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:	**2023/44/90915/E**
Site Address:	adj, 115, Westfield Lane, Wyke, BD12 9LY
Description:	Discharge of conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 30, 31, 32, 33, 34 and 36 of previous permission 2023/91472 for the variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access
Recommending Officer:	Callum Harrison

DECISION – Discharge of Condition- 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.

Majors Team

AUTHORISED OFFICER

Date: 24-Jul-2023

Officer Report 2

2023/90915 - Discharge of conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 30, 31, 32, 33, 34 and 36 of previous permission 2023/91472 for the variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access at adj, 115, Westfield Lane, Wyke, BD12 9LY.

Background

Under the previous split decision, the following decisions were made:

- Discharge conditions 11, 14, 18, 23, 27 and 33.
- Approve details (subject to ongoing requirements of the relevant conditions) pursuant to conditions 9, 12, 13, 19 and 36.
- No approval or discharge pursuant to conditions 6, 7, 8, 10, 15, 16, 20, 21, 22, 25, 28, 30, 31 and 32.

As such, this report will assess whether details relating to conditions 6, 7, 8, 10, 15, 16, 20, 21, 22, 25, 28, 30, 31 and 32 can now be approved or discharged.

Assessment

Condition 6 - Storm Events Drainage Assessment

6. The Reserved Matters referred to in Condition 1 shall be accompanied by an assessment of the effects of 1 in 100-year storm events, with an additional allowance for climate change, on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.
***Reason:** To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental wellbeing and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.

- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

KC LLFA were consulted on this application. Upon review, further detail was required at the time of the previous split decision.

Since then, further information has been provided by the Developer which is acceptable to KC LLFA. This further information includes the correct details of the AquaSpira tank, therefore Condition 6 **can** now be discharged for the purposes of the pre-commencement condition. However, no part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.

Condition 7 - Foul, Surface Water and Land Drainage

7. The Reserved Matters referred to in Condition 1 shall be accompanied by a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests and associated soakaway design, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. 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 and thereafter retained throughout the lifetime of the development. No additional surface water drainage works, or deviation from the approved drainage scheme, shall be carried out without the prior written consent of the Local Planning Authority.
***Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental wellbeing and to accord with and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

KC LLFA have been consulted. Under the previous split decision, it was not demonstrated that the hierarchy of surface water disposal has been followed. An assessment of the viability of infiltration techniques for surface water disposal was also still required. The tank design on the submitted plans also need more detailing to reflect the MicroDrainage.

Further information provided by the Developer is acceptable to KC LLFA and covers the issues set out on the previous decision. Therefore Condition 7 **can** now be discharged for the purposes of the pre-commencement condition. However, 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 and thereafter retained throughout the lifetime of the development. Also no additional surface water drainage works, or deviation from the approved drainage scheme, shall be carried out without the prior written consent of the Local Planning Authority in order to comply with the condition.

Condition 8 - The Operation, Maintenance and Management of the Surface Water Drainage Infrastructure

8. Prior to the development being brought into operation, details of the operation, maintenance and management of the surface water drainage infrastructure shall be submitted to and approved in writing with the Local Planning Authority. Details shall include adoption proposals of any adoptable structures, as necessary. The development shall thereafter be operated, managed and maintained at all times for the lifetime of the development, or up to the point of adoption, in accordance with the approved details.
***Reason:** To deliver effective sustainable drainage systems that will be operated, maintained and managed for the lifetime of the development that it will serve, in accordance with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

Details of the proposed maintenance of the SW drainage system until adoption by Yorkshire Water and a Maintenance Agreement are required to discharge this condition. This site has over 10 dwellings and is considered a major application. The Local Planning Authority is obliged to ensure that sustainable drainage systems are maintained and managed for the lifetime of the site. This will include the period from construction to potential adoption by Yorkshire Water or a substitute NAV.

A Section 106 agreement has not been completed which sees the setting up of a management company / or the developer legally responsible for performing these tasks until such a time as the system is formally adopted. This is in line with Kirklees protocol, agreed with Planning Enforcement and Kirklees's Legal Department. As such condition 9 **can** now be discharged.

Condition 10 – Foul and Surface Water Drainage Systems

10. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
***Reason:** In the interests of satisfactory and sustainable drainage and so as to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

This condition is not pre-commencement and it requires no submission or consent from the LPA. It merely needs to be adhered to. As such, **condition 10 cannot be discharged.**

Condition 15 – Remediation Strategy

15. Groundworks (excluding demolition of the existing dwellinghouse) 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 ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*
This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

The agent has submitted:

- Remediation Statement S221109/RS

Since the previous split decision, KC Environmental Health have now responded to the consultation request. The assessment below is based upon their comments.

The remediation report proposes that following demolition of the existing building and a site strip, where made ground is to remain in the garden and landscaped areas a clean cover system comprising of 600mm clean cover (150mm clean imported topsoil and 450mm subsoil) will be adopted. Any

excess made ground will be stockpiled and tested for off-site disposal. The report advises that any imported topsoil will be tested for contaminants that are considered to pose a risk to human health and the clean cover system will be installed in accordance with Yorkshire and Lincolnshire Pollution Advisory Group Version 4.1 – June 2021 guidance. More details relating to the imported soil screening is provided in Section 4.1 of the report.

Validation proposals are provided and suggest that a plot-by-plot validation may be necessary followed by a final validation report summarising the whole site remediation. The report considers either validating plots post-placement or prior to placement and details the number of samples to be tested. In addition, the depth of clean cover will be evidenced with photographs.

The remediation strategy is considered acceptable. Therefore condition 15 **can** be considered discharged for the purposes of the pre-commencement condition. However, works must still be carried out in complete accordance with the remediation strategy hereby approved. This includes the sampling of imported material prior to importation to avoid having to re-excavate any unsuitable material and cross-contamination. The retesting of material once on-site is also required to accord with Condition 15.

Condition 16 – Carrying out of Remediation

16. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 15. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy 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 groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. 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:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.*

Condition 16 should not be regarded as a pre-commencement condition. This condition does not require any information to be submitted to the LPA unless unexpected contamination is found. **As such, no approval pursuant to condition 16 should be issued at this stage, and the condition must still be fully complied with throughout the construction phase – if any unexpected contamination is found, the submission requirements of the condition become applicable.**

Condition 20 – Affordable Housing

20. No development shall commence except for the demolition of the existing dwellinghouse, until arrangements for the provision of affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- *The number and type of affordable housing units to be provided;*
- *The layout and disposition of the units' affordable housing to be provided;*
- *The timescale for the implementation and completion of the affordable housing units; and*
- *The mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.*

Reason: *To ensure the provision of affordable housing in accordance with the requirements of Policy LP11 of the Kirklees Local Plan, and Chapter 5 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary affordable housing.

KC Strategic Housing were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. A section 106 agreement securing 3 affordable units as first homes has now been completed, as such condition 20 **can** be discharged.

Condition 21 – Public Open Space

21. No development shall commence except for the demolition of the existing dwellinghouse until arrangements for the provision of publicly-accessible open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- *The layout and disposition of the open space;*
- *The timescale for the implementation and completion of the works to provide the open space;*
- *The mechanism for ensuring that the open space will be available for public use in perpetuity; and*
- *Maintenance of the open space in perpetuity.*

Reason: *To ensure the provision of open space to serve the development and in accordance with Policy LP63 of the Kirklees Local Plan, and Chapter 8 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary Public Open Space.

KC Landscape were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. A section 106 agreement securing a contribution for off site public open space has been secured. As such condition 21 **can** be discharged.

Condition 22 – Bin Storage

22. The Reserved Matters referred to in Condition 1 shall include 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:** In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapter 9 and 12 of the National Planning Policy Framework.*

The agent has submitted (on reserved matter application 2023/90909):

- 2023-018-001 Rev L Site Plan and Location Plan

KC Waste Strategy were consulted on the reserved matters application. In order to discharge condition 22, the submitted details need to be agreed in writing by the LPA on the reserved matters application. The reserved matters application as been approved, whereby the layout detailed suitable bin storage and collect points, As such, condition 22 **can** be discharged for the purposes of the pre-commencement condition. However, the approved details shall be provided before first occupation and must be retained thereafter.

