# 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: | **2022/44/92744/W** |
| Site Address: | Land Off, Burn Road, Birchencliffe, Huddersfield, HD3 3BT |
| Description: | Discharge of conditions 6 (access design), 13 (temporary drainage), 14 (drainage scheme), 15 (discharge rate), 17 (internal estate roads), 19 (footway design), 20 (noise), 22 (Construction Environmental Management Plan - biodiversity), 23 (construction traffic) and 25 (dust suppression) of previous outline permission 2018/91838 for erection of residential development |
| Recommending Officer: | Katie Chew |

**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: 03/02/2026**

**Application:** 2022/92744

**Application Site:** Land Off, Burn Road, Birchencliffe, Huddersfield, HD3 3BT.

**Proposal:** Discharge of conditions 6 (access design), 13 (temporary drainage), 14 (drainage scheme), 15 (discharge rate), 17 (internal estate roads), 19 (footway design), 20 (noise), 22 (Construction Environmental Management Plan - biodiversity), 23 (construction traffic) and 25 (dust suppression) of previous outline permission 2018/91838 for erection of residential development.

**Assessment:**

Condition 6: Access Design

> *6. Notwithstanding the submitted details, a detailed design for the construction of the approved point of access on Burn Road that is based on drawing number 2529 - 03 Rev B shall be submitted to and approved in writing by the Local Planning Authority before development commences. The design details shall include a Stage 1 Road Safety Audit and Designer's Response for the junction. The access shall be constructed in accordance with the approved details and retained thereafter.*
> ***Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that highway matters are addressed at an appropriate stage.*

Condition 17: Internal Estate Roads

> *17. No development shall take place until a scheme detailing the proposed internal adoptable estate roads has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the proposed phasing of works, 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. The scheme shall be completed in accordance with the details so approved and retained thereafter.*
> ***Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that highway matters are addressed at an appropriate stage.*

Condition 19: Footway Design

> *19. Construction details for the 2-metre-wide footway to the site frontage pursuant to condition 18 shall be submitted to and approved in writing by the Local Planning Authority before the footway is installed. The footway shall be provided in accordance with the approved details before any dwelling on the site is first occupied and shall thereafter be retained.*

***Reason:*** *In the interests of highway safety and to allow for safe pedestrian access to and from the site and to accord with Policy LP21 of the Kirklees Local Plan.*

The applicant has submitted the following document pursuant to Conditions 6, 17 and 19:

- S38 Highway Layout, Drawing No. 1298-902 Rev P2, received 01/08/2025.
- S38 Highway Contour Plan, Drawing No. 1298-903 Rev P2 received 01/08/2025.
- Hard Paving Specifications For Private Areas, Drawing No. 1298-904 Rev P2, received 01/08/2025.
- Long Sections Sheet 1 of 3, Drawing No. 1298-905 Rev P1, received 28/05/2025.
- Long Sections Sheet 2 of 3, Drawing No. 1298-906 Rev P1, received 15/10/2025.
- Long Sections Sheet 3 of 3, Drawing No. 1298-907 Rev P1, received 15/10/2025.
- Stage 1 Road Safety Audit Access Proposals, Ref: MCA.HYD.025 Rev 1.0, authored by Matt Chamerlain Associates Ltd, dated 05/08/2022, received 15/08/2022.
- Email dated 05/04/2023 – Designers response to RSA, RE: PC 21-94719 Land Off Burn Road, received 15/10/2025.
- Gullies Permitted Design Group 1, Drawing No. HD/SD/05/20B, received 27/05/2025.
- Local Residential Street/Traditional Estate Road [Type B] with Footway, Drawing No. HD-SD-07-12A, received 27/05/2025.
- Shared Surface Street [Type C]/Mews Court (Block Paved), Drawing No. HD-SD-07-13A, received 27/05/2025.
- Shared Surface Street [Type C]/Mews Court (Asphalt Paved), Drawing No. HD-SD-07-14A, received 27/05/2025.
- Junction/Pavement and Kerb Layout with Tie-in Plan Detail, Drawing No. HD-SD-07-15A, received 27/05/2025.
- Hard Margin Detail Cross Section A-A, Drawing No. HD-SD-07-16A, received 27/05/2025.
- Ramp Detail Cross Section B-B, Drawing No. HD-SD-07-17A, received 27/05/2025.
- Carriageway Tie-in Section C-C, Drawing No. HD-SD-07-18A, received 27/05/2025.
- Footway Tie-in Detail Section D-D, Drawing No. HD/SD/07/19A, received 27/05/2025.
- Textured Footway Surfaces at Uncontrolled Pedestrian Crossings, Drawing No. HD/SD/11/11B, received 27/05/2025.
- Proposed Highway Retaining Wall, Drawing No. H-01, Rev C, received 28/05/2025.

- Proposed Retaining Wall Sections, Drawing No. H-02, Rev B, received 28/05/2025.
- Drawing No. 1354-P-1300-001, received 04/12/2025.
- S38 Lighting Design (100% Dimming) Area 1, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (75% Dimming) Area 1, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (50% Dimming) Area 1, Outdoor Lighting Report, Project 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (100% Dimming) Area 2, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (75% Dimming) Area 2, Outdoor Lighting Report, Project No: 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (50% Dimming) Area 2, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- Variable Power Switch Regime Spreadsheet for Multi-Level Dimming Devices, received 04/12/2025.

