

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:	2023/44/90772/W
Site Address:	Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW
Description:	Discharge of conditions 3 (CEMP), 7 (waste collection), 14 (soft landscaping), 17 (boundary treatments) and 25 (tree/shrub planting) of previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans)
Recommending Officer:	Nick Hirst

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: 21-May-2024

Application: 2023/44/90772/W

Site: Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW

Proposal: Discharge of conditions 3 (CEMP), 7 (waste collection), 14 (soft landscaping), 17 (boundary treatments) and 25 (tree/shrub planting) of previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans)

Assessment

Condition 3 (CEMP)

3. Prior to groundworks commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall describe in detail the actions that will be taken to minimise adverse impacts on occupiers of nearby properties. It shall include full details of

- a) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved,*
- a) Measures to control the emissions of dust and dirt during construction,*
- b) Measures to control noise and vibration arising from all construction related activities. This should include suitable restrictions on the hours of working on the site including times of deliveries, the details of which should be provided,*
- c) Details of any artificial lighting to be used in connection with all construction related activities and security of the construction site,*
- d) The location of any site compound and plant equipment/storage (including materials);*
- e) The location for contractor parking,*
- f) Details of a site manager and point of contact for residents in the event of any issues arising through the construction process,*
- g) Details of how this CEMP will be made publicly available by the developer.*

The approved details shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works on site. The CEMP shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

Reason: *To safeguard the living conditions of the occupiers of nearby properties during the construction period.*

This is a pre-commencement condition as the measures need to be agreed before any works start on site.

The submitted details have been reviewed by planning officers and colleagues in K.C. Highways Development Management (via informal discussion) and K.C. Environmental Health. The requirements of condition 3 are considered as follows:

- a) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved**

The applicant's strategy to address mud, grit and dirt being carried onto the public highway is outlined in paragraphs 7.9 – 7.14 and Appendix D of the CEMP. This includes, but is not limited to:

- Sheet piling/containment of aggregates delivery vehicles
- Regular sweeping access road, as necessary
- Providing vehicle wheel wash at site exit point
- Damping down of dusty surfaces during dry/windy conditions, as necessary
- Regularly sweeping hard-standing areas, as necessary
- Securely covering skips
- Visual monitoring of the site boundary by site manager or appointed person daily or immediately following complaint.

The submitted details are considered acceptable to officers and K.C. Highways Development Management.

- a) Measures to control the emissions of dust and dirt during construction**
- b) Measures to control noise and vibration arising from all construction related activities. This should include suitable restrictions on the hours of working on the site including times of deliveries, the details of which should be provided**
- c) Details of any artificial lighting to be used in connection with all construction related activities and security of the construction site**

KC Environmental Health (commenting 06/07/2023) have advised that the details submitted regarding the above matters are acceptable. Officers agree with this assessment.

- d) The location of any site compound and plant equipment/storage (including materials)**
- e) The location for contractor parking**

A construction management plan drawing is provided in appendix A of the CEMP. This shows that the compound, storage areas, and contractor parking would be sited in the north portion of the site, but away from the protected trees. These areas are a suitable distance away from 3rd party dwellings and would support the delivery of the development.

- f) Details of a site manager and point of contact for residents in the event of any issues arising through the construction process**

Paragraphs 4.3 – 4.8 of the CEMP details the 'roles and responsibilities' of involved parties. While a site manager is referenced, and their responsibilities

provided, a name is not given. However, a name, phone number, and the responsibilities of a 'public liaison person' are provided. Considering the intended purpose of 3(f), to ensure contact may be made and a responsible person identified, this is considered adequate.

g) Details of how this CEMP will be made publicly available by the developer

The applicant has confirmed that the CEMP will be available for inspection on site, to those who request it (this is not stated within the CEMP itself but has been confirmed separately via email). They also note that it is available on the Council's webpage (as part of this application). These arrangements are considered to meet the requirements of condition 3(g).

The CEMP also includes details of the proposed site access arrangements.

The principal construction access is proposed to be off Penistone Road, which is acceptable although initial access is proposed via Whitegates Grove. This was raised as a concern from planning officers and K.C. Highways Development Management due to the limited space between the Whitegates Grove / Penistone Road junction and the (pre-existing) site access. Furthermore, the sightline of the Whitegates Grove / Penistone Road junction in the critical direction is limited.