Condition 25 – Construction Management Plan

25. Prior to the commencement of development (except for the demolition of the existing dwellinghouse) (including demolition and ground works), a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include a timetable of all works, details of point(s) of access for construction traffic, vehicle sizes and routes, times of vehicle movements, parking for construction workers, signage, pre-development road condition surveys, wheel washing facilities within the site, lighting during construction works, hours of working, details of dust, noise and vibration suppression measures. The development shall be carried out strictly in accordance with the CMP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.
***Reason:** In the interests of amenity and highway safety, and to accord with Policies LP21 and LP52 of the Kirklees Local Plan.*
This pre-commencement condition is necessary to ensure appropriate measures to protect amenity and maintain highways safety are agreed at an appropriate stage of the development process.

The agent has submitted:

- Construction Traffic Management Plan Rev 01 (received 17/07/2023)

KC Highways Development Management have been consulted on this condition. They deem that the construction management plan submitted sets out appropriate measures to protect amenity and maintain highways safety. As such, condition 25 **can** be discharged for the purposes of the pre-commencement condition. However, the development must be carried out strictly in accordance with the CMP so approved throughout the period of construction. Also, upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.

Condition 28 – Internal Highway Details

28. No development shall commence except for the demolition of the existing dwellinghouse until a scheme detailing the proposed internal highways has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and cross sectional information together with the proposed design and construction details of drainage works (new surface water attenuation tanks/pipes/manholes), street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The approved scheme shall be completed in accordance with a programme agreed with the Local Planning Authority and thereafter the approved works shall be retained for the lifetime of the development.
***Reason:** In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.*
This is a pre-commencement condition to create a safe and accessible estate road network at an appropriate stage of the development process.

This condition has been superseded by a more specific condition set out on the reserved matters application (2023/90909) as such, condition 28 can be discharged.

Condition 30 – Travel Plan

30. Prior to occupation of the development, a Travel Plan which shall set out measures to discourage the use of high-emission vehicles and encourage the use of public transport, cycling and walking, as well as the uptake of low emission fuels and technologies, shall be submitted to and approved in writing by the Local Planning Authority.
***Reason:** To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway and air quality impacts of the development in accordance with Policies LP20, LP21, LP24,*

LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

This is not a pre-commencement condition, nor has a suitable Travel Plan been submitted. As such, **condition 30 cannot nor needs to be discharged** at this pre-commencement stage.

Condition 31 – Sustainable Transport

31. No development shall commence except for the demolition of the existing dwellinghouse until arrangements for the provision of measures to address highways impacts and to encourage the use of sustainable modes of transport have been submitted to and approved in writing by the Local Planning Authority.
***Reason:** To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway impacts of the development in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, and Chapter 9 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary highway safety and modes of sustainable transport measures.

This condition has been superseded by a more specific condition set out on the reserved matters application (2023/90909) as such, condition 31 **can** be discharged.

Condition 32 – Refuse Vehicle Access

32. Prior to the commencement of development, excluding the demolition of the existing dwellinghouse, a scheme detailing the layout, construction specification, and programme of works for the access to the development, visibility splays, internal roads, footways, turning areas to accommodate an 11.85m refuse vehicle, and all associated works, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved works have been implemented. Thereafter the approved works shall be retained for the lifetime of the development.
***Reason:** In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.*
This pre-commencement condition is necessary to ensure that access to the site is designed and approved at an appropriate stage of the development process.

The agent has submitted:

- 124.008.02.01.G Section 38 Layout
- 124.008.02.02.C Section 38 Contour Layout
- 124.008.04.A Typical Highway Construction Details

- 24.008.06.F Longitudinal Sections Condition
- 124.008.15.B Kerbing Layout Condition
- 124.008.16.B Surfacing Layout

KC Highways Development Management and KC Section 38 Team (adopted) have been consulted on this condition. Both consultees accept that the submitted information shows that refuse vehicles can access, move around, turn and egress the site in a safe manner. As such a satisfactory layout has been demonstrated and condition 32 **can** be considered discharged for the purpose of the pre-commencement condition. However, the development shall not be brought into use until the approved works have been implemented. Thereafter the approved works shall be retained for the lifetime of the development.

Decision Text

Condition 6 - Storm Events Drainage Assessment

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

KC LLFA were consulted on this application. Upon review, further detail was required at the time of the previous split decision.

Since then, further information has been provided by the Developer which is acceptable to KC LLFA. This further information includes the correct details of the AquaSpira tank, therefore Condition 6 **can** now be discharged for the purposes of the pre-commencement condition. However, no part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.

Condition 7 - Foul, Surface Water and Land Drainage

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.

- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

KC LLFA have been consulted. Under the previous split decision, it was not demonstrated that the hierarchy of surface water disposal has been followed. An assessment of the viability of infiltration techniques for surface water disposal was also still required. The tank design on the submitted plans also need more detailing to reflect the MicroDrainage.

Further information provided by the Developer is acceptable to KC LLFA and covers the issues set out on the previous decision. Therefore Condition 7 **can** now be discharged for the purposes of the pre-commencement condition. However, 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 and thereafter retained throughout the lifetime of the development. Also no additional surface water drainage works, or deviation from the approved drainage scheme, shall be carried out without the prior written consent of the Local Planning Authority in order to comply with the condition.

Condition 8 - The Operation, Maintenance and Management of the Surface Water Drainage Infrastructure

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

Details of the proposed maintenance of the SW drainage system until adoption by Yorkshire Water and a Maintenance Agreement are required to discharge this condition. This site has over 10 dwellings and is considered a major application. The Local Planning Authority is obliged to ensure that sustainable drainage systems are maintained and managed for the lifetime of the site. This will include the period from construction to potential adoption by Yorkshire Water or a substitute NAV.

A Section 106 agreement has not been completed which sees the setting up of a management company / or the developer legally responsible for performing these tasks until such a time as the system is formally adopted. This is in line with Kirklees protocol, agreed with Planning Enforcement and Kirklees's Legal Department. As such condition 9 **can** now be discharged.

Condition 10 – Foul and Surface Water Drainage Systems

The agent has submitted:

- Document Ref: 124.008 – V5, MD Calcs (1yr/30yr/100yr) dated 06/07/2023.
- Drawing Ref: 124.008/03, S104 Layout, Rev F dated 06/07/2023.
- Drawing Ref: 124.008/05, Private Drainage Layout, Rev D dated 05/07/2023.
- Drawing Ref: 23.88217-D2, 2100mm dia Pipe CSR Attenuation, Rev I dated 06/07/2023.

This condition is not pre-commencement and it requires no submission or consent from the LPA. It merely needs to be adhered to. As such, **condition 10 cannot be discharged.**

Condition 15 – Remediation Strategy

The agent has submitted:

- Remediation Statement S221109/RS

Since the previous split decision, KC Environmental Health have now responded to the consultation request. The assessment below is based upon their comments.

The remediation report proposes that following demolition of the existing building and a site strip, where made ground is to remain in the garden and landscaped areas a clean cover system comprising of 600mm clean cover (150mm clean imported topsoil and 450mm subsoil) will be adopted. Any excess made ground will be stockpiled and tested for off-site disposal. The report advises that any imported topsoil will be tested for contaminants that are considered to pose a risk to human health and the clean cover system will be installed in accordance with Yorkshire and Lincolnshire Pollution Advisory Group Version 4.1 – June 2021 guidance. More details relating to the imported soil screening is provided in Section 4.1 of the report.

Validation proposals are provided and suggest that a plot-by-plot validation may be necessary followed by a final validation report summarising the whole site remediation. The report considers either validating plots post-placement or prior to placement and details the number of samples to be tested. In addition, the depth of clean cover will be evidenced with photographs.

The remediation strategy is considered acceptable. Therefore condition 15 **can** be considered discharged for the purposes of the pre-commencement condition. However, works must still be carried out in complete accordance with the remediation strategy hereby approved. This includes the sampling of imported material prior to importation to avoid having to re-excavate any unsuitable material and cross-contamination. The retesting of material once on-site is also required to accord with Condition 15.

