

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:	2022/70/93940/W
Site Address:	New Dunsley Poultry Farm, Brow Lane, Holmfirth, HD9 2SW
Description:	Variation of condition 1 (plans and specifications) on previous permission 2022/91073 for (variation condition 6 (highways) on previous permission 2015/93850 for Demolition of intensive poultry farm buildings and redevelopment of site with 6 detached dwellings with associated landscaping including new paddocks) to amend plots 2 and 7.
Recommending Officer:	John Holmes

DECISION – Variation of Condition – Approve

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.

Victor Grayson

AUTHORISED OFFICER

Date: 08-Mar-2023

THE SITE

The application site is within open countryside and is being developed for six dwellings. The site previously hosted a poultry farm and a number of large buildings which were in use for this purpose.

The site is currently undergoing the process of being developed, with the development which was approved for six dwellings (ref: 2015/93850) being implemented.

THE DEVELOPMENT

Submitted under Section 73 of the Town and Country Planning Act 1990 (as amended), this application seeks permission for Variation of condition 1 (plans and specifications) on previous permission 2022/91073 for (variation condition 6 (highways) on previous permission 2015/93850 for Demolition of intensive poultry farm buildings and redevelopment of site with 6 detached dwellings with associated landscaping including new paddocks) to amend plots 2 and 7.

The purpose of the application is to make amendments to the overall appearance of plots 2 and 7 including the siting within each plot.

Condition no.1 reads as follows:-

The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed upon the decision notice for approved application 2015/93850 (dated 7th February 2017) and also 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, LP30, LP52 of the Kirklees Local Plan and policies within Chapters 2, 12, 13, 14 and 15 of the National Planning Policy Framework.

PLANNING HISTORY

The most relevant planning history for the site relates to the following:-

- **2015/93850** – Demolition of intensive poultry farm buildings and redevelopment of site with 6 detached dwellings with associated landscaping including new paddocks. **Approved** 7th February 2017
- **2017/91023** – Discharge of conditions 9 (drainage), 11 (Intrusive site investigations), 15 (landscaping) and 17 (sewage treatment) from planning consent 2015/93850 – **Conditions discharged**

Condition 11 was discharged by letter dated 24th April, condition 15 by letter dated 28th April and condition 9 by letter dated 28th December. Condition

no.17 has not been discharged although within the letter dated 24th April it states that the submitted plan and the plant specification on it are acceptable for the purposes of condition 17. The condition requires the plant to be installed and maintained therefore it endures for the lifetime of the occupation of the dwellings and cannot be fully discharged.

- **2022/90447** – Discharge of conditions 4, 8, 12 and 16 – **Conditions discharged.**

The above application saw condition 12 discharged in a letter dated 27th May 2022 and conditions 4, 8 and 16 discharged by letter dated 17th May 2022.

- **2022/91073** – Variation condition 6 (highways) on previous permission 2015/93850 for demolition of intensive poultry farm buildings and redevelopment of site with 6 detached dwellings with associated landscaping including new paddocks – **Approved** 17 August 2022

REPRESENTATIONS

Publication of the application has been undertaken in accordance with the Council's Development Management Charter (2015).

The application has been publicised on the Council's website, and by neighbour notification letter. The expiry date of the publicity period was 17th January 2023

[Note – The word 'letter' below should be taken to include hand-written letters, emails and online representations.]

Letters of Objection

None

Letters of Support

None

Letters of Comment

One letter of comment has been received from Holme Valley Parish Council, stating they have no observations.

CONSULTATIONS

None

ALLOCATION AND POLICIES

The site is within the Green Belt as identified within the Kirklees Local Plan and falls within the Holme Valley Neighbourhood Development Plan area

(with associated Landscape Character Area no.4 - River Holme Settled Valley Floor).

Kirklees Local Plan

LP24 Design

Holme Valley Neighbourhood Development Plan

Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley.

Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design.

