

**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:	<b>2023/44/90190/W</b>
Site Address:	Land at, Yew Tree Road/Burn Road, Birchenccliffe, Huddersfield, HD2 2EQ
Description:	Discharge of conditions 5, 6, 9, 10, 11, 12, 13, 14, 15, 20, 21 and 23 of previous outline permission 2018/90776 for erection of up to 10 dwellings
Recommending Officer:	Ellie Thornhill

**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: 08-Aug-2024**

**Application:** 2023/90190

**Site:** Land at, Yew Tree Road/Burn Road, Birchencliffe, Huddersfield, HD2 2EQ

**Proposal:** Discharge of conditions 5, 6, 9, 10, 11, 12, 13, 14, 15, 20, 21 and 23 of previous outline permission 2018/90776 for erection of up to 10 dwellings

### **Condition 5: Phase II Intrusive Site Investigation Report**

*5. Groundworks shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The report shall include an investigation of shallow coal mine workings adjacent to the site.*

**Reason:** *To address unacceptable risks to human health and the environment arising from potential contamination and the legacy of coal mining. This is to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.*

*This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.*

### **Assessment**

In support of condition 5 the following documents have been submitted:

- Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated 18/03/2023 (ref: C2213/21/E/3374.REV1).
- A gas/water monitoring – site record sheet dated 16/03/2023.

KC Environmental Health have been consulted as part of this application and have provided the following comments in relation to condition 5.

*The reports refer to site A and Site B. The application here relates to 'Site B' only.*

*The information now provided satisfies our previously raised concerns about the intrusive investigation. An additional ground gas monitoring visit has also been undertaken on 16/03/2023 and the data is presented in the site record sheet.*

*Together the Phase 2 and gas/water monitoring sheet adequately address the requirements of condition 5 and this can therefore be discharged.*

### **Condition 6: Remediation Strategy**

*6. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 5, further groundworks shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy*

*shall include a timetable for the implementation and completion of the approved remediation measures.*

**Reason:** *To address unacceptable risks to human health and the environment arising from potential contamination and the legacy of coal mining. This is to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.*

*This is a pre-commencement condition to ensure that such matters are identified at an appropriate stage.*

## **Assessment**

In support of condition 6 the following document has been submitted:

- Phase 3 Remediation Strategy by Rogers Geotechnical Services Ltd, dated 20/07/2022 (ref: C2213/21/E/4366).

Given the additional information provided in support of condition 5, officers are satisfied with the Remediation Strategy submitted and therefore condition 6 can be discharged.

## **Condition 9: Temporary Surface Water Strategy**

*9. A scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be submitted to and approved in writing by the Local Planning Authority before development commences. 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.*

## **Assessment**

In support of condition 9 the following document has been submitted:

- Construction phase surface water management plan reference 22046 112 rev A.

Officers are aware of discussions of which are being held between the applicant team and KC Lead Local Flood Authority. Final comments are awaited and a decision relating to condition 9 will be issued in due course.

### **Condition 10: Full drainage details**

*10. 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 Policy 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.*

### **Assessment**

In support of condition 10 the following documents have been submitted:

- Overall site proposed impermeable area plan reference 22046 114 rev D.
- Drainage calculations/model reference rev G.
- S104 Drainage layout plan reference 22046 101 rev C.
- Road and sewer long sections sheet 1 reference 22046 103 rev F.
- Road and sewer long sections sheet 2 reference 22046 116 rev A.
- Operations and maintenance layout plan reference 22046 115 rev A.
- Overall site proposed drainage layout plan reference 22046 113 rev E.
- Flood exceedance plan reference 22046 110 rev B.

Officers are aware of discussions of which are being held between the applicant team, KC Lead Local Flood Authority and KC Highway Structures. Final comments are awaited and a decision relating to condition10 will be issued in due course.

### **Condition 11: Rate of surface water discharge (greenfield)**

*11. 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 Policy 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.*

## **Assessment**

In support of condition 11 the following document has been submitted:

- Greenfield runoff rate reference 2589559630.

