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:	**2023/44/91800/E**
Site Address:	Oldfield Nook, 171, Scholes Lane, Scholes, Cleckheaton, BD19 6LY
Description:	Discharge conditions 5 (Remediation Strategy), 6 (Remediation), 7 (Validation Report) on previous permission 2016/90646 for erection of 4 detached dwellings (within the curtilage of a Listed Building within a Conservation Area)
Recommending Officer:	Katie Wilson

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: 02-Jan-2024

2023/44/91800 – Oldfield Nook, 171, Scholes Lane, Scholes, Cleckheaton

Weblink to 23/91800:
Planning application details | Kirklees Council
This discharge of conditions application relates to previous permission 2016/90646 – for erection of 4 detached dwellings (within the curtilage of a Listed Building within a Conservation Area) (weblink below):
Planning application details | Kirklees Council
The current discharge of conditions application seeks to discharge conditions 5 (Remediation Strategy), 6 (Remediation), 7 (Validation Report) on the decision notice for 2026/90646. The application form states that the development was development started 10.08.2022 and has not been completed yet. This would normally mean the permission has lapsed, however in this instance there is a certificate of lawfulness (ref: 2021/CL/93092) to confirm valid commencement of development approved under 2016/90646 within the 3 year time limit given in condition 1. Therefore, the permission is extant and the current discharge of conditions application can proceed.

Condition 5 – Remediation strategy

5. Where site remediation with regard to land contamination and/or historic coal mining activity is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 4, development 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 identify and remove unacceptable risks to human health and the environment and in accordance with guidance contained within the National Planning Policy Framework. This information is required 'pre-commencement' so as to ensure that any contamination can be identified at an appropriate stage of the development process.

Assessment of Condition 5

The application has been submitted with the following documents:

- A Remedial Strategy report dated June 2019 by Your Environment (report number YG0119-19.
- a Remediation Statement by Eastwood Consulting Engineers dated 8th February 2023 (ref: AJK/DD/46917-002).
- A phase II / Ground investigation and update risk assessment report for Riva Homes by Geoenviro solutions Limited, dated January 2022 ref: GES 2077-21

Environmental health officers have been consulted and commented that the Remediation Strategy by YourEnvironment dated June 2019 (ref: YG0119-9) was reviewed and agreed by them as part of discharge of conditions application 2019/91550 (to discharge condition 4 – Phase II Intrusive Site Investigation Report of previous approval 2016/90646). Whilst discharge of condition 5 was not sought under the 2019/91550 application, the relevant information was submitted and environmental health officers recommended discharge of condition 5 at that time. They also recommended at that time that if no imported material was required at the site, then a statement would be sufficient to later recommend the discharge Conditions 6 and 7.

Now the current DoC application seeks to discharge condition 5, it can formally be discharged.

Condition 6 – Remediation

6. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 5. 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 works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise approved in writing with the local planning authority, 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 identify and remove unacceptable risks to human health, the environment and in accordance with guidance contained within the National Planning Policy Framework.

Assessment of condition 6

Environmental health officers were consulted and commented that the Remediation Statement authored by Eastwood Consulting, dated 8th February 2022 (ref: AJK/DD/46917-002) does not appear to be a remediation strategy in the usual sense, instead this is a statement to confirm that no remediation was necessary at the site. The report confirms that materials have neither been imported to nor removed from the site. The report also explains that no evidence of contamination was apparent during the construction works and that construction is now complete.

They recommend that The Remediation Statement authored by Eastwood Consulting, dated 8th February 2022 (ref: AJK/DD/46917-002) confirms that the site is suitable for the intended use and therefore we recommend the discharge of the remaining contaminated land conditions 5, 6 and 7 associated with previous permission 2016/90646.

Condition 7 – Validation report

7. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise approved in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Reason: To identify and remove unacceptable risks to human health, the environment and in accordance with guidance contained within the National Planning Policy Framework.

Assessment of condition 7

As the Remediation Statement accepted and discharged by condition 6, confirmed that no remediation was necessary at the site, a validation report in not required and condition 7 can also be discharged

Decision text

Condition 5 (Remediation Strategy)

For the purposes of discharging Condition 5 you have submitted the following:

- Application form
- A Remediation Strategy authored by YourEnvironment, dated June 2019 (ref: YG0119-9).

The remediation strategy by YourEnvironment has been reviewed and accepted for the purposes of satisfying condition 5.

Condition 6 (Remediation)

For the purposes of discharging condition 6, you have submitted the following:

- Application form
- A Remediation Statement authored by Eastwood Consulting, dated 8th February 2023 (ref: AJK/DD/46917-002)

The Remediation Statement authored by Eastwood Consulting, dated 8th February 2022 (ref: AJK/DD/46917-002) confirms that the site is suitable for the intended use and therefore condition 6 can be discharged.

Condition 7 (Validation Report)

As the Remediation Statement accepted and discharged by condition 6, confirmed that no remediation was necessary at the site, a validation report in not required and condition 7 can also be discharged.

Dated: 29th December 2023