In response, the applicant has provided reasoning for the temporary use of the existing access on Whitegates Grove. The site's steep topography prohibits a suitable level access and staging area for construction traffic / contractor parking being formed immediately from Penistone Road. Furthermore, they add:

Due to site topography, the site entrance (via Penistone Rd) needs to be cut in and this needs to be done from within the site itself. This is because due to the steepness of the site and the quantity of the material, the cut material cannot be stored onsite, it needs removing straight away. To do this, you require HGVs (in this case circa 9m rigids) waiting on-site to take the material away.

Because of this, without access via Whitegates Grove, sections of Penistone Road would be detrimentally affected by waiting vehicles and may need to be closed for prolonged periods to facilitate the access works, possibly requiring temporary lights to manage.

To attempt to address the concerns raised, the applicant's updated CEMP includes a summary of the vehicles to be used and swept path assessments to demonstrate safe usage of the Whitegates Grove / Penistone Road junction and into the site. K.C. Highways Development Management accept these manoeuvres as being acceptable as shown, although the issue of the restricted critical distance sightline remains. Although this sightline issue remains, it must be acknowledged to be an existing aspect of the highway network and no other viable option has been identified. Considering this, and that the use of

Whitegates Grove is expected to be limited to 8 weeks, on balance the temporary use of the Whitegates Grove access is deemed acceptable.

Another concern existed over the mature trees adjacent to the Whitegates Grove access which benefit from a TPO. The applicant applied for a separate TPO consent to ensure there was sufficient clearance under the tree canopies for construction vehicles and to ensure that vehicles wouldn't cause harm to protected trees. These tree works have been completed and concerns relating to the protected trees resolved.

In conclusion, planning officers consider the submission to address all requirements set out in the condition. Therefore, the details may be approved, although a note reiterating the use of Whitegates Grove being accepted as a temporary access only is recommended. Furthermore, a note of the condition's ongoing requirement is recommended.

Condition 7 (waste collection)

7. Prior to the commencement of development, 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 ensure the appropriate provision for waste and recycling during the construction phase.*

The submitted details have been reviewed by K.C. Waste Strategy. They have stated '*Once a meeting has taken place at commencement of construction to establish on site arrangements the WCA will be willing to confirm discharge of Condition 7*'. However, as condition 7 is a pre-commencement condition, this would not be feasible.

In discussions with K.C. Waste Strategy it has been concluded that they consider the details provided at this time acceptable in principle. Officers are therefore able to support the approval of the submitted details. However, K.C. Waste Strategy advise that further discussions will be needed for the more detailed elements of collection operations. A note to this effect, with contact details of the K.C. Waste Strategy officer, is recommended.

Condition 14 (soft landscaping) and Condition 25 (tree/shrub planting)

14. Notwithstanding the approved plans, development shall not commence until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. This shall include:

- a) Planting plans*
- a) Written specifications of soil depths, cultivation and other operations associated with plant and grass establishment)*

- b) Schedules of plants noting species, planting sizes and proposed numbers/densities.*
- c) Details of street trees as shown on Plan 3EN2-MHA-FS-XX-DR-A-01040 Rev P7, to include tree pit details*
- d) Details of an implementation and maintenance programme for a minimum 5-year period.*

All soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the Local Planning Authority.

Reason: *In the interests of the provision and establishment of acceptable landscape scheme to ensure a good quality development*

25. Development shall not commence until a landscape scheme detailing all tree/shrub planting, has been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any.

Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Local Plan policies LP24, LP30 and LP33*

The submitted details have been reviewed by K.C. Trees, who consider them acceptable (see comments dated 17/04/2023), and K.C. Landscape who raised one concern (see comments dated 06/04/2023). Further details on the management and maintenance were requested. The applicant provided an updated document which has addressed the initial concerns of K.C. Landscape through confirming that trees and plants will be replaced within the first five years.

While K.C. Landscape have not provided follow up comments, given that their initial concern has been directly addressed, planning officers conclude that the submitted details are acceptable and may be approved. However, the condition has an ongoing requirement which prohibits full discharge at this stage. It is recommended that a note regarding this be placed on the decision notice.

Condition 17 (boundary treatments)

17. Notwithstanding the approved plans, no development shall commence until details of the site boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the following:

(a) An evaluation of the structural integrity of existing walls around the site boundary and any proposals for their re-construction/replacement

(a) Details of all new boundary treatments around the perimeter of the site and between the dwellings hereby approved.

No dwelling shall be occupied until the boundary treatment around the perimeter of the site and the boundary treatment pursuant to each individual property is implemented in accordance with the approved details. It shall thereafter be retained in accordance with the approved details in perpetuity.

Reason: *This is a pre-commencement condition to enable an assessment of existing boundary features and the provision of a boundary treatment that in the interests of the visual amenities of the locality.*

The submitted details have been reviewed by planning officers and K.C. Trees.