Officers are aware of discussions of which are being held between the applicant team and KC Lead Local Flood Authority. Final comments are awaited and a decision relating to condition 11 will be issued in due course.

## **Condition 12: Noise report**

*12. Before works to construct the superstructure of the 2nd dwelling commence, a report specifying the measures to be taken to protect the development from noise from road traffic shall be submitted to and approved in writing by the Local Planning Authority. The report shall:-*

- a) Determine the existing noise climate;*
- b) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development and;*
- c) 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.*

## **Assessment**

In support of condition 12 the following document has been submitted:

- Noise Impact Assessment authored by Environmental Noise Solutions Ltd dated/05/2022 Ref NIA-10349-22-10510-v1.

A summary of the noise measurement data is given in table 3.2 with the ambient and background noise levels considered to be commensurate to the application site setting with noise from passing traffic on Yew Tree Road and Burn Road being the principal noise source during the day with the background dominated by noise from the A629 in the evening.

Mitigation is offered in the form of glazing and trickle vents and this is specified in paragraphs 6.2.3 and 6.2.4 which should ensure the internal levels meet with the requirements of BS8233. Paragraph 6.1.1 states external levels are predicted to be within the limit of the acceptable criteria for external amenity areas, and as such no mitigation will be required.

As such, the noise report is accepted and condition 12 can be approved.

### **Condition 13: Detailed design of the new access point on Yew Tree Road**

*13. Notwithstanding the submitted details, a detailed design for the construction of the approved point of access on Yew Tree Road that is based on drawing number (PL) 04 shall be submitted to and approved in writing by the Local Planning Authority before development commences. 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.*

#### **Assessment**

In support of condition 13 the following document has been submitted:

- S38 drawings by Paragon Highways.

The plans submitted require formal technical approval by the council's Highway Section 38 Team. Final comments from that team in respect of condition 13 are awaited.

A decision in relation to condition 13 will be issued in due course.

### **Condition 14: Internal adoptable estate roads**

*14. 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.*

#### **Assessment**

In support of condition 14 the following documents has been submitted:

- S38 drawings by Paragon Highways.

The plans submitted require formal technical approval by the council's Highway Section 38 Team. Final comments from that team in respect of condition 14 are awaited.

A decision in relation to condition 14 will be issued in due course.

### **Condition 15: Details of the footway along Yew Tree Road**

*15. Details of 'layout' submitted pursuant to condition 2 shall include the provision of a 2 metre wide footway to the Yew Tree Road and Burn Road site frontages. **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.*

### **Assessment**

In support of condition 15 the following document has been submitted:

- Section 38 kerbing proposal by Paragon Highways reference 2079 S38 102.

The plan submitted shows details of a 2.0m wide footway to the Yew Tree Road and Burn Road site frontages and therefore officers are satisfied that the requirements of this condition have been met.

Therefore, the information submitted pursuant to condition 15 can be approved.

### **Condition 20: Construction Management Plan**

*20. A Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority before development commences. The CMP shall include:*

- *Details of the times of use of the access for construction traffic;*
- *Construction workers parking facilities;*
- *A scheme to demonstrate how the highway will be kept clear of mud/debris;*
- *Measures to mitigate the impact of noise & vibration on neighbouring residential properties arising from all construction related activities (including suitable restrictions on the hours of working on the site including times of deliveries);*
- *Measures to mitigate the impact of dust on neighbouring residential properties arising from all construction related activities and;*
- *Details of artificial lighting used in connection with all construction related activities. The approved CMP shall be adhered to throughout the construction of the development.*

**Reason:** *In the interests of highway safety and amenity and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.*

*This is a pre-commencement condition so that such matters are addressed at an appropriate stage of the development process.*

## **Assessment**

In support of condition 20 the following document has been submitted:

- Construction plan reference 2215-0314-P02.