Condition 16 – Carrying out of Remediation

Condition 16 should not be regarded as a pre-commencement condition. This condition does not require any information to be submitted to the LPA unless unexpected contamination is found. **As such, no approval pursuant to condition 16 should be issued at this stage, and the condition must still be fully complied with throughout the construction phase – if any unexpected contamination is found, the submission requirements of the condition become applicable.**

Condition 20 – Affordable Housing

KC Strategic Housing were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. A section 106 agreement securing 3 affordable units as first homes has now been completed, as such condition 20 **can** be discharged.

Condition 21 – Public Open Space

KC Landscape were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. A section 106 agreement securing a contribution for off site public open space has been secured. As such condition 21 **can** be discharged.

Condition 22 – Bin Storage

The agent has submitted (on reserved matter application 2023/90909):

- 2023-018-001 Rev L Site Plan and Location Plan

KC Waste Strategy were consulted on the reserved matters application. In order to discharge condition 22, the submitted details need to be agreed in writing by the LPA on the reserved matters application. The reserved matters application as been approved, whereby the layout detailed suitable bin storage and collect points, As such, condition 22 **can** be discharged for the purposes of the pre-commencement condition. However, the approved details shall be provided before first occupation and must be retained thereafter.

Condition 25 – Construction Management Plan

The agent has submitted:

- Construction Traffic Management Plan Rev 01 (received 17/07/2023)

KC Highways Development Management have been consulted on this condition. They deem that the construction management plan submitted sets out appropriate measures to protect amenity and maintain highways safety. As such, condition 25 **can** be discharged for the purposes of the pre-commencement condition. However, the development must be carried out strictly in accordance with the CMP so approved throughout the period of

construction. Also, upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.

Condition 28 – Internal Highway Details

This condition has been superseded by a more specific condition set out on the reserved matters application (2023/90909) as such, condition 28 **can** be discharged.

Condition 30 – Travel Plan

This is not a pre-commencement condition, nor has a suitable Travel Plan been submitted. As such, condition 30 **cannot** nor needs to be discharged at this pre-commencement stage.

Condition 31 – Sustainable Transport

This condition has been superseded by a more specific condition set out on the reserved matters application (2023/90909) as such, condition 31 **can** be discharged.

Condition 32 – Refuse Vehicle Access

The agent has submitted:

- 124.008.02.01.G Section 38 Layout
- 124.008.02.02.C Section 38 Contour Layout
- 124.008.04.A Typical Highway Construction Details
- 24.008.06.F Longitudinal Sections Condition
- 124.008.15.B Kerbing Layout Condition
- 124.008.16.B Surfacing Layout

KC Highways Development Management and KC Section 38 Team (adopted) have been consulted on this condition. Both consultees accept that the submitted information shows that refuse vehicles can access, move around, turn and egress the site in a safe manner. As such a satisfactory layout has been demonstrated and condition 32 **can** be considered discharged for the purpose of the pre-commencement condition. However, the development shall not be brought into use until the approved works have been implemented. Thereafter the approved works shall be retained for the lifetime of the development.

Summary

Conditions 11, 14, 18, 23, 27 and 33 are hereby discharged.

- Details pursuant to conditions 9, 12, 13, 19 and 36 are hereby approved. Full discharge of these conditions will be achieved through compliance with the conditions' ongoing requirements.
- No approval or discharge is hereby issued pursuant to conditions 6, 7, 8, 10, 15, 16, 20, 21, 22, 25, 28, 30, 31 and 32.

Condition 6 - Storm Events Drainage Assessment

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA were consulted on this application. Upon review, further detail is required on site levels taking off the original contour lines for clarity. While levels for the road have been included, there are no levels for back of kerb and no levels for the driveways and gradient arrows. Spot levels around relevant properties must be included. In addition, we need to have details of boundary treatments and how that may contain water or release it through adjacent land. Plots of particular concern are plots 8-11.

Also, driveways falling back to the road is advised for flood routing. The risk at the southwest corner must be assessed and make reasonable attempt to protect the property at 24 Brookfields Avenue with water flowing beyond the property. As such **condition 6 cannot be discharged at this time.**

Condition 7 - Foul, Surface Water and Land Drainage

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA have been consulted. It has not been demonstrated that the hierarchy of surface water disposal has been followed.

An assessment of the viability of infiltration techniques for surface water disposal is still required. The layout would have to make space for soakaway features with suitable stand-off distances. Where soakaways are demonstrated not to be practicable a connection to watercourse should be sought. A watercourse of unknown size and condition is located 120 metres to the west of the site. It must be demonstrated that this is unsuitable for a connection or there is proven inability to legally connect to this feature for a connection to sewer to be considered.

A connection to combined sewer is the final resort in the hierarchy of disposal. Plans show a 3.5l/s connection to this sewer which can be requisitioned across 3rd party land providing Yorkshire Water carry out a successful feasibility study.

The tank design on the submitted plans is generic and does not reflect that in MicroDrainage, a plan can cross section of the selected final design needs to be submitted to complete this application. The contributing areas within MicroDrainage simulations should reflect those on the impermeable area diagram which they currently do not do. Also, details of the proposed foul drainage are required. As such **condition 7 cannot be discharged at this time.**

Condition 8 - The Operation, Maintenance and Management of the Surface Water Drainage Infrastructure

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

Details of the proposed maintenance of the SW drainage system until adoption by Yorkshire Water and a Maintenance Agreement are required to discharge this condition. This site has over 10 dwellings and is considered a major application. The Local Planning Authority is obliged to ensure that sustainable drainage systems are maintained and managed for the lifetime of the site. This will include the period from construction to potential adoption by Yorkshire Water or a substitute NAV.

A Section 106 unilateral undertaking needs to be signed to set up a management company to perform these tasks until such a time as the system

is formally adopted. This is in line with Kirklees protocol, agreed with Planning Enforcement and Kirklees's Legal Department.

If no such agreement was signed at outline stage, it must be done prior to reserved matters being agreed. A condition is required stating a risk assessment and method statement must be carried out by the Principal Designer under CDM Regulations 2015 to hand over to the management company. This will consist of an itinerary, schedule and methodology of maintenance tasks and inspections to be carried out, including methods of access to and into any attenuation structure.

As such **condition 8 cannot be discharged at this time.**

Condition 9 – Temporary Surface Water Drainage

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA have reviewed these documents. They deem that the proposed temporary surface water drainage system is sufficient to prevent flooding and drainage issue during construction. As such, **an approval pursuant to condition 9 can be issued for the purposes of this pre-commencement condition, however works must be carried out in accordance with the approved details.**

Condition 10 – Foul and Surface Water Drainage Systems

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

This condition is not pre-commencement and it requires no submission or consent from the LPA. It merely needs to be adhered to. As such, **condition 10 cannot be discharged.**

Condition 11 – Landscape Maintenance Schedule

There was an error in the wording of this condition on the decision notice for application 2023/91472. As stated in the officer report for 2023/91472, 'given it [the condition] relates to the end landscaping, which would be carried out after the dwellings are constructed, it is unreasonable as per the six tests for conditions to have it as a pre-commencement condition. Now the council has received a reserved matters application, it is clear to see that there is sufficient space for landscaping and it would not be a retrofitted, poor quality finish. A suitable Landscape Maintenance Schedule can clearly be achieved prior to the occupation of the dwelling, as such, the condition shall be varied to reflect this.'

As such, officers will apply the correct wording of this condition to the decision notice of the reserved matters application. **Therefore, outline condition 11 can be considered discharged.**

Condition 12 – Arboricultural Method Statement

You have submitted:

- 230204 Arboricultural Method Statement

KC Trees were consulted on this application. The protection measures detailed in the submitted arboricultural method statement are sufficient to protect the trees and KC Trees would be satisfied that the condition for tree protection can be discharged. As such, **an approval can be issued pursuant to condition 12 for the purposes of the pre-commencement requirement of the condition, however works must be carried out in accordance with the approved details.**

Condition 13 – Ecological Impact Assessment

You have submitted:

- FE257_BIA
- FE257_Biodiversity Metric 3.1
- FE257 EcIA01
- FE257_CEMP

KC Ecology have been consulted on this matter. The submitted metric details there would be a loss of 0.04 habitat units (2.58% net loss) and a gain of 0.06 hedgerow units (123.13% net gain). In order for the proposals to come forward in line with national and local policies and guidance (along with the requirements of condition 13 on outline permission 2020/90436 for the development to achieve a 10% net gain), 0.206 habitat units would need to be

delivered, via off-site compensation. Officers have agreed that in order to achieve a 10% net gain, a financial contribution (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)), of £4,738 would be required. This would be secured though a Section 106 agreement. Furthermore, the habitats that are due to be delivered on site would be secured through a condition on the reserved matters application.