The council's Section 38 team is considering these matters. As an assessment of these conditions is ongoing and as officers are working with the applicant on this, conditions 6, 17, and 19 must remain undischarged until formally revisited in the near future.

Condition 13: Temporary Drainage

> *13. Development shall not commence until a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been 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 how flooding of adjacent land is prevented.*
> *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:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.*

The applicant has submitted the following documents pursuant to condition 13:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- Drainage Layout, Drawing No. 1298-900, Rev P6, received 01/08/2025.
- Temporary Drainage Works – Phase I (Site Clearance), received 24/03/2025.

The condition has been reviewed by KC Lead Local Flood Authority (LLFA) who have provided several comments over the course of the application, received 26/09/2022, 15/04/2025 and 08/12/2025.

KC LLFA comments received 15/04/2025 state:

> *The submission of risk assessments and method statements in the Environmental Management Plan submitted by Wiggett Homes dated March 2025, and accompanying plans are accepted by the LLFA.*
>
> *We recommend that this condition can be discharged.*

*KC LLFA 08/12/2025:*

> *'There are no additional submissions that alter the last comments from the LLFA. Condition 13 has already been recommended for discharge.*
>
> *Conditions 14 and 14 has the outstanding comment.*
>
> *THIS APPLICATION DOES NOT HAVE CONSENT TO ALTER THE WATERCOURSES UNTIL CROSS SECTIONS AND PLANS OF THE BOX CULVERT AND AN APPROPRIATELY DESIGNED TRASH SCREEN IS SUBMITTED. THIS ALSO REQUIRES A MANAGEMENT PLAN FOR THE WATERCOURSE GOING FORWARD.*
>
> *We are now satisfied with foul and surface water design and maintenance plans for the surface water aspect of the development'.*
>
> Given the above assessment, it is recommended that the submitted details be approved.
>
> However, it is further recommended that the applicant be reminded that the condition has the below ongoing requirement, which must be adhered to, to ensure ongoing compliance with the condition:
>
> *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.*

Condition 14: Drainage Scheme and Condition 15: Discharge Rate

> *14. A scheme detailing separate foul and surface water drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, existing drainage to be maintained/diverted/abandoned) shall be submitted to and approved in writing by the Local Planning Authority before development commences. None of the dwellings 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 to which the dwellings relate. The drainage scheme so approved shall thereafter be retained.*
> ***Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are addressed at an appropriate stage of the development.*
>
> *15. A scheme restricting the rate of surface water discharge from the site shall be submitted to and approved in writing by the Local Planning Authority before development commences. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100 year storm events, with an appropriate allowance for climate change (30%). The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.*
> ***Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework. This is a pre-commencement condition to ensure that such matters are addressed at an appropriate stage of the development.*

The applicant has submitted the following documents pursuant to Conditions 14 and 15:

- 100% Blockage Comparison, Drawing No. SHF.1935.001.HY.D.001.A, received 23/03/2023.
- Hydraulic Modelling Exercise Technical Note, ref: SHF.1935.001.HY.R.003.A authored by enzygo, dated November 2021, received 15/08/2022.
- Hydraulic Modelling Exercise Technical Note, ref: SHF.1935.001.HY.R.004.A authored by enzygo, dated 08/07/2022, received 23/03/2023.

- Post Development Areas, Drawing No. 1298-701, Rev P5, received 15/10/2025.
- Overland Flood Routes and Emergency Access and Egress Routes, Drawing No. 1298-702 Rev P5, received 01/08/2025.
- Drainage Layout, Drawing No. 1298-900 Rev P6, received 01/08/2025.
- Section 104 Drainage Layout, Drawing no. 1298-901, Rev P2, received 01/08/2025.
- Drainage Maintenance Plan, Ref: Version 1 – 1-7-25, received 11/07/2025.
- Long Sections Sheet 1 of 3, Drawing No. 1298-905 Rev P1, received 28/05/2025.
- Long Sections Sheet 2 of 3, Drawing No. 1298-906 Rev P1, received 15/10/2025.
- Long Sections Sheet 3 of 3, Drawing No. 1298-907 Rev P1, received 15/10/2025.
- S104 Manhole Details Sheet 1 of 2, Drawing No. 1298-908 Rev P1, received 28/05/2025.
- S104 Manhole Details Sheet 2 of 2, Drawing No. 1298-909 Rev P1, received 28/05/2025.
- S104 Control Manhole Details, Drawing No. 1298-910 Rev P1, received 28/05/2025.
- Surface Water Outfall Details, Drawing No. 1298-911 Rev P1, received 28/05/2025.
- Proposed Highway Retaining Wall, Drawing No. H-01, Rev C, received 28/05/2025.
- Proposed Retaining Wall Sections, Drawing No. H-02, Rev B, received 28/05/2025.
- Surface Water Drainage Plots 1 to 13, Rev D, authored by Micro Drainage, dated 30/01/2024, received 28/05/2025.
- Surface Water Drainage Plots 14 to 25, Rev D, authored by Micro Drainage, dated 30/01/2024, received 28/05/2025.
- LR22E -1 3000 Headwall GMS LBO Cranked Grating, Working Platform & Access Hatch Kee Klamp handrail, Ladder & Gate, Drawing No. ALT-220725-204-01 A, received 01/08/2025.

