KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	**2022/70/92828/E**
Site Address:	Land at Abbey Road North, Shepley, Huddersfield, HD8 8DY
Description:	Variation condition 1 (plans) on previous permission 2019/91638 for reserved matters application for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Recommending Officer:	Richard Riggs

DECISION – S106 -Variation of Conditions

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

David Wordsworth

AUTHORISED OFFICER

Date: 16-Mar-2023

OFFICER REPORT (DELEGATED)

Application: 2022/92828
Description: Variation condition 1 (plans) on previous permission 2019/91638 for reserved matters application for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Address: Land at Abbey Road North, Shepley, Huddersfield, HD8 8DY
Ward: Kirkburton

Expiry Date: 22 November 2022
Extension: 24 March 2023

Case Officer: R Riggs (Senior Planning Officer)

RECOMMENDATION

Approve, subject to conditions and signed Section 106 Agreement Deed of Variation.

SITE AND SURROUNDINGS

The application site is located on the corner of Penistone Road and Abbey Road North in Shepley. The application site red line boundary measures approximately 1.78 hectares.

The north of the site slopes down from Stretchgate to Shepley Dike, which runs across the northern part of the site. To the north of the site, along Penistone Road, are dwellings whose gardens back onto Shepley Dike. To the east are dwellings on Abbey Road North that back onto the site, and in the south west corner is a gated community of seven relatively new detached properties at Abbey Road Gardens, which are in turn adjacent to New Hey Moor Houses (a group of back-to-back dwellings).

THE PROPOSAL

The applicant is seeking a Section 73 planning permission for the variation of Condition 1 (plans) of the previous planning permission 2019/91638 for reserved matters for erection of 27 dwellings, pursuant to outline permission 2017/92233 for erection of up to 34 dwellings.

The proposed variation of condition 1 seeks to:

- Amend the housing type at Plot 21;
- Amend layout for Plots 17 – 21.
- Change the road surfacing materials (under the Section 38 Agreement) of the internal estate road;
- Propose new garage types at the east of the site;
- Change Plot 10's boundary treatment from fencing to a wall plus fence; and,

- Revise layout of affordable housing plots from Plots 1 – 5 to Plots 1, 2 & 11 – 13.

Supporting Information

In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
    - Revised Certificate A following a change in land ownership
- Section 106 Deed of Variation Heads of Terms

RELEVANT PLANNING HISTORY

Application: 2022/92079
Description: Discharge of condition 18 (lighting) of previous reserved matters approval 2019/91638 for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Decision: Pending Consideration

Application: 2021/94721
Description: Discharge of condition 4 (floor/ground levels) of previous reserved matters approval 2019/91638 for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Decision: Discharge of Conditions Approved 11/05/2022

Application: 2021/94539
Description: Discharge of condition 2 (materials) of previous reserved matters approval 2019/91638 for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Decision: Discharge of Conditions Approved 25/02/2022

Application: 2021/93876
Description: Discharge condition 12 on previous permission 2017/92233 for outline application for erection of up to 34 dwellings
Decision: Pending Consideration

Application: 2021/91276
Description: Discharge of conditions 11 (waste storage and collection), 12 (temporary waste collection), 17 (construction access), 20 (biodiversity construction environmental management plan), 21 (part - retaining walls), 22 (drainage beneath highway) and 24 (invasive species) of previous reserved matters permission ref: 2019/91638 pursuant to outline permission ref: 2017/92233 for erection of up to 34 dwellings

Decision: Discharge of Conditions Split Decision 13/08/2021

Application: 2019/92206
Description: Variation of condition 16. (drainage) on previous permission no. 2017/92233 for outline application for erection of up to 34 no. dwellings
Decision: Approved 11/08/2021

Application: 2019/91879
Description: Discharge of conditions 5, 10, 11 and 14-19 of previous outline permission 2017/92233 for erection of up to 34 dwellings
Decision: Discharge of Conditions Approved 13/08/2021

Application: 2019/91638
Description: Reserved matters application for erection of 27 dwellings pursuant to outline permission 2017/92233 for erection of up to 34 dwellings
Decision: Approved 13/05/2020

Application: 2017/92233
Description: Outline application for erection of up to 34 no. dwellings
Decision: Approved 21/03/2018

HISTORY OF NEGOTIATIONS

No negotiations were required.