### Details of the times of use of the access for construction traffic

The plan identifies that the working hours would be 07:30 – 18:00 hours Monday to Friday and 08:30 – 13:00 hours on Sundays, however employees may arrive and prepare to leave prior or post of the hours listed. Deliveries will be managed in order to deliver after 07:30 and before 16:00 where possible.

### Construction workers parking facilities

Site parking is proposed to the right of the site access when entering the site.

### A scheme to demonstrate how the highway will be kept clear of mud/debris

A wheel wash point is proposed next to the access to remove any site contaminants from vehicles prior to accessing the public highway. The site manager will monitor the condition of the site access and public highway throughout the working day.

### Measures to mitigate the impact of noise & vibration on neighbouring residential properties arising from all construction related activities (including suitable restrictions on the hours of working on the site including times of deliveries)

Site working and delivery times have been identified above. The plan also lists control and mitigations necessary for noise and vibration which will be employed at the site. “Best Practicable Means” will be employed and the site manager will be responsible for daily monitoring.

### Measures to mitigate the impact of dust on neighbouring residential properties arising from all construction related activities

The plan lists control and mitigations necessary for dust and dirt. This includes damping down, dust extraction, regular cleaning and where possible cutting operations should be carried out externally in fresh air.

### Details of artificial lighting used in connection with all construction related activities

Lighting will largely be limited to small areas and designed so as not to impact existing nearby receptors. For example, in the winter months when hours of daylight are shorting special care will be taken to ensure that light pollution does not impact on local residents.

The information provided within the submitted plan is considered acceptable by KC Highways and KC Environmental Health and therefore the details submitted pursuant to this condition can be approved, subject to the construction being undertaken in accordance with the approved document.

### **Condition 21: Electric Vehicle Charing Points**

*21. Details of a scheme for the provision of electric vehicle recharging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority before any dwelling is first occupied. The recharging points so approved shall be provided before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. **Reason:** To accord with Policy LP24 of the Kirklees Local Plan, guidance in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.*

### **Assessment**

In support of condition 21 the following document has been submitted:

- Planning conditions letter reference 2215.

The submitted letter confirms that each dwelling will have an EVCP installed, either within the garage (where the dwelling has a garage) or externally next to the drive. The EVCPs would be Ropec EVWP2016 Charging Units, 16A or similar and cable and circuitry ratings will be of adequate size to ensure a minimum continuous current demand of 16 amp (3.7kW) for standard charge and a maximum demand of 32 amp (7kW) suitable for rapid charge per charging point.

This information is considered acceptable subject to each dwelling being built with the approved electrical charging vehicle points.

### **Condition 23: Public transport contribution**

*23. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of measures to promote the use of public transport by occupiers of the development have been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *To promote the use of sustainable forms of transport and to accord with Policy LP20 of the Kirklees Local Plan and guidance in the National Planning Policy Framework. This condition will require the payment of a financial contribution; the condition is worded as such to prohibit development until arrangements for the provision of measures to promote the use of public transport have been secured. The use of such a condition has been agreed*

*with the applicant, in accordance with Planning Practice Guidance (use of planning conditions).*

## **Assessment**

In support of condition 23 the following document has been submitted:

- Signed and sealed S106 agreement dated 09/05/2024.

A Metro Card contribution of £8,415.00 has been secured via a Section 106 agreement and therefore officers consider the requirements of condition 23 to have been met.

## **Decision notice text**

### **Condition 5: Phase II Intrusive Site Investigation Report**

Pursuant to condition 5, you have submitted:

- Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated 18/03/2023 (ref: C2213/21/E/3374.REV1).
- A gas/water monitoring – site record sheet dated 16/03/2023.

Together, the Phase 2 report and gas/water monitoring sheet adequately addresses the requirements of condition 5 and the condition is therefore hereby discharged.

### **Condition 6: Remediation Strategy**

Pursuant to condition 6, you have submitted:

- Phase 3 Remediation Strategy by Rogers Geotechnical Services Ltd, dated 20/07/2022 (ref: C2213/21/E/4366).