The condition has been reviewed by KC Lead Local Flood Authority (LLFA), who have provided several responses on the application:

*KC LLFA 19/09/2022:*

> *Previous comments for the site of around 1 hectare said the LLFA could sanction 5l/s connection to watercourse. The latest design promoted 7 litres a second from two outfalls.*
>
> *Attenuation part consists of crate storage on a private housing estate. This is not recommended unless a technical approval of a particular*

*manufacturer's design is received from Yorkshire Water under a section 104 (Water Industry Act 1991) agreement process. This is due to inspection, sedimentation problems, and absence of company guarantees in conjunction with the LPA's obligation to secure maintenance and management for the lifetime of the site.*

*A contributing area map to each culvert leg would be useful. This is usually available due to section 104 applications.*

*Two sizes of culvert are promoted in a flood risk assessment, one of which creates few or no problems even with a total blockage scenario. It is not clear what is selected on site drawings. Full plans of the culvert proposal including trash screen is required. A screen may not be required for a 2.0m x 2.0m culvert but a risk assessment involving the Principal Designer is expected in approving the design. Plans of cross sections of any eventually approved attenuation is also required along with a bespoke maintenance and management plan.*

*There are issues with the microdrainage submissions for attenuation design. The depth versus area of storage should have a zero value, 1mm above the depth of the tank, not 100mm which will distort design.*

*Flood routing for the access road into the area where the southern attenuation tank is located in has arrows converse to plot levels shown. An analysis of this an exceedance event will involve this road and the tanks themselves, a clear picture of the weir points in relation to surrounding area and retaining walls and other structures will be required.*

Following receipt of the above comments, the applicant submitted drawings for Site Drainage Arrangements during site clearance (stage 1) and during construction (stage 2). KC LLFA assessed these plans and provided the following comments.

*KC LLFA 11/04/2025:*

*Whilst we recognise that submissions for the reserved matters application 2021/94719 including blockage scenarios and flood routing drawings established that the applicant had 'made space for water' to broadly satisfy constraints on a layout design, the conditions applied to the initial application require submission specific to drainage design and attenuation design in more detail. Please refer to our previous comments on this application:*

- *Hardstanding contributing areas plans that can be referenced to a simulation model.*
- *Final foul and surface water drainage drawings.*
- *Final watercourse drawings including a final decision on design as two different sized culverts*
- *were promoted.*

- *Risk assessment and potential design of a trash screen in line with modern standards.*
- *Up to date design and simulation models with errors in the tank design eliminated.*

*Rules on crate storage have been relaxed by the LPA since these comments, but the LLFA still recommend alternative methods due to the longevity of the product.*

*We can confirm that a total of 7l/s is acceptable (2 x 3.5l/s outfalls).*

*Finalised plans and cross sections of attenuations tanks will be required.*

*Bespoke maintenance plans are required for the period between construction and adoption as stated in the condition. This must again be in line with the principles of CDM regulations 2015 overseen by the Principal Designer, i.e. a hand over document with risk assessments leading to a method statement (schedule and itinerary of tasks), including access to and into the tanks where appropriate and plant used for maintenance. Please ensure that any removal of the flow control device has the replacement of the neoprene seal at that point.*

*We do NOT recommend that these conditions be discharged at this moment in time.*

Following receipt of the above comments, the applicant provided updated and additional plans including drainage layout, hard paving, flood routes, outfall details and drainage calculations. KC LLFA assessed these plans and provided the following response.

*KC LLFA 27/07/2025:*

*Whilst we recognise that submissions for the reserved matters application 2021/94719 including blockage scenarios and flood routing drawings established that the applicant had 'made space for water' to broadly satisfy constraints on a layout design, the conditions applied to the initial application*
*require submission specific to drainage design and attenuation design in more detail.*

- *A contributing areas plan has been submitted. This mentions permeable pavements which if practical should mean that the whole site be drained by soakaways. We do not believe this to be feasible with a watercourse flowing through the site. All references to permeable paving should be removed. It is noted that these areas are taken as impermeable drained areas in the contributing areas plan.*

- *Final foul and surface water drainage drawings have been submitted and accepted. This appears consistent with simulation modelling.*
- *A 1500mmx1000mm boxed culvert is to be used for the watercourse. A management company should look after riparian rights and responsibilities within the site.*
- *Risk assessment and potential design of a trash screen in line with modern standards has not been slipped. A full detail is required with 150mm spacings and 150mm raised off bed level. An angled screen is required with a horizontal platform of 1-2m. The design should be completed with maintenance access in made as in accordance with CDM Regs 2015.*

*Flood routing is accepted.*

- *Up to date design and simulation models now supplied with errors in the tank design eliminated.*

*Rules on crate storage have been relaxed by the LPA since these comments, but the LLFA still recommend alternative methods due to the longevity of the product. We can confirm that a total of 7l/s is acceptable (2 x 3.5l/s outfalls). Finalised plans and cross sections of attenuations tanks will be required.*

*Bespoke maintenance plans are required for the period between construction and adoption as stated in the condition for surface water drainage. This must again be in line with the principles of CDM regulations 2015 overseen by the Principal Designer, i.e. a hand over document with risk assessments leading to a method statement (schedule and itinerary of tasks), including access to and into the tanks where appropriate and plant used for maintenance. Please ensure that any removal of the flow control device has the replacement of the neoprene seal at that point.*

*We do NOT recommend that these conditions be discharged at this moment in time.*

Following receipt of the above comments, the applicant submitted a drainage maintenance plan, updated flood routes, drainage layout and post development drawings. This has been reviewed by KC LFFA, with their response provided below.