PLANNING LEGISLATION AND POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

The following legislation, policies, and guidance are considered relevant to the determination of this application:

<u>Kirklees Local Plan (February 2019)</u>

The site is unallocated in the adopted Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP11 – Housing Mix and Affordable Housing
- Policy LP21 – Highways and access

- Policy LP22 – Parking
- Policy LP24 – Design

Supplementary Planning Documents

- Housebuilders Design Guide SPD (June 2021)
- Highway Design Guide SPD (November 2019)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

National Planning Policy Framework (NPPF) (July 2019)

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places

Climate Change

The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On the 12th of November 2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

REPRESENTATIONS (PUBLIC)

This application has been advertised as a major development.

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).

The statutory public consultation period took place between 18/11/2022 to 09/12/2022.

No public representations were received.

Local Members:

Cllr Bill Armer (Kirkburton) – No comments received.

Cllr Richard Smith (Kirkburton) – No comments received.

Cllr John Taylor (Kirkburton) – Supports the application.

"I was involved in the adverse possession dispute with the neighbouring property on Abbey Rd and was pleased that an agreement that was satisfactory to both sides was eventually reached, which has driven part of these changes and I am supportive of said changes" (10/11/2022).

Town / Parish Council:

Kirkburton Parish Council – No comments received.

CONSULTATION RESPONSES

Invitations to comment on this application were sent to the following consultees:

Kirklees Council:

KC Highways – No objections to the proposal.

MAIN ISSUES

Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Design and Layout
- Amenity
- Highways
- Other Material Considerations

OFFICER ASSESSMENT

Principle of Development

Section 73 of the Town and Country Planning Act 1990 concerns the 'determination of applications to develop land without compliance with conditions previously attached'. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

Planning Practice Guidance on 'Flexible options for planning permissions' confirms that permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.

Planning Practice Guidance on the use of planning conditions also clarifies that in deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. As such, there is no requirement to re-consider the principle of this development.

This application is therefore restricted to a consideration of the proposed variation to Condition 1 of reserved matters planning permission 2019/91638.

The guidance states that Local Planning Authorities should, in making their decisions, focus their attention on national and Development Plan policies, and other material considerations which may have changed significantly since the original grant of permission. In this case, it is noted that the Kirklees Local Plan had been adopted at the time of the granting of the original permission. However, the Housebuilders Design Guide Supplementary Planning Document wasn't adopted until June 2021, which forms a material consideration in its own right in assessing this S73 application.

Design, Layout & Amenity

The proposal seeks to amend the house type of Plot 21 from the approved Sandringham (4-bed with separate garage) to the proposed Buckden (4-bed with integral garage). The changes to Plot 21 have been sought due to an adverse possession of land dispute at the east of the site which has narrowed the developable area at the east of the site. The dispute has been settled outside of the scope of this application; however, the settlement means that a third-party greenhouse now occupies the space originally approved for Plot 21. The Buckden house type is already used on the site and would not alter the proposed housing mix and is therefore considered to be an acceptable amendment.

The proposed changes would also mean the spacing between dwellings at the east of the site would reduce slightly to accommodate the adverse land possession. However, it is not considered that these changes would detrimentally impact the residential amenities of neighbouring or future occupiers as the reduction is space is not considered to be significant.

The amendments sought also propose new garage types at the east of the site at Plots 18, 19, and 20. These would now include the provision of side

access doors into the rear gardens of the abovementioned plots. This amendment is considered to be acceptable as it is unlikely to result in any design and/or residential amenity issues. The quantum of hardstanding around the proposed garages would also be reduced over that which is extant, which is considered to be of minor benefit.

A further amendment proposed in this application would be a change of Plot 10's boundary treatment from a 1.8m close boarded fence with 300mm trellis to a stone wall with timber infill panels. Officers consider that due to the location of Plot 10 within the site – at the focal corner from the entrance road to the new dwellings – this amendment is considered to represent improved design and be a minor visual betterment to the area.

The applicant is also seeking to amend the layout of the 5 Affordable Housing plots on-site. At present, Plots 1 – 5 (Lilac Terrace (5) house type) are identified on the approved plans as affordable dwellings. Under this application, Plots 1 and 2 would remain as affordable dwellings, with the other 3 being move to Plots 11 – 13 (Lilac Terrace (3) house type). There would be no net change in Affordable Housing provision, nor would there be any impacts on residential amenity for future occupiers as the same house type is proposed. The amended plots would be secured via a Section 106 Agreement Deed of Variation.

