev A has been submitted showing the details and location of the proposed boundary treatment. The treatment would comprise 2m high timber posts and vertical boarding. The locations of the fencing are indicated on the plan.

Assessment

The submitted details have been reviewed and are considered to satisfy the requirements of the condition, with an acceptable impact on visual amenity. Whilst 2m fencing is proposed, there is existing close boarded timber fencing at the site as existing, including to the front elevation of the proposed dwelling. The use of this type of boundary treatment is therefore considered acceptable in this case. Whilst the fencing would run next to the proposed parking, the relationship between the two would be angled. Given the nature of the access road, which serves the proposed dwelling and four existing dwellings, it is not considered that there would be a harmful impact on highway safety. The proposed details are considered acceptable. The condition requires the development to be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Recommendation: Split Decision (Discharge conditions 9 and 18. Conditions 10, 11, 12 and 13 cannot be discharged at the time of writing).

Decision Notice Text

Condition 9: Phase I Desk Study Report

You have submitted a Phase I Geoenvironmental Risk Assessment prepared by Michael D Joyce Associates LLP dated July 2022 (ref:4226). Whilst no recommendation have been made in terms of intrusive investigations, the findings of the report are accepted and the condition can therefore be discharged.

Conditions 10-13: Contaminated Land

You have submitted a Phase I Geoenvironmental Risk Assessment prepared by Michael D Joyce Associates LLP dated July 2022 (ref:4226). No further information specific to Conditions 10-13 has been submitted. No reports have been submitted to satisfy the requirements of these conditions, despite intrusive site investigations being recommended by the Phase I report. Conditions 10-13 cannot therefore be discharged at the time of writing.

Condition 18: Boundary Treatment

You have submitted drawing reference 19/202 Rev A showing the details and location of the proposed boundary treatment. The treatment would comprise 2m high timber posts and vertical boarding. The locations of the fencing are indicated on the plan. The proposed boundary treatment is considered acceptable for the purposes of the condition. The condition requires the development to be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Should the required information in relation to conditions 10-13 be submitted within 28 days of the issue of this letter, it can be submitted for consideration using the same reference number 2022/92641.

Report Dated: 06/10/2022