It is accepted that the submitted information includes all the information detailed in condition 13, whilst also meeting the wording of it. **As such, an approval pursuant to condition 13 can be issued.**

Condition 14 – Bat Survey

You have submitted:

- Addendum Bat Report E257/BTR01, dated June 2023

KC Ecology have been consulted with regard to this condition. The report concluded that the roost identified within B1 is classified as a common pipistrelle day roost
a low status roost for individual / small numbers of a common species. Furthermore, the roost is likely to form a small part of a much wider resource of similar roosts in the local area. As such it is considered to have low conservation significance. KC Ecology therefore deem that the submitted report provides sufficient detail to support the discharge of condition 14. Condition 14 has no ongoing requirements. Therefore, **condition 14 can be considered discharged.**

Condition 15 – Remediation Strategy

You have submitted:

- Remediation Statement S221109/RS

KC Environmental Health have been consulted on this condition. They have not yet been able to make comment. As such, **condition 15 cannot be discharged** at this stage.

Condition 16 – Carrying out of Remediation

Condition 16 should not be regarded as a pre-commencement condition. This condition does not require any information to be submitted to the LPA unless unexpected contamination is found. **As such, no approval pursuant to condition 16 should be issued at this stage, and the condition must still be fully complied with throughout the construction phase – if any unexpected contamination is found, the submission requirements of the condition become applicable.**

Condition 18 – Electric Vehicle Charging Points

You have submitted:

- Site Plan and Location Plan by DK Designs, dated February 2023 (drawing 2023-018-001)
- Cover letter by Johnson Mowat dated 12th April 2023

KC Environmental Health have been consulted on this condition. The submitted cover letter states that all dwellings will benefit from the provision of Electric Charging Points. The charging points are shown fitted to the fencing to the front of each property. The proposed location is considered acceptable. Officers would seek to secure a suitable technical standard of the electric vehicle charging point by a condition for compliance on the reserved matters application, which would not need to be formally discharged. **As such condition 18 can be considered discharged.**

Condition 19 – Details of Fencing to Public Right of Way

You have submitted:

- R-2679-1C - Landscape Master Plan

KC Public Right of Way (KC PROW) were consulted on the application. They support the proposal to significantly widen the PROW. Whilst the proposed 2150mm close boarded fence is not ideal, given that the footpath is to be widened to 2m, it is not considered the proposed fencing would materially detriment the use of the PROW. As such, the proposed fencing is considered acceptable. **An approval pursuant to condition 19 can be issued** in respect of the condition's pre-commencement requirement. However, the line of fence hereby approved must now be implemented in accordance with the agreed details that will include timing of the proposed re-alignment. The realigned fence must also be retained thereafter.

Condition 20 – Affordable Housing

KC Strategic Housing were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 20 cannot be discharged at this time.**

Condition 21 – Public Open Space

KC Landscape were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 21 cannot be discharged at this time.**

Condition 22 – Bin Storage

The agent has submitted (on reserved matter application 2023/90909):

- 2023-018-001 Rev L Site Plan and Location Plan

KC Waste Strategy were consulted on the reserved matters application. In order to discharge condition 22, the submitted details need to be agreed in writing by the LPA on the reserved matters application. As the reserved matters application is still pending decision, **condition 22 cannot be discharged at this time.**

Condition 23 – Temporary Bin Storage

The proposed development will not be phased. As such, there will not be any need for temporary waste service arrangements. Therefore, **condition 23 can be considered discharged.** Should, however, any dwellings become occupied prior to development being completed, the submission requirements of condition 23 would become applicable.

Condition 25 – Construction Management Plan

You have submitted:

- FE257 CEMP - Construction Management Plan

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 25 cannot be discharged** at this stage.

Condition 27 – Retaining Walls Adjacent to Highway

You have submitted:

- 2023-018-001 Rev L Site Plan and Location Plan

The agent states that there are to be no new retaining walls / building retaining walls adjacent to the existing / proposed adoptable highway. As such, **condition 27 can be considered discharged.** However when on site, in the event of it becoming apparent that new retaining walls / building retaining walls are required adjacent to the existing / proposed adoptable highway, this condition will need to be discharged at that stage.

Condition 28 – Internal Highway Details

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 28 cannot be discharged** at this stage.

Condition 30 – Travel Plan

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 30 cannot be discharged** at this stage.

Condition 31 – Sustainable Transport

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 31 cannot be discharged** at this stage.

Condition 32 – Refuse Vehicle Access

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 32 cannot be discharged** at this stage.

Condition 33 – Intrusive Investigations for Coal Mining Legacy

The information sought by this condition was submitted under the approved discharge of condition application 2023/990638. This information comprised:

- S221109 Ground Gas Risk Assessment - Westfield Lane, Wyke
- S221109 PHASE 1 DESK STUDY
- S221109 Phase 2 Site Investigation - February 2023

As this information has already been submitted to the Local Planning Authority for consideration and approval in writing, this requirement of the condition has already been met. Condition 33 has no ongoing requirements. As such **condition 33 can be considered discharged.**

Condition 36 – Construction Environmental Management Plan

You have submitted:

- FE257/CEMP01 CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

KC Ecology have been consulted on this information. KC Ecology deem that the submitted CEMP (report ref: FE257/CEMP01) provides sufficient detail to ensure that protected species and retained trees would be safeguarded throughout the development. **An approval pursuant to condition 36 can be issued.** However, the approved CEMP must be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Application: 2023/90915 – land adjacent to 115, Westfield Lane, Wyke, BD12 9LY

Proposal: Discharge of conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 30, 31, 32, 33, and 36 of previous permission 2023/91472 for the variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access.

Application Background

The applicant applied to discharge several conditions pertinent to the decision on application 2020/90436. However, since this application was made, a section 73 decision has been issued to vary multiple conditions on the decision notice for 2020/90436.

Under application 2023/91472 conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of the previous outline permission 2020/90436 were varied. As well as this, some conditions were removed as they had been discharged under application 2023/90638 also. As such, many of the conditions to which this discharge of condition application relates have new condition numbers. As the section 73 decision (2023/91472) ultimately superseded the decision notice for 2020/90436, the description of development for this application has been changed to seek discharge of the same conditions, but against the decision notice for 2023/91472.

The agent has also added more conditions to be discharged under this application.

The previous description read: ‘Discharge conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 21, 22, 24, 27, 29, 30, 32, 33, 34, 35, 38 on previous permission 2020/90436 for outline permission for demolition of 1 dwelling and erection of residential development and associated works with details for access.’

The new description reads as follows: ‘Discharge of conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 30, 31, 32, 33, and 36 of previous permission 2023/91472 for the variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access.’

Assessment

Condition 6 - Storm Events Drainage Assessment

6. The Reserved Matters referred to in Condition 1 shall be accompanied by an assessment of the effects of 1 in 100-year storm events, with an additional allowance for climate change, on drainage infrastructure and surface water run-off pre and post development between the development and the

surrounding area, in both directions, has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use (dwellings shall not be occupied) until the works comprising the approved scheme have been completed and such approved scheme shall be retained thereafter throughout the lifetime of the development.
***Reason:** To ensure the provision of adequate and sustainable systems of drainage are employed, in the interests of amenity, environmental wellbeing and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023.
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023.

KC LLFA were consulted on this application. Upon review, further detail is required on site levels taking off the original contour lines for clarity. While levels for the road have been included, there are no levels for back of kerb and no levels for the driveways and gradient arrows. Spot levels around relevant properties must be included. In addition, we need to have details of boundary treatments and how that may contain water or release it through adjacent land. Plots of particular concern are plots 8-11.