Given the above, Officers consider that the proposal is in accordance with Policy LP24 of the adopted Kirklees Local Plan, Housebuilders Design Guide SPD, and NPPF (Chapter 12).

Highways

The proposal seeks to amend the road surfacing material (under the Section 38 Agreement) of the internal estate road at the western part of the site. The internal estate road in this area would now be formed from concrete block paving on a 30mm sand bed (red, brindle, or similar) instead of tarmac. The site entrance roadway would be formed from 30mm surface course.

KC Highways have reviewed the submitted information and raise no objections to the proposal given that the road layout and parking arrangements are unchanged. Given this, Officers consider that the proposal is in accordance with Policy LP21 of the adopted Kirklees Local Plan, Highway Design Guide SPD, and NPPF (Chapter 9).

Other Material Considerations

<u>Conditions</u>

As this is an application under Section 73 of Town and Country Planning Act 1990 it will, in effect, be a new permission.

Planning practice guidance (The Use of Conditions) confirms that the original planning permission will continue to exist whatever the outcome of the

application under Section 73 and that the conditions imposed on the original permission still have effect unless they have been discharged.

The Planning Practice Guidance also confirms that for the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect (Paragraph: 040 Reference ID: 21a-040-20190723).

All of the previous conditions shall be repeated due to their compliance requirements for development in accordance with submitted and approved details and subsequent retention and maintenance obligations. However, Officers note that Condition 21 (Retaining Walls) has been fully discharged under application 2021/91276 and is not subject to the submission of further information or a compliance element. As such, Condition 21 of planning permission 2019/91638 can be removed from the decision notice for this Section 73 application.

Section 106 Agreement

As the original permission is subject to a Section 106 Agreement to secure relevant planning obligations for the provision of affordable housing and other financial contributions which are considered to be material to the proposal, a Deed of Variation has been sought to the original Agreement to secure those obligations against the effectively new planning permission under this S73 application.

Planning Balance and Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to the imposition of the conditions as set out below and the satisfactory completion of a Section 106 Agreement Deed of Variation.

CONDITIONS

1. 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 as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21, LP22, LP24 and LP33 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

1. Prior to any superstructure works commencing, details of the materials to be used in the construction of the external surfaces of the development including

all external fixtures, fittings, facing stonework, roofing and window frames shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained for the lifetime of the development.
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 and Chapter 12 of the National Planning Policy Framework.

2. Prior to the occupation of the first dwelling house within the development, details of the proposed boundary treatment to the site shall be submitted to and approved in writing by the Local Planning Authority to include the following:
   (i) An assessment of the works required to repair/replace the existing stone perimeter wall;
   (i) Details of the proposed height, materials and method for ensuring a continuous stone boundary wall or details of a suitable alternative replacement to stone;
   (ii) In the event of an alternative replacement to stone in accordance with (ii), details of its proposed height, materials and justification for using a material other than stone;
   (iii) A timescale for the implementation of the boundary treatment.
   The scheme shall be carried out in accordance with the approved details and completed prior to the occupation of the final dwelling house within the development or an alternative timescale as agreed by (iv) above.
   Reason: In the interests of highway safety, the visual amenity and character of the surrounding area and to accord with Policies LP21 and LP24 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

3. No above ground works shall take place until a scheme of details of finished floor levels of each dwelling, together with corresponding finished ground levels and of surface and land drainage associated with any works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved details and no dwelling shall be occupied until the works relating to that property have been completed. These shall be retained for the lifetime of the development.
   Reason: To ensure the development is in character with its surroundings and to avoid adverse impacts to adjacent land/property, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Prior to development commencing, protective fencing in accordance with British Standard BS 5837 shall be erected around all protected trees and trees to be retained on the site throughout the construction period.
   Reason: In order to protect visual amenity and the long term viability of the trees and to accord with policy LP33 of the Kirklees Local Plan.