*KC LLFA 03/09/2025:*

*This application does not have consent to alter watercourses until cross sections and plans of the box culvert, and an appropriately designed trash screen is submitted. this also requires a management plan for the watercourse going forward.*

*We are now satisfied with foul and surface water design and maintenance plans for the site.*

*KC LLFA 08/12/2025:*

*'There are no additional submissions that alter the last comments from the LLFA. Condition 13 has already been recommended for discharge.*

*Conditions 14 and 14 has the outstanding comment.*

*THIS APPLICATION DOES NOT HAVE CONSENT TO ALTER THE WATERCOURSES UNTIL CROSS SECTIONS AND PLANS OF THE BOX CULVERT AND AN APPROPRIATELY DESIGNED TRASH SCREEN IS SUBMITTED. THIS ALSO REQUIRES A MANAGEMENT PLAN FOR THE WATERCOURSE GOING FORWARD.*

*We are now satisfied with foul and surface water design and maintenance plans for the surface water aspect of the development'.*

Given the above assessed, it is recommended that an approval pursuant to conditions 14 and 15 be issued. However, it is acknowledged that both conditions 14 and 15 have ongoing requirements which prevent full discharge at this time. A note setting out these ongoing requirements and the note identified above by KC LLFA is recommended to be included within the decision notice.

Condition 20: Noise

*20. A report specifying the measures to be taken to protect the development from road traffic noise shall be submitted to and approved in writing by the Local Planning Authority before works to construct the superstructure of the 2nd dwelling commence. The report shall: (i) Determine the existing noise climate (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required). The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.*
***Reason:** In the interests of amenity of the occupiers of the development and to accord with the requirements of Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

The applicant has submitted the following document pursuant to Condition 20:

- Noise Impact Assessment, ref: J003824-5593-TD-01, authored by Philip Dunbavin Acoustics Ltd, dated 26/05/22, received 15/08/2022.

The condition has been reviewed by KC Environmental Health (ENVH) who have provided comments over the course of the application, received 04/10/2022 and 29/11/2022.

KC ENVH comments received 04/10/2022 state:

> *'The applicant has submitted a Noise Impact Assessment authored by Philip Dunbavin Acoustics Ltd dated 26 May 2022 Ref J003824-5593-TD-01. Section 2 describes the site stating the site is located within an urban area and is predominantly surrounded by existing residential properties to the East and South site boundaries. The north site boundary is a vacant field. There is a Co-op garage and Carwash forecourt located circa 11m from the nearest point of the west site boundary. However in the context of the noise impact assessment for the proposed development it should be noted that there is a steep slope between the garage forecourt and the site boundary, the garage forecourt being circa 10m elevated from the proposed site for development. Due to the slope there is no direct line of site from the Co-op garage or forecourt to the proposed development. It was noted while attending site that the Carwash Jet was booths located the top of the slope at the edge of the Co-op garage forecourt and are partially visible from site boundary.*
>
> *An ambient noise survey was carried out between 1221hrs on Thursday the 12th of May and 1225hrs on Friday the 13th May 2022 from the following 2 monitoring positions –*
>
> - *N1 adjacent to East Site Boundary, Burn Road*
> - *N2 adjacent to West Site Boundary, Garage Forecourt*
>
> *A summary of the results is shown in table 4. The report states the ambient noise climate throughout the site consisted of noise egress from Halifax Road to the west of site, birdsong and occasion traffic sources to Burn Road. additionally some construction related noise was audible on occasion from the construction to the new residential development to the east of site. Most notably this included noise from construction related vehicles utilising Burn Road for access. It was noted that at the west site boundary (position N2) that noise from the garage forecourt was not audible or otherwise was indistinguishable from traffic to Halifax road (Halifax road located immediately adjacent and to the west side of the garage).*
>
> *Based upon typical building envelope construction, A specification for the glazing is given to ensure the development meets with the internal requirements of BS8233 for both daytime and night time and the calculated internal levels are shown in table 8. The external levels meet with BS8233 requirements and no mitigation is required. It is noted in the drawing from HNA Architects dated 26 October 2021 Ref 1354/P/001 that a 1.5m to 2.1m high boundary fence will be installed which will afford some external attenuation.*

*The report proceeds to consider the activities associated with the Co-op garage, commenting on the elevated location in relation to the development site and how this reduces the impact of any noise associated with the typical use of the facilities offered. Due to the slope there is no direct line of site from the Co-op garage or forecourt to the proposed development although the jetwash booths located to the top of the slope at the edge of the Co-op garage forecourt are partially visible from the site boundary. Comment is made on observed activity and the lack of impact noted upon the acoustic environment during the survey and that no distinguishable noise from the garage was audible above noise egress from Halifax Road immediately to the west of the garage during the time of the survey. This reasoning is acknowledged and accepted'.*

Based on the above, KC Environmental Health advise that the submitted details are acceptable, but that the condition would not be discharged until the mitigation measures contained within the submitted Noise Impact Assessment are implemented.

Given this assessment, it is recommended that the submitted details be approved.