Also, driveways falling back to the road is advised for flood routing. The risk at the southwest corner must be assessed and make reasonable attempt to protect the property at 24 Brookfields Avenue with water flowing beyond the property. As such **condition 6 cannot be discharged at this time.**

Condition 7 - Foul, Surface Water and Land Drainage

7. The Reserved Matters referred to in Condition 1 shall be accompanied by a scheme detailing foul, surface water and land drainage, (including off site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests and associated soakaway design, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. 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 and thereafter retained throughout the lifetime of the development. No additional surface water drainage works, or deviation from the approved drainage scheme, shall be carried out without the prior written consent of the Local Planning Authority.

Reason: *To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity, environmental wellbeing and to accord with and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023.
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023.

KC LLFA have been consulted. It has not been demonstrated that the hierarchy of surface water disposal has been followed.

An assessment of the viability of infiltration techniques for surface water disposal is still required. The layout would have to make space for soakaway features with suitable stand-off distances. Where soakaways are demonstrated not to be practicable a connection to watercourse should be sought. A watercourse of unknown size and condition is located 120 metres to the west of the site. It must be demonstrated that this is unsuitable for a connection or there is proven inability to legally connect to this feature for a connection to sewer to be considered.

A connection to combined sewer is the final resort in the hierarchy of disposal. Plans show a 3.5l/s connection to this sewer which can be requisitioned across 3rd party land providing Yorkshire Water carry out a successful feasibility study.

The tank design on the submitted plans is generic and does not reflect that in MicroDrainage, a plan can cross section of the selected final design needs to be submitted to complete this application. The contributing areas within MicroDrainage simulations should reflect those on the impermeable area diagram which they currently do not do. Also, details of the proposed foul drainage are required. As such **condition 7 cannot be discharged at this time.**

<u>Condition 8 - The Operation, Maintenance and Management of the Surface Water Drainage Infrastructure</u>

8. Prior to the development being brought into operation, details of the operation, maintenance and management of the surface water drainage infrastructure shall be submitted to and approved in writing with the Local Planning Authority. Details shall include adoption proposals of any adoptable structures, as necessary. The development shall thereafter be operated,

managed and maintained at all times for the lifetime of the development, or up to the point of adoption, in accordance with the approved details.
Reason: *To deliver effective sustainable drainage systems that will be operated, maintained and managed for the lifetime of the development that it will serve, in accordance with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023.
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023.

Details of the proposed maintenance of the SW drainage system until adoption by Yorkshire Water and a Maintenance Agreement are required to discharge this condition. This site has over 10 dwellings and is considered a major application. The Local Planning Authority is obliged to ensure that sustainable drainage systems are maintained and managed for the lifetime of the site. This will include the period from construction to potential adoption by Yorkshire Water or a substitute NAV.

A Section 106 unilateral undertaking needs to be signed to set up a management company to perform these tasks until such a time as the system is formally adopted. This is in line with Kirklees protocol, agreed with Planning Enforcement and Kirklees's Legal Department.

If no such agreement was signed at outline stage, it must be done prior to reserved matters being agreed. A condition is required stating a risk assessment and method statement must be carried out by the Principal Designer under CDM Regulations 2015 to hand over to the management company. This will consist of an itinerary, schedule and methodology of maintenance tasks and inspections to be carried out, including methods of access to and into any attenuation structure.

As such **condition 8 cannot be discharged at this time.**

Condition 9 – Temporary Surface Water Drainage

9. No development shall commence except for the demolition of the existing dwellinghouse until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- *detail phasing of the development and phasing of temporary drainage provision.*

- *include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.*

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.
Reason: *To ensure the provision of adequate temporary means of drainage, in the interests of amenity, environmental wellbeing and to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023.
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023.

KC LLFA have reviewed these documents. They deem that the proposed temporary surface water drainage system is sufficient to prevent flooding and drainage issue during construction. As such, **an approval pursuant to condition 9 can be issued for the purposes of this pre-commencement condition, however works must be carried out in accordance with the approved details.**

Condition 10 – Foul and Surface Water Drainage Systems

10. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
Reason: *In the interests of satisfactory and sustainable drainage and so as to accord with Policies LP27, LP28 and LP34 of the Kirklees Local Plan as well as Chapter 14 of the National Planning Policy Framework.*

The agent has submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023.
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023.

- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023.
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023.

This condition is not pre-commencement and it requires no submission or consent from the LPA. It merely needs to be adhered to. As such, **condition 10 cannot be discharged.**

Condition 11 – Landscape Maintenance Schedule

11. No development shall commence except for the demolition of the existing dwellinghouse until a comprehensive schedule of landscape maintenance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method of site improvement,

- *Where relevant removal of weed species,*
- *ground preparation and details of new tree and shrub planting and maintenance, and*
- *timescales and arrangements for its implementation.*

The development shall thereafter be carried out in complete accordance with the approved schedule and timescales. 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.
***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 Policies LP24, LP32 and LP33, as well as Chapter 15 of the National Planning Policy Framework.*
This is a pre commencement condition to secure the necessary landscape maintenance scheme at the appropriate time in the development process.

There was an error in the wording of this condition on the decision notice for application 2023/91472. As stated in the officer report for 2023/91472, 'given it [the condition] relates to the end landscaping, which would be carried out after the dwellings are constructed, it is unreasonable as per the six tests for conditions to have it as a pre-commencement condition. Now the council has received a reserved matters application, it is clear to see that there is sufficient space for landscaping and it would not be a retrofitted, poor quality finish. A suitable Landscape Maintenance Schedule can clearly be achieved prior to the occupation of the dwelling, as such, the condition shall be varied to reflect this.'

As such, officers will apply the correct wording of this condition to the decision notice of the reserved matters application. **Therefore, outline condition 11 can be considered discharged.**

Condition 12 – Arboricultural Method Statement

12. Notwithstanding the submitted plans and information, an Arboricultural Method Statement, in accordance with British BS 5837, shall be submitted

and approved in writing by the Local Planning Authority before development commences except for the demolition of the existing dwellinghouse. The method statement shall include details on how the construction work will be undertaken with minimal damage to the adjacent protected trees and their roots. Thereafter, the development shall be carried out in complete accordance with the Arboricultural Method Statement.
Reason: *So as to protect to viability of the protected mature trees and to protect trees in the interests of visual amenity in accordance with Policy LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the proposed development does not have an adverse impact on the existing trees which are worthy of retention.

The agent has submitted:

- 230204 Arboricultural Method Statement

KC Trees were consulted on this application. The protection measures detailed in the submitted arboricultural method statement are sufficient to protect the trees and KC Trees would be satisfied that the condition for tree protection can be discharged. As such, **an approval can be issued pursuant to condition 12 for the purposes of the pre-commencement requirement of the condition, however works must be carried out in accordance with the approved details.**

Condition 13 – Ecological Impact Assessment

13. The Reserved Matters referred to in Condition 1 shall be accompanied by supporting ecological information in the form of an Ecological Impact Assessment (EcIA). The EcIA shall be informed by the PEA and Bat surveys and demonstrate how the proposals will deliver a measurable biodiversity net gain of at least 10%. The submitted information shall include the following:

- *Information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;*
- *The pre-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 2.0 (or latest version, if available);*
- *The post-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 2.0 (or latest version, if available); and*
- *Details of any offsite habitat enhancement required to achieve a biodiversity net gain, including pre-development and target biodiversity value.*

Reason: *To ensure significant ecological harm is prevented and that a final scheme provides a biodiversity net gain in accordance with the NPPF and Policy LP30.*
This is a pre-commencement condition to ensure the scheme design is able to account for the baseline ecological value of the site and so can be designed in

accordance with the ecological mitigation hierarchy, as required under Policy LP30.

The agent has submitted:

- FE257_BIA
- FE257_Biodiversity Metric 3.1
- FE257 EcIA01
- FE257_CEMP

KC Ecology have been consulted on this matter. The submitted metric details there would be a loss of 0.04 habitat units (2.58% net loss) and a gain of 0.06 hedgerow units (123.13% net gain). In order for the proposals to come forward in line with national and local policies and guidance (along with the requirements of condition 13 on outline permission 2020/90436 for the development to achieve a 10% net gain), 0.206 habitat units would need to be delivered, via off-site compensation. Officers have agreed that in order to achieve a 10% net gain, a financial contribution (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)), of £4,738 would be required. This would be secured though a Section 106 agreement. Furthermore, the habitats that are due to be delivered on site would be secured through a condition on the reserved matters application.