5. The approved Detailed General Arrangement and Planting Plan Drawing Reference: RFM-XX-00-DR-L-0003 Revision PL06, as well as the Planting Schedule Reference RFM-XX-00-DR-L-0004 Revision PL02 shall be implemented so that planting is carried out no later than the first planting season following the first occupation of the building(s) or the completion of the development whichever is the sooner. 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 Policies LP24 and LP32 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Prior to the occupation of the final dwelling house within the development, all the works required for the provision of equipped play area(s) shall be completed in accordance with the EN1176 Playground Equipment Standard. Works shall be completed as detailed in the approved Detailed General Arrangement and Planting Plan Drawing Reference: RFMXX-00-DR-L-0003 Revision PL06 and the Proposed Play Equipment Reference RFM-XX00-SK-L-0001. The play equipment shall be maintained and if necessary replaced by the appointed Management Company, thereafter.
Reason: To ensure the provision of adequate play facilities within the site at an appropriate time and to guarantee their long term future, in accordance with Kirklees Council Local Plan Policies LP47, LP48 and LP50 and Chapter 8 of the National Planning Policy Framework.

7. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless:
   (i) A competent ecologist has undertaken a survey of vegetation for active birds' nests immediately before the vegetation is cleared; and
   (i) The ecologist has 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 of the Kirklees Local Plan and the requirements of Chapter 15 of the National Planning Policy Framework

8. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies "Guidance on the permeable surfacing of front gardens (parking areas)" published 13/5/2009(ISBN 781409804864) as amended or superseded. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 as amended (or any Order revoking or re-enacting that Order) these areas shall be so retained thereafter, free of obstructions and available for the use specified on the listed plans.
Reason: In the interests of the free and safe use of the highway in accordance with Policies LP22 and LP24 of the Kirklees Local Plan as well as Chapters 9 and 12 of the National Planning Policy Framework.

9. No dwelling shall be occupied, until details showing the provision of bicycle storage facilities to serve the residential properties have been submitted to and approved in writing by the local planning authority and these facilities have been provided and made available for use prior to first occupation and retained throughout the lifetime of the development.

Reason: To comply with the Council's sustainability objectives by promoting modes of sustainable travel in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document, and chapter 9 of the National Planning Policy Framework.

10. Before development commences, details of suitable storage, bin presentation points and access for collection of wastes from the dwellings hereby approved 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: To meet the operational needs of the Waste Collection Authority and avoid any adverse impact on visual and residential amenity set out in Policy LP24 of the Kirklees Local Plan and Highways Design Guide Supplementary Planning Document. This is a pre-commencement condition to ensure appropriate measures for waste storage and collection are appropriately designed and agreed to avoid any potential operational, visual and residential amenity issues prior to construction.

11. Before development commences, details of temporary waste collection arrangements to serve occupants of completed dwellings whilst the remaining site is under construction, shall be submitted to and approved by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.
    Reason: To meet the operational needs of the Waste Collection Authority set out in Policy LP24 of the Kirklees Local Plan and Highways Design Guide Supplementary Planning Document. This is a pre-commencement condition as construction works may have an impact on waste collection and the amenity of the locality and therefore, a scheme is required in order to mitigate impacts prior to any works taking place on site.

12. The proposed development shall be undertaken in accordance with the approved boundary treatment details, as shown on Site Plan Drawing Number 00-103 Revision Q and Detailed General Arrangement and Planting Plant Drawing Reference: RFM-XX-00- DR-L-0003 Revision PL06. The boundary treatment shall be installed before the dwelling to which the boundary treatment relates is first occupied and shall thereafter be retained.
    Reason: In the interests of visual amenity, in order to ensure that character of the area is safeguarded in accordance with Policy LP24 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

13. No dwelling shall be occupied until the works associated with widening the existing access road and provision of the adjacent footway leading to the site hereby approved shall be laid out, hard surfaced sealed and drained in accordance with a specification submitted to and approved in writing by the local planning authority.
    Reason: In the interests of highway safety and to allow for safe pedestrian access to and from the site, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document and Chapter 9 of the National Planning Policy Framework.

14. No dwelling hereby approved shall be occupied until the access points to the public bridleway Kirkburton 187, Stretchgate (Reference: KIR/187a/10) as shown on approved Site Plan Drawing Number 00-103 Revision Q are constructed to adoptable standards and the steps constructed to conform with

Part M4(2) section 2.11 of the Approved Document M of the Building Regulations 2010. The proposed access points shall be retained for public use thereafter.
Reason: In the interests of highway safety and to allow for safe pedestrian access to and from the site, in accordance with Policies LP20, LP21, LP23 and LP24 of the Kirklees Local Plan, the Highways Design Guide Supplementary Planning Document and Chapter 9 of the National Planning Policy Framework.