However, it is further recommended that the applicant be reminded that the condition has the following ongoing requirement, which must be adhered to, to ensure ongoing compliance with the condition:

*The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.*

Condition 22: Construction Environmental Management Plan (Biodiversity)

*22. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning authority. The CEMP (Biodiversity) shall include the following:*

*a. Risk assessment of potentially damaging construction activities; in respect of bats, birds, badgers, amphibians and invasive plants.*

*b. Identification of "biodiversity protection zones".*

*c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*

*d. The location and timing of sensitive works to avoid harm to biodiversity features.*

*e. The times during construction when specialist ecologists need to be present on site to oversee works.*

*f. Responsible persons and lines of communication.*

*g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*

*h. Use of protective fences, exclusion barriers and warning signs.*

*The approved CEMP shall be adhered to and implemented throughout the construction period.*
***Reason:** To ensure impacts to biodiversity as a result of construction activities are avoided or minimised. This is to accord with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning policy Framework. This condition is pre-commencement to ensure that mitigation measures are suitable in relation to construction activities.*

The applicant has submitted the following document pursuant to Condition 22:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.

The component parts of the condition are reviewed individually, as follows:

*Risk Assessment of potentially damaging construction activities in respect of bats, birds, badgers, amphibians and invasive plants*

Within the submitted CEMP section 4.05 relates to protected species and notes that the site would not provide a suitable habitat for the Great Crested Newt, or the water vole, and that there is no evidence of badger activity on the site.

It is noted that nearby trees could provide potential roosting features for bats – one Ash tree to the north-west in the off-site wood areas, and one Sycamore tree south of the stream. The site is also suitable for nesting birds, within the woodland, scattered trees, scrub and structures.

In terms of invasive species, two invasive, non-native species were found within the site boundaries, and one was found adjacent to the site boundaries. Extensive stands of Himalayan Balsam were found throughout the site. Japanese Knotweed is located to the west of the site along the banks of stream. Variegated Yellow Archangel Lamiastrum galeobdolon subsp. Argentatum was also found adjacent to the south-east border of the site.

Taking the above into account, the CEMP notes that construction activities could:

- Lead to the spread of invasive species throughout the site and adjacent sites.
- Potentially disturb bat habitats.
- Disturb nesting birds.
- Harm, distress, trap or poison passing wildlife through the site.
- Directly or indirectly pollute the watercourse.
- Damage or pollute retained trees.

Finally, Section 7 of the CEMP sets out Risk Assessment and Control Measures on pages 8 to 27, for risks relating to:

- Diesel store for generator
- COSHH substances on site
- Wheel wash activities
- Contaminated run off water from stripped site
- Pumping water from excavations
- Concrete foundations
- Dust and run off from stockpiled spoil mounds
- Surface water sewer construction and outfall to water course
- Silt and surface water contaminants washed into surface water drainage
- Construction of new tarmac estate road
- Cement storage and use
- Vandalism and miss use of site equipment
- Wind blown
- Construction of highway retaining walls
- Site clearance – invasive species
- Tree felling – nesting birds
- Installation of box culvert
- Site establishment
- Construction activities in the vicinity of retained trees
- Open excavations

The above details address the relevant requirement of condition 22.

*Identification of "biodiversity protection zones"*

Appendix A of the submitted CEMP provides an Ecological Protection Plan. This plan is deemed to be acceptable.

*Practical measures to avoid or reduce impacts during construction*

WCL are to subcontract the removal of the Japanese Knotweed on site to a specialist contractor. The removal work is to be undertaken ahead of the main site clearance to eliminate the risk of spreading the invasive species. The contractor is to follow RAMS procedures.

*The location and timing of sensitive works to avoid harm to biodiversity features*

This has been discussed above and relates to Section 7 of the submitted CEMP, which provides details of the risks and when works would be undertaken to avoid further impacts.

The above details are considered acceptable.

*Responsible persons and lines of communication*

Within section 7.0 of the submitted CEMP it is noted that in delivering the measures identified within the CEMP the following roles will be undertaken:

- Contract Manager: Oversees CEMP implementation and ensures compliance.
- Construction Site Manager: Inducts all operatives to site and ensures daily adherence to environmental protocols on-site.
- Workers and Contractors: Attend site duction and follows environmental guidelines and report incidents.
- Regulatory Authorities: Monitor compliance with legal requirements.

The submitted CEMP sets out that where possible works will be undertaken outside of the March to September nesting season. If this is unavoidable, a qualified ecologist will survey the trees prior to felling to identify nests and whether they are live. Where the ecologist confirms that no nests are present, the tree will be felled within 24 hours.

The above details are considered to be acceptable.

*Use of protective fences, exclusion barriers and warning signs*

Appendix A of the CEMP shows an Ecological Protection Plan, this outlines Tree Protection Zones, Japanese Knotweed exclusion areas, Silt Trap fencing and perimeter fencing.

Sandbags and silt fencing are to be installed to the side of the stream embankment to prevent soil particles from entering the watercourse. Where silt fencing is not practical, bunds, drainage channels and sediment ponds will be utilised. The sediment pond is to be cleaned out frequently to ensure effective use.

Furthermore, perimeter fencing is to be installed around the site with fence wrap, to prevent materials and dust spreading beyond the site boundary. HERAS fencing is to be utilised around the perimeter of the identified Japanese Knotweed stand.

The above details are considered to be acceptable.

*Summary regarding condition 22*

The condition has been reviewed by KC Ecology who have provided comments over the course of the application, received 06/06/2022 and 01/04/2025.

