

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended)**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR  
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	<b>2023/44/91115/E</b>
Site Address:	Upper Batley High School, Blenheim Drive, Upper Batley, Batley, WF17 0BJ
Description:	Discharge conditions 4 (Phase II Intrusive Site Investigation Report), 5 (Remediation Strategy), 8 (BEMP), 9 (CEMP), and 10 (invasive non-native species) on previous permission 2022/93981 for erection of two storey modular trust development centre and administration unit
Recommending Officer:	Alice Downham

**DECISION – APPROVE DISCHARGE OF CONDITIONS**

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

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 08-Jun-2023**

## Officer Report

2023/91115 – Upper Batley High School, Blenheim Drive, Upper Batley, Batley, WF17 0BJ

The application is seeking permission for the discharge of conditions 4 (Phase II Intrusive Site Investigation Report), 5 (Remediation Strategy), 8 (Biodiversity Enhancement and Management Plan (BEMP)), 9 (Construction Environmental Management Plan (CEMP)), and 10 (invasive non-native species) on previous permission 2022/93981 for erection of two storey modular trust development centre and administration unit.

### Condition 4 (Phase II Intrusive Site Investigation Report)

4. Groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** This is a pre-commencement condition to ensure measures are incorporated at an appropriate time, to identify and remove unacceptable risks to human health and the environment and to accord with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

### **Assessment**

The following has been submitted:

- Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated 19th August 2022 (Ref: C2842/22/E/4322.rev1)
- Gas Monitoring Letter by Rogers Geotechnical Services Ltd, dated 8th November 2022 (Ref: C2842/22/E/4322)

This has been reviewed by KC Environmental Health. The full consultee response can be found online.

KC Environmental Health accept the Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated 19th August 2022 (Ref: C2842/22/E/4322.rev1) and Gas Monitoring Letter by Rogers Geotechnical Services Ltd, dated 8th November 2022 (Ref: C2842/22/E/4322) and recommend that Condition 4 be discharged.

In conclusion, officers recommend that the condition 4 be discharged.

### Condition 5 (Remediation Strategy)

5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4, further groundworks shall not commence until a Remediation Strategy by a suitably competent person 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:** This is a pre-commencement condition to ensure measures are incorporated at an appropriate time, to identify and remove unacceptable risks to human health and the environment and to accord with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework.

## **Assessment**

The following has been submitted:

- Phase 3: Remediation Statement by Rogers Geotechnical Services Ltd, dated April 2023 (Ref: C2842/22/E/4322)

This has been reviewed by KC Environmental Health. The full consultee response can be found online.

KC Environmental Health accept the Phase 3: Remediation Statement by Rogers Geotechnical Services Ltd, dated April 2023 (Ref: C2842/22/E/4322). The agent has confirmed that no imported soils are to be brought to site. Therefore, Environmental Health recommend that Condition 5 be discharged.

In conclusion, officers recommend that the condition 5 be discharged.

### Conditions 8 (BEMP), 9 (CEMP), and 10 (invasive non-native species)

8. No development shall commence until a Biodiversity Enhancement and Management Plan (BEMP) has been submitted and approved in writing by the local planning authority. The plan shall demonstrate how a minimum of 0.58 habitat units are to be achieved post development and how protected species provisions are to be incorporated into the design, and must include details of the following:

- a. Description and evaluation of features to be managed and enhanced;
- a. Extent and location/area of proposed enhancement works on appropriate scale maps and plans;
- b. Ecological trends and constraints on site that might influence management;
- c. Aims and Objectives of management;
- d. Appropriate management Actions for achieving Aims and Objectives;
- e. An annual work programme (to cover an initial 5 year period capable of being rolled forward over a period of 30 years);
- f. Details of the management body or organisation responsible for implementation of the BEMP;
- g. Ongoing monitoring programme and remedial measures; and
- h. The BEMP will be reviewed and updated every 5 years and implemented for a minimum of 30 years

The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will be secured by the developer with the management body responsible for its delivery. The BEMP shall also

set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved BEMP. The approved BEMP will be implemented in accordance with the approved details.