The submitted remediation strategy is considered acceptable, and condition 6 is hereby discharged.

### **Condition 9: Temporary Surface Water Strategy**

Pursuant to condition 9, you have submitted:

- Construction phase surface water management plan reference 22046 112 rev A.

Officers are aware of discussions which are being held between your team and KC Lead Local Flood Authority. Final comments are awaited and a decision relating to condition 9 will be issued in due course.

### **Condition 10: Full drainage details**

Pursuant to condition 10, you have submitted:

- Overall site proposed impermeable area plan reference 22046 114 rev D.
- Drainage calculations/model reference rev G.
- S104 Drainage layout plan reference 22046 101 rev C.
- Road and sewer long sections sheet 1 reference 22046 103 rev F.
- Road and sewer long sections sheet 2 reference 22046 116 rev A.
- Operations and maintenance layout plan reference 22046 115 rev A.
- Overall site proposed drainage layout plan reference 22046 113 rev E.
- Flood exceedance plan reference 22046 110 rev B.

Officers are aware of discussions which are being held between your team, KC Lead Local Flood Authority and KC Highway Structures. Final comments are awaited and a decision relating to condition 10 will be issued in due course.

### **Condition 11: Rate of surface water discharge (greenfield)**

Pursuant to condition 11, you have submitted:

- Greenfield runoff rate reference 2589559630.

Officers are aware of discussions which are being held between your team and KC Lead Local Flood Authority. Final comments are awaited and a decision relating to condition 11 will be issued in due course.

### **Condition 12: Noise report**

Pursuant to condition 12, you have submitted:

- Noise Impact Assessment authored by Environmental Noise Solutions Ltd dated 24/05/2022 Ref NIA-10349-22-10510-v1.

The noise report is hereby approved subject to the works being carried out in full accordance with the approved details and retained thereafter.

### **Condition 13: Detailed design of the new access point on Yew Tree Road**

Pursuant to condition 13, you have submitted:

- S38 drawings by Paragon Highways.

The plan submitted requires formal technical approval by the council's Highway Section 38 Team. Final comments from that team in respect of condition 13 are awaited.

A decision in relation to condition 13 will be issued in due course.

### **Condition 14: Internal adoptable estate roads**

Pursuant to condition 14, you have submitted:

- S38 drawings by Paragon Highways.

The plan submitted requires formal technical approval by the council's Highway Section 38 Team. Final comments from that team in respect of condition 14 are awaited.

A decision in relation to condition 14 will be issued in due course.

### **Condition 15: Details of the footway along Yew Tree Road**

Pursuant to condition 15, you have submitted:

- Section 38 kerbing proposal by Paragon Highways reference 2079 S38 102.

The plan submitted shows details of a 2.0m wide footway to the Yew Tree Road and Burn Road site frontages. The requirements of this condition have therefore been met, and condition 15 is hereby discharged.

### **Condition 20: Construction Management Plan**

Pursuant to condition 20, you have submitted:

- Construction plan reference 2215-0314-P02.

Officers consider the plan submitted to be acceptable and therefore the information submitted pursuant to condition 20 is hereby approved. However, this is subject to the plan being adhered to for the full period of construction.

### **Condition 21: Electric Vehicle Charing Points**

Pursuant to condition 21, you have submitted:

- Planning conditions letter reference 2215.

Details set out in the submitted letter are hereby approved subject to each charging point being installed at the house to which it relates (before the dwelling is first occupied) and retained thereafter.

### **Condition 23: Public transport contribution**

- Pursuant to condition 23, you have submitted:

Signed and sealed Section 106 agreement dated 09/05/2024.

A Metro Card contribution of £8,415.00 has been secured via a Section 106 agreement and therefore the requirements of condition 23 have been met.

Please note however, that none of the dwellings should be occupied until the Metro Card contribution has been paid.

Dated: 29/07/2024