National Planning Policy Framework

Chapter 12 Achieving well-designed places

Supplementary Planning Documents

Kirklees Housebuilders Design Guide (adopted June 2021)

Legislation

The Town & Country Planning Act 1990 (as amended).

The Planning and Compulsory Purchase Act 2004.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that in considering planning applications the determination must be made in accordance with the plan unless material considerations indicate otherwise

ASSESSMENT

This Section 73 application seeks minor material variations to the originally approved plans which have come about by a change in the design and layout of the site.

It is considered that the key determining issue in the consideration of this application is impact upon visual amenity.

The National Planning Policy Framework has not been amended and no further local policy adopted by the Council with regard to the determining issues considered applicable in this case.

The determining issues are assessed as follows:-

Visual Amenity

Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of

local identity, which is in keeping with the scale of development in the local area and is visually attractive.

Policy LP11 sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities.

Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: *'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'*.

Principle 5 of the Housebuilders Design Guide states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. To avoid dominating the street, principle 12 states parking to the front will need creative design solutions to be incorporated. Consideration of the use of locally prevalent materials is required by principle 13. The design of windows and doors to relate well to the street frontage and neighbouring properties is required by principle 14. Principle 15 sets out that the design of the roofline should relate well to the site context, including topography, views, heights of buildings and the roof types.

The proposed amendments would see the siting and design of the plots 2 and 7 of the most recently granted consent (August 2022). The amendments are considered to be small scale and whilst they slightly alter the appearance and siting they would not lead to a significant visual alteration from the scheme as originally approved.

It is considered that in this case the proposed development would accord with the aforementioned policies and legislation and the proposal is acceptable with regard to visual amenity.

Review of conditions

In the instance of any grant of approval of a S73 application a new consent is issued by the LPA, as such all conditions upon the original consent are required to be reviewed and where necessary re applied or amended. This section sets out a review of all conditions upon consent 2022/91073.

Condition no.1

This condition relates to the plans list against which the application is being considered. It is recommended this condition is amended to refer to all drawings submitted as part of this application and details submitted as part of applications 2015/93850 (dated 7th February 2017), 2022/91073 (dated 17th August 2022).

Conditions 2, 3, 4, 6, 7, 8, 9, 10, 11 & 12 and the informative notes upon consent 2022/91073 (dated 17th August 2022) are recommended to remain as worded.

Condition 5

This condition will need to be amended to reflect the fact the details referenced within this condition were submitted as part of application 2022/91073 (dated 17th August 2022).

CONCLUSION & RECOMMENDATION

It is considered that, subject to the wording of conditions being amended, where relevant, to the wording set out in the 'Review of Conditions' section of this report and the informative notes being re-imposed on this Section 73 application the proposal is acceptable.

It is therefore concluded that the variations to the approved plans proposed under this Section 73 application are acceptable and do not alter the conclusions reached and the recommendation made for approved applications 2015/93850 & 2022/91073 (dated 17th August 2022).

Approval is recommended.

Recommendation

APPROVE

Decision Authorisation: Delegated Powers

Application Number: 2022/93940

Officer Recommendation: REMOVAL OR MODIFICATION OF CONDITIONS – APPROVE

Conditions

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed upon the decision notice for approved application 2015/93850 (dated 7th February 2017), 2022/91073 (dated 17th August 2022) and also 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, LP30, LP52 of the Kirklees Local Plan and policies within Chapters 2, 12, 13, 14 and 15 of the National Planning Policy Framework.