**Reason:** In order to ensure the development provides ecological enhancement and creation measures sufficient to provide a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure details relating to the required biodiversity net gain are devised and agreed at an appropriate stage of the development process.

9. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a. Risk assessment of potentially damaging construction activities that refers to the most up-to-date site specific survey information and specifically to nesting birds, bats, badgers and hedgehogs.
- a. Identification of “biodiversity protection zones”, where appropriate.
- b. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- c. The location and timing of sensitive works to avoid harm to biodiversity features.
- d. The times during construction when specialist ecologists need to be present on site to oversee works, where appropriate.
- e. Responsible persons and lines of communication.
- f. Use of protective fences, exclusion barriers and warning signs, where appropriate.

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 protect biodiversity during construction by avoiding direct impacts to protected species and preventing the spread of non-native plants, and to accord with Kirklees Local Plan Policy LP30 and Chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure details relating to construction management are devised and agreed at an appropriate stage of the development process.

10. No development shall take place until details of a scheme to eradicate invasive non-native species within the site has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to the development first being occupied.

**Reason:** To ensure these invasive species are appropriately dealt with, in the interests of the biodiversity of the site and in accordance with Chapter 15 of the National Planning Policy Framework and Circular 06/2005 – Biodiversity/Geological Conservation. This is a pre-commencement condition

to secure the appropriate measures to eradicate invasive plant species, prior to construction.

## **Assessment**

The following has been submitted:

- Construction Environmental Management Plan by JCA Ltd, dated 23<sup>rd</sup> March 2023 (Ref: 19166c/JF)
- Biodiversity Enhancement & Management Plan Report by JCA Ltd, dated 30<sup>th</sup> March 2023 (Ref: 19166b/EG Rev 1)

This has been reviewed by the KC Biodiversity officer. Their response indicates that the submitted Construction Environmental Management Plan by JCA Ltd, dated 23<sup>rd</sup> March 2023 (Ref: 19166c/JF) and Biodiversity Enhancement & Management Plan Report by JCA Ltd, dated 30<sup>th</sup> March 2023 (Ref: 19166b/EG Rev 1) provide sufficient detail to support the discharge of conditions 8, 9 and 10. The information pertaining to invasive species found within the submitted BEMP provides sufficient detail to support the discharge of condition 10. The submitted information should be strictly adhered to throughout the development and as such, will allow the scheme to be delivered in line with national and local planning policies pertinent to biodiversity.

In conclusion, officers recommend that the conditions 8, 9 and 10 be discharged.

**Recommendation:** Approve

**Report Dated:** 02/06/2022

### **Proposed Letter Text**

#### **Condition 4 (Phase II Intrusive Site Investigation Report)**

The following has been submitted:

- Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated 19<sup>th</sup> August 2022 (Ref: C2842/22/E/4322.rev1)
- Gas Monitoring Letter by Rogers Geotechnical Services Ltd, dated 8<sup>th</sup> November 2022 (Ref: C2842/22/E/4322)

Officers confirm that these documents are acceptable for the purposes of condition 4 which is discharged.

#### **Condition 5 (Remediation Strategy)**

The following has been submitted:

- Phase 3: Remediation Statement by Rogers Geotechnical Services Ltd, dated April 2023 (Ref: C2842/22/E/4322)

Officers confirm that these documents are acceptable for the purposes of condition 5 which is discharged.

Conditions 8 (BEMP), 9 (CEMP), and 10 (invasive non-native species)

The following has been submitted:

- Construction Environmental Management Plan by JCA Ltd, dated 23<sup>rd</sup> March 2023 (Ref: 19166c/JF)
- Biodiversity Enhancement & Management Plan Report by JCA Ltd, dated 30<sup>th</sup> March 2023 (Ref: 19166b/EG Rev 1)

Officers confirm that these documents are acceptable for the purposes of conditions 8, 9 and 10 which are discharged. Officers remind the applicant that the submitted information should be strictly adhered to throughout the development and as such, will allow the scheme to be delivered in line with national and local planning policies pertinent to biodiversity.