Comments dated 06/06/2022:

> *A Construction Environment Management Plan (CEMP) has been submitted with the application. In its current form, the CEMP does not provide the level of detail considered sufficient to discharge condition 22. The submitted CEMP does not provide the required level of information as detailed within condition 22 to ensure that impacts to biodiversity as a result of construction activities are avoided or minimised.*
> *Required actions:*
> *• A new CEMP should be completed to ensure that all the information contained within condition 22 are met, and impacts on biodiversity are minimised.*

Following receipt of the above comments, a revised CEMP was received – Burn Road Construction Environmental Management Plan, dated 05/03/2025. KC Ecology confirmed on 01/04/2025 that:

*This document is reasonable and acceptable from an ecological perspective.*

The condition has also been reviewed by KC Environmental Health who provided comments over the course of the application, received 04/10/2022 and 29/11/2022. KC Environmental Health accept the Construction Environmental Management Plan authored by Wigget Construction/Homes. The submitted CEMP details the scope of the works and the measures to be taken to ensure impacts to biodiversity as a result of construction activities are avoided or minimised. Environmental Health and KC Ecology note that it addresses the operational activities and meets the requirements of the above condition.

Given the above assessment it is recommended that the details submitted pursuant to condition 22 be approved.

However, condition 22 has an ongoing requirement and shall remain in place for the whole of the period of the construction phase. Therefore, the condition cannot be fully discharged until all construction work at the site is completed, and it is recommended that a note setting this out be included in the decision notice.

KC Environmental Health have requested that a note regarding their powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites be included in the decision notice.

<u>Condition 23: Construction Traffic</u>

> *23. A construction management plan for the means of access to the site for construction traffic shall be submitted to and approved in writing by*

*the Local Planning Authority before development commences. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and a scheme to demonstrate how the highway will be kept clear of mud/debris. All construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.*
***Reason:** In the interests of highway safety and amenity and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.*

The applicant has submitted the following documents pursuant to Condition 23:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.
- Transport route to site for deliveries, received 15/08/2022.

This condition has been reviewed by KC Highways Development Management (HDM) who have provided the following response in their consultation dated 05/09/2022:

> *'The applicants have provided a plan showing the route to site for deliveries from A629 Halifax Road via Yew Tree Road and Burn Road, the proposed site layout (annotated to show details of site access, storage and the location of a wheel washing area) and a Construction Environmental Management Plan (CEMP). The CEMP states that there will be 10 parking spaces on site, but no details are provided, and this condition should not therefore be discharged'.*

Following receipt of the above comments the applicant submitted a revised site layout plan (detailed above). HDM provided final comments on 25/03/2025 stating:

> *'The CEMP stated that there were 10 parking spaces on site, but no details were provided.*
>
> *The revised site layout plan (Burns Road – Site Step – Rev B) shows 10 spaces and HDM have therefore no objection to the discharge of this condition'.*

Based on the above, HDM advise that the submitted details are acceptable for the purposes of condition 23. Given this assessment, it is recommended that the details submitted pursuant to condition 23 be approved.

However, condition 23 has an ongoing requirement and shall remain in place for the whole of the period of the construction phase. Therefore, it cannot be fully discharged until all construction work at the site is completed, and it is recommended that a note setting this out be included in the decision notice.

Condition 25: Dust Suppression

> *25. A scheme specifying the measures to be taken for the suppression of dust arising from development operations shall be submitted to and approved in writing by the Local Planning Authority before development commences. All construction arrangements shall be carried out in accordance with the approved dust suppression scheme.*
> ***Reason:** In the interests of amenity and to accord with Policy LP24 of the Kirklees Local Plan.*

The applicant has submitted the following documents pursuant to Condition 25:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.

The submitted details have been reviewed and accepted by KC Environmental Health (ENVH) in comments dated 29/11/2022 and 04/10/2022. An assessment of the submitted document is outlined below.

Within the submitted Construction Environmental Management Plan, it states that in terms of fugitive dust mitigation measures a stakeholder communications plan is to be developed and implemented and shall include community engagement before works commence on site. This will display the name and contact details of person(s) accountable for air quality and dust issues on the site boundary, alongside the head or regional office contact information. A Dust Management Plan will also be developed and implemented and may include measures to control other emissions, approved by the Local Authority.

WCL have expressed within the CEMP a commitment to operating the site in accordance with current best practices outlined in IAQM document “Guidance on the assessment of dust from demolition and construction”. By implementing best practice measures to control and mitigate the generation and transportation of dust it is considered that dust emissions from the site can be adequately controlled.

The Site Manager is the designated individual responsible for ensuring that the Dust Management Plan is enforced on site and its contents are communicated to all employees and contractors working on the site. The Site Manager will record all dust and air quality complaints in a log and record any exceptional incidents that cause dust/or air emissions, and the action taken to resolve this situation.

Regular meetings are to be held with other high-risk construction sites within 500m of the site boundary, to ensure that plans are co-ordinated and dust and particulate matter emissions are minimised. Where receptors are nearby the Site Manager will undertake daily on-site and off-site inspections to monitor

dust, record inspection results and log any issues. They will also monitor compliance.

In terms of preparing and maintaining site activities, the Site Manager will ensure that machinery and dust causing activities are located away from receptors, putting measures in place to enclose the site as far as reasonably practicable to mitigate the effect of specific operations that are known to generate a high potential for dust production. Any materials that have the potential to produce dust will be removed from the site as soon as possible, and during dry conditions an appropriate dust suppression technique will be employed on the site, working areas and stockpiles. Should dust emissions be generated in extremely dry periods then suppression will be controlled by mobile spray units.