15. Prior to the first occupation of each dwelling, an electric vehicle recharging point shall be installed at each house as shown on Site Plan Drawing Number 00-103 Revision Q. The cable and circuitry ratings shall be of adequate size to ensure a continuous current demand of 32Amps. The electric vehicles charging point approved shall be installed prior to the occupation of the building and thereafter be retained.
Reason: To promote sustainable travel and to encourage low carbon forms of transport in accordance with Policies LP24 and LP51 of the Kirklees Local Plan and Chapters 9 and 15 of the National Planning Policy Framework.

16. Prior to construction commencing, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the Local Planning Authority. 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 the provision, use and retention of adequate wheel washing facilities within the site. Unless otherwise agreed in writing by the Local Planning Authority, all construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.
Reason: In the interests of the amenity of the locality and in accordance with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapters 9 and 12 of the National Planning Policy Framework. This is a pre-commencement condition as construction works may have an impact on the amenity of the locality and therefore, a scheme is required in order to mitigate impacts prior to any works taking place on site.

17. Prior to the first occupation of any part of the development, a lighting design strategy for biodiversity referring to the off-site woodland and Kirklees Wildlife Habitat Network areas shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
    a) Identify those area or features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
    a) Illustrate how and where external lighting will be installed (through the provision of appropriate lighting contour plans, light spill and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and

    All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

Reason: To prevent significant ecological harm and to safeguard the Kirklees Wildlife Habitat Network in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

18. The development shall be undertaken in accordance with the mitigation enhancement measures set out in the approved Biodiversity Management Plan, Reference R-3626-03.2 and shall be completed prior to the first occupation of the dwelling houses. The measures identified in the scheme shall be permanently retained thereafter.
Reason: To ensure ecological compensation and enhancement in accordance with Policy LP30 of the Local Plan and the aims of Chapter 15 of the National Planning Policy Framework.

19. 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.
    a) Identification of “biodiversity protection zones”.
    b) 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).
    c) The location and timing of sensitive works to avoid harm to biodiversity features.
    d) The times during construction when specialist ecologists need to be present on site to oversee works.
    e) Responsible persons and lines of communication.
    f) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
    g) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

    Reason: To ensure avoidance of ecological and subsequent harm in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition to ensure appropriate measures are designed and agreed prior to any potentially damaging operations associated to the construction phase.

20. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.
Reason: In the interests of highway safety and to achieve a satisfactory layout and in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework. This is a pre-commencement condition to ensure an appropriately designed drainage scheme can be secured and incorporated into the proposed highway network prior to construction.

21. The development shall be carried out in accordance with the submitted flood risk assessment by ARP ref 1305/11/ARPjc dated 20 January 2020 and details for Flood Compensation by ARP dated 3/3/20, including the following mitigation measures they detail:
    - Finished floor levels shall be set no lower than 148.4 m above Ordnance Datum (AOD).
    - Flood compensation storage shall be provided as detailed.

    These mitigation measures shall be fully implemented prior to first occupation of any of the dwelling hereby approved and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
    Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy LP27 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework Chapter.

22. No development shall take place until details of a scheme to eradicate Japanese Knotweed and Giant Hogweed has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the development first being occupied.
    Reason: To ensure these invasive species are appropriately dealt with, in the interests of the biodiversity of the site and in accordance with the NPPF Chapter 15 and Circular 06/2005 – Biodiversity and Geological Conservation. This is a pre-commencement condition to secure the appropriate measures to eradicate invasive plant species, prior to construction.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no development included within Classes A, B, C, E or F of Part 1, Class A Part 2 of Schedule 2 to that Order shall be made to plots 1 to 6 and plots 10 to 14, as shown on the approved Site Layout Plan, Drawing Number: 00-103 Revision Q hereby permitted, without the prior written consent of the Local Planning Authority.
    Reason: In order to ensure that further extensions or outbuildings do not result in harmful overlooking to occupants of neighbouring dwellings, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of 07.30- and 18.30-hours Mondays to Fridays, and 08.00 and 13.00 hours on Saturdays, with no working Sundays or Public Holidays. In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974 (Section 60), Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

NOTE: All new storm water attenuation tanks/pipes/culverts/manholes with internal diameter/spans exceeding 0.9m must be located off the adoptable highway. Any decision to locate these facilities within the adoptable highway footprint must be accompanied with a full risk evaluation report with particular reference to their proposed inspection, structural assessment and maintenance regime in compliance with the CDM Regulations 2015 requirements.