It is accepted that the submitted information includes all the information detailed in condition 13, whilst also meeting the wording of it. **As such, an approval pursuant to condition 13 can be issued.**

Condition 14 – Bat Survey

14. If in the event that an application for Reserved Matters is not made within two years of the date of the survey undertaken to determine the presence or likely absence of roosting bats, (as submitted in support of the outline application and dated 26th May 2020, the following shall be submitted to the Local Planning Authority. Either:

- *evidence that no buildings on site have greater than negligible potential to support roosting bats; or*
- *a report detailing the results of nocturnal survey for bats, sufficient to determine presence or likely absence of bat roosts, commensurate with the potential of the features on site to support roosting bats. All surveys and reporting shall be undertaken in accordance with relevant national good practice guidelines.*

Reason: *To ensure that sufficient information is available to the Local Planning Authority at Reserved Matters stage to enable an assessment of likely impacts to European protected species, in accordance with government circular 06/2005, Policy LP30 of the Kirklees Local Plan, as well as Chapter 15 of the National Planning Policy Framework.*

The agent has submitted:

- Addendum Bat Report E257/BTR01, dated June 2023.

KC Ecology have been consulted with regard to this condition. The report concluded that the roost identified within B1 is classified as a common pipistrelle day roost
a low status roost for individual / small numbers of a common species. Furthermore, the roost is likely to form a small part of a much wider resource of similar roosts in the local area. As such it is considered to have low conservation significance. KC Ecology therefore deem that the submitted report provides sufficient detail to support the discharge of condition 14. Condition 14 has no ongoing requirements. Therefore, **condition 14 can be considered discharged.**

Condition 15 – Remediation Strategy

15. Groundworks (excluding demolition of the existing dwellinghouse) 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 ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.*

The agent has submitted:

- Remediation Statement S221109/RS

KC Environmental Health have been consulted on this condition. They have not yet been able to make comment. As such, **condition 15 cannot be discharged** at this stage.

Condition 16 – Carrying out of Remediation

16. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 15. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy 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 groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. 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: *To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.*

Condition 16 should not be regarded as a pre-commencement condition. This condition does not require any information to be submitted to the LPA unless unexpected contamination is found. **As such, no approval pursuant to condition 16 should be issued at this stage, and the condition must still be fully complied with throughout the construction phase – if any unexpected contamination is found, the submission requirements of the condition become applicable.**

Condition 18 – Electric Vehicle Charging Points

18. Prior to the first occupation of any part of the dwellings hereby approved, electric vehicle charging points shall be provided for that part of the development. One charging point shall be provided per unit where dwellings have dedicated parking. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps. The charging points shall be retained thereafter.
Reason: *To ensure residents of the development are encouraged to use low carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with Policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, Chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.*

The agent has submitted:

- Site Plan and Location Plan by DK Designs, dated February 2023 (drawing 2023-018-001)
- Cover letter by Johnson Mowat dated 12th April 2023

KC Environmental Health have been consulted on this condition. The submitted cover letter states that all dwellings will benefit from the provision of Electric Charging Points. The charging points are shown fitted to the fencing to the front of each property. The proposed location is considered acceptable. Officers would seek to secure a suitable technical standard of the electric vehicle charging point by a condition for compliance on the reserved matters application, which would not need to be formally discharged. **As such condition 18 can be considered discharged.**

Condition 19 – Details of Fencing to Public Right of Way

19. The Reserved Matters referred to in Condition 1 shall include details of the proposed realignment of the fence adjacent to public footpath SPE/31/10 (Spenborough 31) within the Eastern boundary of the site. Details shall be

submitted to and approved in writing by the Local Planning Authority. The line of fence hereby approved shall be implemented in accordance with the agreed details that will include timing of the proposed re-alignment. The realigned fence shall be retained thereafter.
Reason: *For the convenience of all those using the Public Right of Way and to accord with Policies LP23 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.*
This is a pre-commencement condition to ensure the proposed development does not have an adverse impact on the users of the existing Public Rights of Way.

The agent has submitted:

- R-2679-1C - Landscape Master Plan

KC Public Right of Way (KC PROW) were consulted on the application. They support the proposal to significantly widen the PROW. Whilst the proposed 2150mm close boarded fence is not ideal, given that the footpath is to be widened to 2m, it is not considered the proposed fencing would materially detriment the use of the PROW. As such, the proposed fencing is considered acceptable. **An approval pursuant to condition 19 can be issued** in respect of the condition's pre-commencement requirement. However, the line of fence hereby approved must now be implemented in accordance with the agreed details that will include timing of the proposed re-alignment. The realigned fence must also be retained thereafter.

Condition 20 – Affordable Housing

20. No development shall commence except for the demolition of the existing dwellinghouse, until arrangements for the provision of affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- *The number and type of affordable housing units to be provided;*
- *The layout and disposition of the units' affordable housing to be provided;*
- *The timescale for the implementation and completion of the affordable housing units; and*
- *The mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.*

Reason: *To ensure the provision of affordable housing in accordance with the requirements of Policy LP11 of the Kirklees Local Plan, and Chapter 5 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary affordable housing.

KC Strategic Housing were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 20 cannot be discharged at this time.**

Condition 21 – Public Open Space

21. No development shall commence except for the demolition of the existing dwellinghouse until arrangements for the provision of publicly-accessible open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:

- *The layout and disposition of the open space;*
- *The timescale for the implementation and completion of the works to provide the open space;*
- *The mechanism for ensuring that the open space will be available for public use in perpetuity; and*
- *Maintenance of the open space in perpetuity.*

Reason: *To ensure the provision of open space to serve the development and in accordance with Policy LP63 of the Kirklees Local Plan, and Chapter 8 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary Public Open Space.

KC Landscape were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 21 cannot be discharged at this time.**

Condition 22 – Bin Storage

22. The Reserved Matters referred to in Condition 1 shall include 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: *In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapter 9 and 12 of the National Planning Policy Framework.*

The agent has submitted (on reserved matter application 2023/90909):

- 2023-018-001 Rev L Site Plan and Location Plan

KC Waste Strategy were consulted on the reserved matters application. In order to discharge condition 22, the submitted details need to be agreed in writing by the LPA on the reserved matters application. As the reserved matters application is still pending decision, **condition 22 cannot be discharged at this time.**

Condition 23 – Temporary Bin Storage

23. No development shall commence except for the demolition of the existing dwellinghouse until 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 until the development site is fully complete.
Reason: *In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapter 9 and 12 of the National Planning Policy Framework. This is a pre commencement condition to ensure that the necessary waste storage and collection facilities are provided throughout the proposed development.*

The proposed development will not be phased. As such, there will not be any need for temporary waste service arrangements. Therefore, **condition 23 can be considered discharged.** Should, however, any dwellings become occupied prior to development being completed, the submission requirements of condition 23 would become applicable.

Condition 25 – Construction Management Plan

25. Prior to the commencement of development (except for the demolition of the existing dwellinghouse) (including demolition and ground works), a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include a timetable of all works, details of point(s) of access for construction traffic, vehicle sizes and routes, times of vehicle movements, parking for construction workers, signage, pre-development road condition surveys, wheel washing facilities within the site, lighting during construction works, hours of working, details of dust, noise and vibration suppression measures. The development shall be carried out strictly in accordance with the CMP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.
Reason: *In the interests of amenity and highway safety, and to accord with Policies LP21 and LP52 of the Kirklees Local Plan.*
This pre-commencement condition is necessary to ensure appropriate measures to protect amenity and maintain highways safety are agreed at an appropriate stage of the development process.

The agent has submitted:

- FE257 CEMP - Construction Management Plan

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 25 cannot be discharged** at this stage.

Condition 27 – Retaining Walls Adjacent to Highway

27. No development shall commence except for the demolition of the existing dwellinghouse until, a scheme detailing the location, design and construction details for all new retaining walls/ building retaining walls adjacent to the existing/ proposed adoptable highway, including cross sectional information has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented, in accordance with a programme agreed with the Local Planning Authority and thereafter retained during the life of the development.
***Reason:** In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan as well as Chapter 9 of the National Planning Policy Framework.*
This pre-commencement condition is necessary to ensure that access to the site is designed and approved at an appropriate stage of the development process.