Furthermore, dust suppressant or suitable local extract will be used where required when cutting, and an adequate water supply with be available on site for effective dust/particulate matter suppression/mitigation. Enclosed chutes and covered skips will be used where disposal works are at high level or close to public activities. No bonfires and burning of waste materials will be allowed. In terms of vehicles, speed restrictions are to be imposed, with internal unsurfaced roads being well maintained.

Finally, a mechanical road sweeper will also be used on the public highway in the immediate vicinity of the site when dust is at a level which constitutes a nuisance potential. The frequency of use will be determined by site management. Wheel washing will also be utilised.

ENVH accept the Dust Management Plan within the Construction Environmental Management Plan (CEMP) by Wiggett Construction/Homes and the document is considered to suitably meet the requirements of condition 25.

Given the above assessment it is recommended that the details submitted pursuant to condition 25 be approved. However, condition 25 has an ongoing requirement that all construction arrangements are to be carried out in accordance with the approved dust suppression scheme. Therefore, the condition cannot be fully discharged until all construction work at the site is completed, and it is recommended that a note setting this out be included in the decision notice.

**Recommendation:** Split decision.

**Report Dated:** 30/01/2026

## Recommended Decision Notice Text

**Conditions 6 (Access Design), 17 (Internal Estate Roads) and 19 (Footway Design)**

Pursuant to conditions 6, 17, and 19 you have submitted:

- S38 Highway Layout, Drawing No. 1298-902 Rev P2, received 01/08/2025.
- S38 Highway Contour Plan, Drawing No. 1298-903 Rev P2 received 01/08/2025.
- Hard Paving Specifications For Private Areas, Drawing No. 1298-904 Rev P2, received 01/08/2025.
- Long Sections Sheet 1 of 3, Drawing No. 1298-905 Rev P1, received 28/05/2025.
- Long Sections Sheet 2 of 3, Drawing No. 1298-906 Rev P1, received 15/10/2025.
- Long Sections Sheet 3 of 3, Drawing No. 1298-907 Rev P1, received 15/10/2025.
- Stage 1 Road Safety Audit Access Proposals, Ref: MCA.HYD.025 Rev 1.0, authored by Matt Chamerlain Associates Ltd, dated 05/08/2022, received 15/08/2022.
- Email dated 05/04/2023 - Designers response to RSA, RE: PC 21-94719 Land Off Burn Road, received 15/10/2025.
- Gullies Permitted Design Group 1, Drawing No. HD/SD/05/20B, received 27/05/2025.
- Local Residential Street/Traditional Estate Road [Type B] with Footway, Drawing No. HD-SD-07-12A, received 27/05/2025.
- Shared Surface Street [Type C]/Mews Court (Block Paved), Drawing No. HD-SD-07-13A, received 27/05/2025.
- Shared Surface Street [Type C]/Mews Court (Asphalt Paved), Drawing No. HD-SD-07-14A, received 27/05/2025.
- Junction/Pavement and Kerb Layout with Tie-in Plan Detail, Drawing No. HD-SD-07-15A, received 27/05/2025.
- Hard Margin Detail Cross Section A-A, Drawing No. HD-SD-07-16A, received 27/05/2025.
- Ramp Detail Cross Section B-B, Drawing No. HD-SD-07-17A, received 27/05/2025.
- Carriageway Tie-in Section C-C, Drawing No. HD-SD-07-18A, received 27/05/2025.
- Footway Tie-in Detail Section D-D, Drawing No. HD/SD/07/19A, received 27/05/2025.
- Textured Footway Surfaces at Uncontrolled Pedestrian Crossings, Drawing No. HD/SD/11/11B, received 27/05/2025.
- Proposed Highway Retaining Wall, Drawing No. H-01, Rev C, received 28/05/2025.
- Proposed Retaining Wall Sections, Drawing No. H-02, Rev B, received 28/05/2025.

- Proposed_Street_Lighting New_Development_Highway_Lighting_Proposals, Drawing No. 1354-P-1300-001, received 04/12/2025.
- S38 Lighting Design (100% Dimming) Area 1, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (75% Dimming) Area 1, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (50% Dimming) Area 1, Outdoor Lighting Report, Project 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (100% Dimming) Area 2, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (75% Dimming) Area 2, Outdoor Lighting Report, Project No: 1354-P-001 (25023), received 04/12/2025.
- S38 Lighting Design (50% Dimming) Area 2, Outdoor Lighting Report, Project No. 1354-P-001 (25023), received 04/12/2025.
- Variable Power Switch Regime Spreadsheet for Multi-Level Dimming Devices, received 04/12/2025.

The council's Section 38 team are considering the above documents. As an assessment of these conditions is ongoing and as officers are working with the applicant on relevant matters, conditions 6, 17 and 19 must remain undischarged until formally revisited in the near future.

**Condition 13 (Temporary Drainage)**

Pursuant to condition 13, you have submitted:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- Drainage Layout, Drawing No. 1298-900, Rev P6, received 01/08/2025.
- Temporary Drainage Works – Phase I (Site Clearance), received 24/03/2025.

The submitted information is acceptable for the initial requirement of condition 13 and is hereby approved.