NOTE: The adopting authority (i.e., Yorkshire Water) will also be required to produce and submit a legally binding agreement to the Highway Authority explicitly stating that they will be fulfilling their obligations in relation to the systematic and cyclical inspection and structural assessment of any attenuation structure located within the highway footprint, in full compliance with BD63- Inspection of Highway structures. Furthermore, all new precast pipes/ culverts/storage tanks proposed for use within the footprint of an adoptable highway must comply with the Specification for Highway Works (SHW-Series 500 or 2500) and/or must be accredited with a BBA (The British Board of Agrément Roads and Bridges) or HAPAS (Highway Authority Product Approval Scheme) or equivalent certificate.

NOTE: The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

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, Civic Centre 3, Market Street, Huddersfield (Kirklees Highway Design: 01484 221000) with regard to 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: Adoption under Section 38 of the Highways Act: It is brought to the Applicants' notice that the Highway Development, Investment & Regeneration, Civic Centre 3, Market Street, Huddersfield HD1 2JR (Kirklees Street Care: 0800 7318765 or 'Highways.Section38@kirklees.gov.uk') must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

NOTE: The public footpaths and bridleway crossing the site shall not, at any time prior to, during or after building works, be unofficially obstructed or closed without the prior written formal consent of the Council's Public Rights of Way Officers.

NOTE: This Decision Notice must be read in conjunction with a Planning Obligation completed under the terms of Section 106 of the Town and Country Planning Act 1990 (as amended).

Plans and specifications schedule:

Plan / Document Type	Reference	Version	Date Received
Proposed Site Plan (Enjoy Design)	00-103	BB	08/12/2022
Site Plan (Reform)	RFM-XX-00-DR-L-0001	PL06	09/03/2020
Tree Retention and Removal Plan	RFM-XX-00-DR-L-0002	PL03	09/03/2020
Detailed General Arrangement and Planting Plan	RFM-XX-00-DR-L-0003	PL06	09/03/2020
Buckden House Type Drawings (Plots 17(Handed), 26(Handed) and 27(Handed))	B-01	A	04/02/2020
Chevin House Type Drawings (Plots 22, 23, 24 and 25)	C-01	A	04/02/2020
Chevin Stepped House Type Drawings (Plots 15 and 16)	C-02		04/02/2020
Lilac – Detached House Type Drawings (Plot 18 (Handed)	L-01		04/02/2020
Lilac – Semi Detached House Type Drawings (Plots 06, 07, 08, 09, 19 and 20)	L-02		04/02/2020
Lilac – Terrace (3 units) House Type Drawings (Plots 11, 12 and 13)	L-03	1	04/02/2020
Lilac – Terrace (5 units) House Type Drawings (Plots 01, 02, 03, 04 and 05)	L-04		04/02/2020
Sandringham House Type Drawings (Plots 10 and 21)	S-01	A	04/02/2020
Woodale House Type Drawings (Plot 14)	W-01	A	04/02/2020
Proposed Single Garage GA Drawings	GS-01		04/02/2020
Section Drawings	00-104	C	12/05/2020
Refuse Vehicle Tracking Layout	1305/11/15	C	12/05/2020
Section 38 Layout General	1305/11/02.02	D	23/08/2022

Arrangement			
Surfacing Layout	1305/11/21	E	23/08/2022
Section 104 Layout	1305/11/03	B	12/05/2020
Footpath Link to Stretch Gate	1305/11/17	A	12/05/2020
Typical Section through Private Drive to Plots 17-21	1305/11/16		12/05/2020
Longitudinal Sections	1305/11/06	A	12/05/2020
Statement on Flood Risk Assessment	1305/11		18/11/2019
Flood Risk Assessment	1305/11/ARPjc		11/02/2020
Flood Compensation Letter (ARP, 3/3/2020)			04/03/2020
Contour Plans	1305/11		04/03/2020
Design and Access Statement		1	04/02/2020
Biodiversity Management Plan	R-3626-03.2		28/01/2020
Site Inspection Report	SI-3626-01		22/10/2019
Planting Schedule	RFM-XX-00-DR-L-0004	PL02	11/03/2020
Plan / Document Type	**Reference**	**Version**	**Date Received**
Landscape Maintenance Specification	RFM-XX-00-RP-L-0001-Management Plan	PL02	11/03/2020
Proposed Play Equipment	RFM-XX-00-SK-L-0001		08/01/2020
Ecological Impact Assessment	R-3626-04		01/11/2019

Report Dated: 10 March 2023