The agent has submitted:

- 2023-018-001 Rev L Site Plan and Location Plan

The agent states that there are to be no new retaining walls / building retaining walls adjacent to the existing / proposed adoptable highway. As such, **condition 27 can be considered discharged.** However when on site, in the event of it becoming apparent that new retaining walls / building retaining walls are required adjacent to the existing / proposed adoptable highway, this condition will need to be discharged at that stage.

Condition 28 – Internal Highway Details

28. No development shall commence except for the demolition of the existing dwellinghouse until a scheme detailing the proposed internal highways has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and cross sectional information together with the proposed design and construction details of drainage works (new surface water attenuation tanks/pipes/manholes), street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The approved scheme shall be completed in accordance with a programme agreed with the Local Planning Authority and thereafter the approved works shall be retained for the lifetime of the development.
***Reason:** In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.*
This is a pre-commencement condition to create a safe and accessible estate road network at an appropriate stage of the development process.

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 28 cannot be discharged** at this stage.

Condition 30 – Travel Plan

30. Prior to occupation of the development, a Travel Plan which shall set out measures to discourage the use of high-emission vehicles and encourage the use of public transport, cycling and walking, as well as the uptake of low emission fuels and technologies, shall be submitted to and approved in writing by the Local Planning Authority.
***Reason:** To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway and air quality impacts of the development in accordance with Policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.*

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 30 cannot be discharged** at this stage.

Condition 31 – Sustainable Transport

31. No development shall commence except for the demolition of the existing dwellinghouse until arrangements for the provision of measures to address highways impacts and to encourage the use of sustainable modes of transport have been submitted to and approved in writing by the Local Planning Authority.
***Reason:** To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway impacts of the development in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, and Chapter 9 of the National Planning Policy Framework.*
This is a pre commencement condition to ensure the approved development delivers the necessary highway safety and modes of sustainable transport measures.

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 31 cannot be discharged** at this stage.

Condition 32 – Refuse Vehicle Access

32. Prior to the commencement of development, excluding the demolition of the existing dwellinghouse, a scheme detailing the layout, construction specification, and programme of works for the access to the development, visibility splays, internal roads, footways, turning areas to accommodate an 11.85m refuse vehicle, and all associated works, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the approved works have been implemented. Thereafter the approved works shall be retained for the lifetime of the development.

Reason: *In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.*
This pre-commencement condition is necessary to ensure that access to the site is designed and approved at an appropriate stage of the development process.

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 32 cannot be discharged** at this stage.

Condition 33 – Intrusive Investigations for Coal Mining Legacy

33. The Reserved Matters referred to in Condition 1 shall include a report of findings arising from intrusive site investigations which have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.
Reason: *To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*
This pre-commencement condition is necessary to ensure that the site's mining legacy is appropriately considered and the necessary mitigation measures are carried out at an appropriate stage of the development process.

The information sought by this condition was submitted under the approved discharge of condition application 2023/990638. This information comprised:

- S221109 Ground Gas Risk Assessment - Westfield Lane, Wyke
- S221109 PHASE 1 DESK STUDY
- S221109 Phase 2 Site Investigation - February 2023

As this information has already been submitted to the Local Planning Authority for consideration and approval in writing, this requirement of the condition has already been met. Condition 33 has no ongoing requirements. As such **condition 33 can be considered discharged.**

Condition 36 – Construction Environmental Management Plan

36. No development shall commence except for the demolition of the existing dwellinghouse (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:

- *Risk assessment of potentially damaging construction activities;*
- *Identification of "biodiversity protection zones";*

- *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);*
- *The location and timing of sensitive works to avoid harm to biodiversity features;*
- *The times during construction when specialist ecologists need to be present on site to oversee works;*
- *Responsible persons and lines of communication;*
- *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and*
- *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, unless otherwise agreed in writing by the Local Planning Authority.
***Reason:** To prevent significant ecological harm and to accord 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 the proposed development does not have an adverse impact on biodiversity.

The agent has submitted:

- FE257/CEMP01 CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

KC Ecology have been consulted on this information. KC Ecology deem that the submitted CEMP (report ref: FE257/CEMP01) provides sufficient detail to ensure that protected species and retained trees would be safeguarded throughout the development. **An approval pursuant to condition 36 can be issued.** However, the approved CEMP must be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

RECOMMENDATION: SPLIT DECISION

- Discharge conditions 11, 14, 18, 23, 27 and 33.
- Approve details (subject to ongoing requirements of the relevant conditions) pursuant to conditions 9, 12, 13, 19 and 36.
- No approval or discharge pursuant to conditions 6, 7, 8, 10, 15, 16, 20, 21, 22, 25, 28, 30, 31 and 32.

DECISION NOTICE TEXT

Summary

- Conditions 11, 14, 18, 23, 27 and 33 are hereby discharged.
- Details pursuant to conditions 9, 12, 13, 19 and 36 are hereby approved. Full discharge of these conditions will be achieved through compliance with the conditions' ongoing requirements.
- No approval or discharge is hereby issued pursuant to conditions 6, 7, 8, 10, 15, 16, 20, 21, 22, 25, 28, 30, 31 and 32.

Condition 6 - Storm Events Drainage Assessment

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA were consulted on this application. Upon review, further detail is required on site levels taking off the original contour lines for clarity. While levels for the road have been included, there are no levels for back of kerb and no levels for the driveways and gradient arrows. Spot levels around relevant properties must be included. In addition, we need to have details of boundary treatments and how that may contain water or release it through adjacent land. Plots of particular concern are plots 8-11.

Also, driveways falling back to the road is advised for flood routing. The risk at the southwest corner must be assessed and make reasonable attempt to protect the property at 24 Brookfields Avenue with water flowing beyond the property. As such **condition 6 cannot be discharged at this time.**

Condition 7 - Foul, Surface Water and Land Drainage

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023

- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA have been consulted. It has not been demonstrated that the hierarchy of surface water disposal has been followed.

An assessment of the viability of infiltration techniques for surface water disposal is still required. The layout would have to make space for soakaway features with suitable stand-off distances. Where soakaways are demonstrated not to be practicable a connection to watercourse should be sought. A watercourse of unknown size and condition is located 120 metres to the west of the site. It must be demonstrated that this is unsuitable for a connection or there is proven inability to legally connect to this feature for a connection to sewer to be considered.

A connection to combined sewer is the final resort in the hierarchy of disposal. Plans show a 3.5l/s connection to this sewer which can be requisitioned across 3rd party land providing Yorkshire Water carry out a successful feasibility study.

The tank design on the submitted plans is generic and does not reflect that in MicroDrainage, a plan can cross section of the selected final design needs to be submitted to complete this application. The contributing areas within MicroDrainage simulations should reflect those on the impermeable area diagram which they currently do not do. Also, details of the proposed foul drainage are required. As such **condition 7 cannot be discharged at this time.**

Condition 8 - The Operation, Maintenance and Management of the Surface Water Drainage Infrastructure

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

Details of the proposed maintenance of the SW drainage system until adoption by Yorkshire Water and a Maintenance Agreement are required to discharge this condition. This site has over 10 dwellings and is considered a major application. The Local Planning Authority is obliged to ensure that sustainable drainage systems are maintained and managed for the lifetime of the site. This will include the period from construction to potential adoption by Yorkshire Water or a substitute NAV.

A Section 106 unilateral undertaking needs to be signed to set up a management company to perform these tasks until such a time as the system is formally adopted. This is in line with Kirklees protocol, agreed with Planning Enforcement and Kirklees's Legal Department.

If no such agreement was signed at outline stage, it must be done prior to reserved matters being agreed. A condition is required stating a risk assessment and method statement must be carried out by the Principal Designer under CDM Regulations 2015 to hand over to the management company. This will consist of an itinerary, schedule and methodology of maintenance tasks and inspections to be carried out, including methods of access to and into any attenuation structure.