The plans do not show typical elevational appearances for one of the three types of traditional boundary treatment. Furthermore, the fourth boundary treatment is retaining walls, which have a dedicated plan. Within this plan several different types of retaining wall are proposed across the site, but again no typical elevations are provided (only written descriptions are provided). The submitted details are insufficient to assess the visual and residential impacts of the walling.

No details have been provided pursuant to requirement 17(a), preventing this being assessed and failing to comply with the condition.

K.C. Trees expressed concerns as, initially, retaining works were proposed directly on the south boundary. This would be immediately adjacent to a veteran oak tree on neighbouring land, inside its RPA. As such there were concerns over potential impacts upon the tree's health. These concerns were shared with the applicant, who amended the plan and moved the retaining works further from the tree. However, there would still be substantial, albeit somewhat reduced, excavation and retaining works within the RPA of the tree. No evidence has been submitted, such as an Arboricultural Impact Assessment, to demonstrate these works can be implemented without undue harm to the tree.

Due to the above concerns, officers are unable to recommend the submitted details be approved.

Summary

The details submitted pursuant to condition 3, 7, 14, and 25 may be approved.

The details submitted pursuant to condition 17 cannot be approved.

Recommendation: issue split decision

Report Dated: 10/05/2024.

Proposed Letter Text

Condition 3 (CEMP)

You have submitted the document 'Construction Environment Management Plan' rev. C and dated February 2024 pursuant to condition 3. This is in addition to the email dated 04/03/2024 which confirms that the 'Construction Environment Management Plan' rev. C document shall be made available for inspection on-site as necessary.

The submitted details are considered acceptable for the initial requirements of condition 3. This is explicitly with the understanding that the use of the site's access from Whitegates Grove for all vehicles is limited to an 8-week period. Should the access be utilised for a longer period you would be in breach of condition 3 and the hereby approved details.

Once the start and end dates of using the Whitegates Grove access are known, these should be emailed to the case officer Nick Hirst at nick.hirst@kirklees.gov.uk.

Pursuant to section 5.11 of the approved 'Construction Environment Management Plan', a copy of the document shall be retained on site for inspection.

Furthermore, be aware that condition 3 has the following ongoing requirement which must be adhered to, to ensure continued compliance with the condition:

The approved details shall be implemented at the commencement of work on site and shall thereafter be retained and employed until completion of works on site. The CEMP shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

Condition 7 (waste collection)

You have submitted the plan ref. FB-006 Rev. B pursuant to condition 7.

I can confirm that the submitted details are acceptable for the initial requirement of condition 7. However, be aware that condition 7 has the following ongoing requirement which must be adhered to, to ensure continued compliance with the condition:

The approved details shall be provided before first occupation and shall be so retained thereafter.

Notwithstanding the above, K.C. Waste Strategy advise that continued discussions should be undertaken including a site meeting as works commence. This is in the interest of working collaboratively with the council's refuse collection service as the development progresses. To discuss this further please email waste.planning@kirklees.gov.uk.

Condition 14 (soft landscaping) and Condition 25 (tree/shrub planting)

You have submitted the plans ref. H22-0016_004 rev. A and H22-0016_005 pursuant to conditions 14 and 25.

I can confirm that the submitted details are acceptable for the initial requirement of each condition. However, be aware that the conditions each have the following further requirements which must be adhered to, to ensure continued compliance with the respective condition:

Condition 14

All soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the Local Planning Authority.

Condition 25

The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any.

Condition 17 (boundary treatments)

You have submitted the following documents pursuant to condition 17:

- Plan ref. FB-007
- Plan ref. 22-491 Rev. A

The plans do not show typical elevational appearances for one of the three types of traditional boundary treatment. Furthermore, the fourth boundary treatment is retaining walls, which have a dedicated plan. Within this plan several different types of retaining wall are proposed across the site, but again no typical elevations are provided (only written descriptions are provided). The submitted details are insufficient to assess the visual and residential impacts of the walling.

Additionally, the proposal includes extensive excavations near to a veteran oak. There are concerns over potential impacts upon the tree's health. No evidence has been submitted, such as an Arboricultural Impact Assessment, to demonstrate these works can be implemented without undue harm to the tree.

Finally, no details have been provided pursuant to requirement 17(a), preventing this being assessed and failing to comply with the condition. Condition 17(a) requires that the following be provided:

(a) An evaluation of the structural integrity of existing walls around the site boundary and any proposals for their re-construction/replacement

In light of the above, insufficient details have been provided to undertake a full assessment and concerns are held over the details submitted. For the avoidance of doubt condition 17 is not hereby discharged.