However, be aware that condition 13 has the below ongoing requirement, which must be adhered to, to ensure ongoing compliance with the condition:

> *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.*

**Conditions 14 (Drainage Scheme) and 15 (Discharge Rate)**

Pursuant to conditions 14 and 15, you have submitted:

- 100% Blockage Comparison, Drawing No. SHF.1935.001.HY.D.001.A, received 23/03/2023.
- Hydraulic Modelling Exercise Technical Note, ref: SHF.1935.001.HY.R.003.A authored by enzygo, dated November 2021, received 15/08/2022.
- Hydraulic Modelling Exercise Technical Note, ref: SHF.1935.001.HY.R.004.A authored by enzygo, dated 08/07/2022, received 23/03/2023.
- Post Development Areas, Drawing No. 1298-701, Rev P5, received 15/10/2025.
- Overland Flood Routes and Emergency Access and Egress Routes, Drawing No. 1298-702 Rev P5, received 01/08/2025.
- Drainage Layout, Drawing No. 1298-900 Rev P6, received 01/08/2025.
- Drainage Layout, Drawing no. 1298-901, Rev P2, received 01/08/2025.
- Drainage Maintenance Plan, Ref: Version 1 – 1-7-25, received 11/07/2025.
- Long Sections Sheet 1 of 3, Drawing No. 1298-905 Rev P1, received 28/05/2025.
- Long Sections Sheet 2 of 3, Drawing No. 1298-906 Rev P1, received 15/10/2025.
- Long Sections Sheet 3 of 3, Drawing No. 1298-907 Rev P1, received 15/10/2025.
- S104 Manhole Details Sheet 1 of 2, Drawing No. 1298-908 Rev P1, received 28/05/2025.
- S104 Manhole Details Sheet 2 of 2, Drawing No. 1298-909 Rev P1, received 28/05/2025.
- S104 Control Manhole Details, Drawing No. 1298-910 Rev P1, received 28/05/2025.
- Surface Water Outfall Details, Drawing No. 1298-911 Rev P1, received 28/05/2025.
- Proposed Highway Retaining Wall, Drawing No. H-01, Rev C, received 28/05/2025.
- Proposed Retaining Wall Sections, Drawing No. H-02, Rev B, received 28/05/2025.
- Surface Water Drainage Plots 1 to 13, Rev D, authored by Micro Drainage, dated 30/01/2024, received 28/05/2025.
- Surface Water Drainage Plots 14 to 25, Rev D, authored by Micro Drainage, dated 30/01/2024, received 28/05/2025.
- LR22E -1 3000 Headwall GMS LBO Cranked Grating, Working Platform & Access Hatch Kee Klamp handrail, Ladder & Gate, Drawing No. ALT-220725-204-01 A, received 01/08/2025.

The submitted information is considered to be acceptable for the initial requirements of conditions 14 and 15 and is hereby approved. However, please note that both conditions 14 and 15 have the following ongoing requirements, which must be adhered to, to ensure ongoing compliance with the conditions:

> *Condition 14:*
>
> *None of the dwellings 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 to which the dwellings relate. The drainage scheme so approved shall thereafter be retained.*
>
> *Condition 15:*
>
> *There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.*
>
> *KC Lead Local Flood Authority also note:*
>
> *THIS APPLICATION DOES NOT HAVE CONSENT TO ALTER THE WATERCOURSES UNTIL CROSS SECTIONS AND PLANS OF THE BOX CULVERT AND AN APPROPRIATELY DESIGNED TRASH SCREEN ARE SUBMITTED. THIS ALSO REQUIRES A MANAGEMENT PLAN FOR THE WATERCOURSE GOING FORWARD.*

**Condition 20 (Noise)**

Pursuant to condition 20, you have submitted:

- Noise Impact Assessment, ref: J003824-5593-TD-01, authored by Philip Dunbavin Acoustics Ltd, dated 26/05/22, received 15/08/2022.

The submitted information is acceptable for the initial requirement of condition 20 and is hereby approved.

However, be aware that condition 20 has the following ongoing requirement, which must be adhered to, to ensure ongoing compliance with the condition:

> *The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.*

**Condition 22 (Construction Environmental Management Plan – Biodiversity)**

Pursuant to condition 22, you have submitted:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.

The submitted details are deemed to be acceptable for the initial requirements of condition 22 and are hereby approved.

However, be aware that condition 22 has the following ongoing requirement, which must be adhered to, to ensure ongoing compliance:

> *The approved CEMP shall be adhered to and implemented throughout the construction period.*

Further to the above, please note the following comments from KC Environmental Health:

> *The applicant is reminded that 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.*

**Condition 23 (Construction Traffic)**

Pursuant to condition 23, you have submitted:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.
- Transport route to site for deliveries, received 15/08/2022.

The submitted details are deemed to be acceptable for the requirements of condition 23. However, condition 23 has the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

> *All construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.*

**Construction 25 (Dust Suppression)**

Pursuant to condition 25, you have submitted:

- Burn Road Construction Environmental Management Plan, dated 05/03/2025, received 25/03/2025.
- CEMP General (Rev B), received 15/10/2025.
- Contractors Site Setup Plan, Rev C, received 03/12/2025.

The submitted information is acceptable for the initial requirement of condition 25 and is hereby approved.

However, be aware that condition 25 has the following ongoing requirement, which must be adhered to, to ensure ongoing compliance:

> *All construction arrangements shall be carried out in accordance with the approved dust suppression scheme.*