As such **condition 8 cannot be discharged at this time.**

Condition 9 – Temporary Surface Water Drainage

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

KC LLFA have reviewed these documents. They deem that the proposed temporary surface water drainage system is sufficient to prevent flooding and drainage issue during construction. As such, **an approval pursuant to condition 9 can be issued for the purposes of this pre-commencement condition, however works must be carried out in accordance with the approved details.**

Condition 10 – Foul and Surface Water Drainage Systems

You have submitted:

- Document Ref: 124.008 – V2, MicroDrainage Calculations dated 10/03/2023
- Drawing Ref: 124.008/09, S104 Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/09, Impermeable Areas Layout, Rev A dated 10/03/2023
- Drawing Ref: 124.008/10, Flood Exceedance Layout, Rev A dated 10/03/2023

- Drawing Ref: 124.008/25, Temporary SW Run-off Plan, Rev – dated 03/02/2023

This condition is not pre-commencement and it requires no submission or consent from the LPA. It merely needs to be adhered to. As such, **condition 10 cannot be discharged.**

Condition 11 – Landscape Maintenance Schedule

There was an error in the wording of this condition on the decision notice for application 2023/91472. As stated in the officer report for 2023/91472, 'given it [the condition] relates to the end landscaping, which would be carried out after the dwellings are constructed, it is unreasonable as per the six tests for conditions to have it as a pre-commencement condition. Now the council has received a reserved matters application, it is clear to see that there is sufficient space for landscaping and it would not be a retrofitted, poor quality finish. A suitable Landscape Maintenance Schedule can clearly be achieved prior to the occupation of the dwelling, as such, the condition shall be varied to reflect this.'

As such, officers will apply the correct wording of this condition to the decision notice of the reserved matters application. **Therefore, outline condition 11 can be considered discharged.**

Condition 12 – Arboricultural Method Statement

You have submitted:

- 230204 Arboricultural Method Statement

KC Trees were consulted on this application. The protection measures detailed in the submitted arboricultural method statement are sufficient to protect the trees and KC Trees would be satisfied that the condition for tree protection can be discharged. As such, **an approval can be issued pursuant to condition 12 for the purposes of the pre-commencement requirement of the condition, however works must be carried out in accordance with the approved details.**

Condition 13 – Ecological Impact Assessment

You have submitted:

- FE257_BIA
- FE257_Biodiversity Metric 3.1
- FE257 EcIA01
- FE257_CEMP

KC Ecology have been consulted on this matter. The submitted metric details there would be a loss of 0.04 habitat units (2.58% net loss) and a gain of 0.06 hedgerow units (123.13% net gain). In order for the proposals to come

forward in line with national and local policies and guidance (along with the requirements of condition 13 on outline permission 2020/90436 for the development to achieve a 10% net gain), 0.206 habitat units would need to be delivered, via off-site compensation. Officers have agreed that in order to achieve a 10% net gain, a financial contribution (based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note)), of £4,738 would be required. This would be secured though a Section 106 agreement. Furthermore, the habitats that are due to be delivered on site would be secured through a condition on the reserved matters application.

It is accepted that the submitted information includes all the information detailed in condition 13, whilst also meeting the wording of it. **As such, an approval pursuant to condition 13 can be issued.**

Condition 14 – Bat Survey

You have submitted:

- Addendum Bat Report E257/BTR01, dated June 2023

KC Ecology have been consulted with regard to this condition. The report concluded that the roost identified within B1 is classified as a common pipistrelle day roost
a low status roost for individual / small numbers of a common species. Furthermore, the roost is likely to form a small part of a much wider resource of similar roosts in the local area. As such it is considered to have low conservation significance. KC Ecology therefore deem that the submitted report provides sufficient detail to support the discharge of condition 14. Condition 14 has no ongoing requirements. Therefore, **condition 14 can be considered discharged.**

Condition 15 – Remediation Strategy

You have submitted:

- Remediation Statement S221109/RS

KC Environmental Health have been consulted on this condition. They have not yet been able to make comment. As such, **condition 15 cannot be discharged** at this stage.

Condition 16 – Carrying out of Remediation

Condition 16 should not be regarded as a pre-commencement condition. This condition does not require any information to be submitted to the LPA unless unexpected contamination is found. **As such, no approval pursuant to condition 16 should be issued at this stage, and the condition must still be fully complied with throughout the construction phase – if any**

unexpected contamination is found, the submission requirements of the condition become applicable.

Condition 18 – Electric Vehicle Charging Points

You have submitted:

- Site Plan and Location Plan by DK Designs, dated February 2023 (drawing 2023-018-001)
- Cover letter by Johnson Mowat dated 12th April 2023

KC Environmental Health have been consulted on this condition. The submitted cover letter states that all dwellings will benefit from the provision of Electric Charging Points. The charging points are shown fitted to the fencing to the front of each property. The proposed location is considered acceptable. Officers would seek to secure a suitable technical standard of the electric vehicle charging point by a condition for compliance on the reserved matters application, which would not need to be formally discharged. **As such condition 18 can be considered discharged.**

Condition 19 – Details of Fencing to Public Right of Way

You have submitted:

- R-2679-1C - Landscape Master Plan

KC Public Right of Way (KC PROW) were consulted on the application. They support the proposal to significantly widen the PROW. Whilst the proposed 2150mm close boarded fence is not ideal, given that the footpath is to be widened to 2m, it is not considered the proposed fencing would materially detriment the use of the PROW. As such, the proposed fencing is considered acceptable. **An approval pursuant to condition 19 can be issued** in respect of the condition's pre-commencement requirement. However, the line of fence hereby approved must now be implemented in accordance with the agreed details that will include timing of the proposed re-alignment. The realigned fence must also be retained thereafter.

Condition 20 – Affordable Housing

KC Strategic Housing were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 20 cannot be discharged at this time.**

Condition 21 – Public Open Space

KC Landscape were consulted on this matter. This matter is being addressed via a section 106 agreement to be secured in connection with reserved matters application 2023/90909. The section 106 agreement is yet to be completed. **As such, condition 21 cannot be discharged at this time.**

Condition 22 – Bin Storage

The agent has submitted (on reserved matter application 2023/90909):

- 2023-018-001 Rev L Site Plan and Location Plan

KC Waste Strategy were consulted on the reserved matters application. In order to discharge condition 22, the submitted details need to be agreed in writing by the LPA on the reserved matters application. As the reserved matters application is still pending decision, **condition 22 cannot be discharged at this time.**

Condition 23 – Temporary Bin Storage

The proposed development will not be phased. As such, there will not be any need for temporary waste service arrangements. Therefore, **condition 23 can be considered discharged.** Should, however, any dwellings become occupied prior to development being completed, the submission requirements of condition 23 would become applicable.

Condition 25 – Construction Management Plan

You have submitted:

- FE257 CEMP - Construction Management Plan

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 25 cannot be discharged** at this stage.

Condition 27 – Retaining Walls Adjacent to Highway

You have submitted:

- 2023-018-001 Rev L Site Plan and Location Plan

The agent states that there are to be no new retaining walls / building retaining walls adjacent to the existing / proposed adoptable highway. As such, **condition 27 can be considered discharged.** However when on site, in the event of it becoming apparent that new retaining walls / building retaining walls are required adjacent to the existing / proposed adoptable highway, this condition will need to be discharged at that stage.

Condition 28 – Internal Highway Details

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 28 cannot be discharged** at this stage.

Condition 30 – Travel Plan

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 30 cannot be discharged** at this stage.

Condition 31 – Sustainable Transport

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 31 cannot be discharged** at this stage.

Condition 32 – Refuse Vehicle Access

KC Highways Development Management have been consulted on this condition. They have not yet been able to make comment. As such, **condition 32 cannot be discharged** at this stage.

Condition 33 – Intrusive Investigations for Coal Mining Legacy

The information sought by this condition was submitted under the approved discharge of condition application 2023/990638. This information comprised:

- S221109 Ground Gas Risk Assessment - Westfield Lane, Wyke
- S221109 PHASE 1 DESK STUDY
- S221109 Phase 2 Site Investigation - February 2023

As this information has already been submitted to the Local Planning Authority for consideration and approval in writing, this requirement of the condition has already been met. Condition 33 has no ongoing requirements. As such **condition 33 can be considered discharged.**

Condition 36 – Construction Environmental Management Plan

You have submitted:

- FE257/CEMP01 CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

KC Ecology have been consulted on this information. KC Ecology deem that the submitted CEMP (report ref: FE257/CEMP01) provides sufficient detail to ensure that protected species and retained trees would be safeguarded throughout the development. **An approval pursuant to condition 36 can be issued.** However, the approved CEMP must be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.