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:	**2023/44/91248/E**
Site Address:	Cherry Tree Surgery, 132, Upper Commercial Street, Batley, WF17 5DH
Description:	Discharge conditions 3 (landscaping), 4 (Phase II Site Investigation Report), 5 (Remediation Strategy), 9 (retaining walls) on previous permission 2021/94474 for erection of single storey extension and formation of additional parking spaces (within a Conservation Area)
Recommending Officer:	Nicole Helliwell

DECISION – APPROVE DISCHARGE OF CONDITIONS (SPLIT DECISION)

I hereby authorise the partial 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: 07-Sep-2023

Officer Report
Reference No. 2023/44/91248/E
Site Address: Cherry Tree Surgery, 132, Upper Commercial Street, Batley, WF17 5DH
Proposal: Discharge conditions 3 (landscaping), 4 (Phase II Site Investigation Report), 5 (Remediation Strategy), 9 (retaining walls) on previous permission 2021/94474 for erection of single storey extension and formation of additional parking spaces (within a Conservation Area)

Assessment
Condition 3 – Landscaping
3. Prior to commencement of development, a scheme detailing landscaping and tree planting shall be submitted to and approved in writing by the Local Planning Authority. This information shall include details of tree species, tree size on planting, planting specification and aftercare maintenance. The development and the works comprising the approved scheme shall be implemented in accordance with the approved details. The approved landscaping scheme shall, be retained thereafter. If any tree shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.
Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of visual amenity and biodiversity and to accord with the aims of Policies LP24, LP33 and LP35 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework. This is a precommencement condition to ensure the applicant fully considers whether the existing trees can be replanted,and ensure the planting scheme is carried out at a timely manner.*

Assessment of Condition 3
The applicant has submitted a 'Landscape Masterplan' (reference no. 1406-003 revision A, dated October 2022) which displays the tree species, tree size on planting, planting specification and aftercare maintenance. KC Trees have commented on this information in relation to Condition 3.

The submitted details have been reviewed by KC Trees, who are satisfied that the information submitted is acceptable for the purposes of discharging Condition 3. The condition will be formally discharged on the completion of the development in accordance with the approved scheme.

Condition 4 – Phase II 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: *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy. This is a pre-commencement condition as it needs to be ascertained whether the site is safe for the proposed development.*

Assessment of Condition 4

The applicant has submitted the following documents for the purpose of discharging condition 4:

- Performance Specification for Grout Stabilisation of Coal Mine Workings (Reference no. LM22220-DYSE-XX-ZZ-SP-C-0001 Rev. P02, dated 19th July 2023)
- Commercial Gas Assessment (Reference no. GRO-22384-4552, dated 21st June 2023)
- Letter from The Coal Authority (Reference no. 27039, dated 26th July 2023)
- Geo-Environmental Appraisal (Reference no. GRO-22384-4134, dated February 2023).

This information is still being considered by KC Environmental Health and therefore condition 4 cannot be discharged at this current time.

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: *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 183 and 184 of the National Planning Policy Framework. This is a pre-commencement condition as it needs to be ascertained whether the site is safe for the proposed development.*

Assessment of Condition 5

The applicant has submitted the following documents for the purpose of discharging condition 5:

- Performance Specification for Grout Stabilisation of Coal Mine Workings (Reference no. LM22220-DYSE-XX-ZZ-SP-C-0001 Rev. P02, dated 19th July 2023)
- Commercial Gas Assessment (Reference no. GRO-22384-4552, dated 21st June 2023)
- Letter from The Coal Authority (Reference no. 27039, dated 26th July 2023)
- Geo-Environmental Appraisal (Reference no. GRO-22384-4134, dated February 2023).

This information is still being considered by KC Environmental Health and therefore condition 5 cannot be discharged at this current time.

Condition 9 – Retaining Walls

9. Before the development commences a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new retaining walls adjacent to the existing highway shall be submitted to and approved by the Highway Authority in writing. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: To ensure that any new retaining structures do not compromise the stability of the highway in order to accord with Kirklees Local Plan policy LP21, Chapters 9 and 12 of National Planning Policy Framework and the Highways Design Guide SPD.

Assessment of Condition 9

The applicant has submitted a plan titled 'External Works' (reference no. 20 A, dated October 2022) which displays the design and construction details for the proposed retaining walls. KC Highways Structures have commented on this information in relation to Condition 9. Officers confirmed that due to the small height of the proposed retaining wall at this site, as shown on drawing no. 20A, Condition 9 pertaining to retaining structures can be discharged.

Decision Notice Text

Condition 3 – Landscaping

The following has been submitted:

- Landscape Masterplan (reference no. 1406-003 revision A, dated October 2022)

In conclusion, it is considered that the proposed landscaping details are acceptable for the purposes of condition 3. The condition will be formally discharged on the completion of the development in accordance with the approved scheme.

Condition 4 - Phase II Site Investigation Report

The following has been submitted:

- Performance Specification for Grout Stabilisation of Coal Mine Workings (Reference no. LM22220-DYSE-XX-ZZ-SP-C-0001 Rev. P02, dated 19th July 2023)
- Commercial Gas Assessment (Reference no. GRO-22384-4552, dated 21st June 2023)
- Letter from The Coal Authority (Reference no. 27039, dated 26th July 2023)
- Geo-Environmental Appraisal (Reference no. GRO-22384-4134, dated February 2023).

This information is still being considered by KC Environmental Health and therefore condition 4 cannot be discharged.

Condition 5 - Remediation Strategy

The following has been submitted:

- Performance Specification for Grout Stabilisation of Coal Mine Workings (Reference no. LM22220-DYSE-XX-ZZ-SP-C-0001 Rev. P02, dated 19th July 2023)
- Commercial Gas Assessment (Reference no. GRO-22384-4552, dated 21st June 2023)
- Letter from The Coal Authority (Reference no. 27039, dated 26th July 2023)
- Geo-Environmental Appraisal (Reference no. GRO-22384-4134, dated February 2023).

  This information is still being considered by KC Environmental Health and therefore condition 5 cannot be discharged.

Condition 9 – Retaining Walls

The following has been submitted:

- External Works (reference no. 20 A, October 2022)

The submitted details are considered acceptable for the purposes of Condition 9 and therefore the condition can be discharged.

Dated: 07/09/2023