2. The dwellings shall be constructed of natural stone and stone slates with stone quoins and brick archway detailing in full accordance with the materials schedule listed upon the decision notice for approved application 2015/93850 (dated 7th February 2017) and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and policies contained within Chapter 12 of the National Planning Policy Framework.
3. The siting, design and materials to be used in the construction of walls or fences for boundaries, screens or retaining walls for the dwellings shall be in accordance with those submitted for application 2022/90447 and subsequently approved within a letter dated 17th May 2022 and retained thereafter.
Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and policies contained within Chapter 12 of the National Planning Policy Framework.
4. The development shall not be brought into use, until the approved vehicle parking areas on the approved plans shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained.
Reason: In the interest of highway safety, sustainable drainage, and to ensure adequate space within the site for vehicle movements and parking and in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and the policies within Chapter 9 of the National Planning Policy Framework.
5. The internal estate roads shall be constructed in accordance with the details set out upon submitted drawings 2244JCES(10)05RevE, 2244JCES(10)06RevD, 135101RevA and 135102RevA submitted as part of application 2022/91073 (dated 17th August 2022) and retained thereafter.
Reason: In the interest of highway safety, sustainable drainage, and to ensure adequate space within the site for vehicle movements and parking and in accordance with Policies LP21 and LP22 of the Kirklees Local Plan and the policies within Chapter 9 of the National Planning Policy Framework.
6. 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) there shall be no vehicular access to the development from Brow Lane
Reason: In the interests of highway safety and in accordance with Policy LP21 of the Kirklees Local Plan and the policies within Chapter 9 of the National Planning Policy Framework.

7. The cycle storage facilities shall be in accordance with those submitted for application 2022/90447 and subsequently approved within a letter dated 17th May 2022 and retained thereafter.

Reason: To comply with the Councils sustainability objectives and those set out in the National Planning Policy Framework.

8. The foul, surface water and land drainage, (including off site re-emergence testing, balancing works, SUDS strategy, flood routing, existing drainage to be maintained / diverted / abandoned, and percolation tests) and management arrangements shall be in accordance with those submitted for application 2017/91023 and subsequently approved within a letter dated 28th December 2017.

Reason: In the interests of securing a satisfactory and sustainable drainage scheme to serve the development to accord with policies LP27 and LP28 of the Kirklees Local Plan and also policies within Chapter 14 of the National Planning Policy Framework.

9. Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the 110mm live public water main, which crosses the site.

Reason: In order to allow for sufficient access for maintenance and repair work at all times and to accord with policies within Chapter 14 of the National Planning Policy Framework.

10. The development hereby approved shall be undertaken in accordance with the remediation strategy submitted for application 2022/90447 and subsequently approved within a letter dated 27th May 2022. In the event that remediation is unable to proceed in accordance with the the remediation strategy submitted for application 2022/90447 or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: In order that proper account is taken of any contamination on the site in the interests of future occupiers of the site and the surrounding environment and to accord with Policy LP53 of the Kirklees Local Plan and policies within section 15 of the National Planning Policy Framework.

11. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority,

no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: In order that proper account is taken of any contamination on the site in the interests of future occupiers of the site and the surrounding environment and to accord with Policy LP53 of the Kirklees Local Plan and policies within section 15 of the National Planning Policy Framework.

12. The Biodiversity Mitigation and Enhancement Plan shall be in accordance with those submitted for application 2022/90447 and subsequently approved within a letter dated 17th May 2022 and retained thereafter.

Reason: In the interests of promoting biodiversity interest within and beyond the site to accord with Policy LP30 of the Kirklees Local Plan and policies within Chapter 15 of the National Planning Policy Framework.

NOTE: There is an ongoing requirement for the access and highway arrangements submitted as part of this application and approved by condition no.6 of this permission to be maintained by the relevant owners / users of the access.

NOTE: Construction Site Noise 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 08.00 and 13.00hours , 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.

Plans and specifications schedule:-

Document / Plan Type	Reference	Version	Date Received
Application Form	-	-	7 th December 2022
Plot 7 proposed	1735 07_04	-	7 th December 2022
Plot 2 proposed	1735 02_04	-	7 th December 2022
Site & Location Plans	1735 01_01revB	-	7 th December 2022

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development

Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments were sought as it was considered that the proposal was acceptable as submitted.

Report Dated: 2nd March 2023

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