

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended) – SECTION 73**

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO  
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING  
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	<b>2023/70/91979/W</b>
Site Address:	Land west of, Ashbrow Infant and Nursery School, Ashbrow Road, Ashbrow, Huddersfield, HD2 1DF
Description:	Variation of condition 1 (plans) on the previous permission 2022/93697 variation of condition 1 (plans) on the previous 2021/94528 Variation of condition 2 (Plans and Specification) on previous permission 2019/92940 for the erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space
Recommending Officer:	Ellie Thornhill

**DECISION – S106 Variation of Condition – Approve**

**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.**

*Victor Grayson*

**AUTHORISED OFFICER**

Date: 16-Apr-2024

## Officer report

### Site description

The site comprises land to the west/south west of Ashbrow Infant and Nursery School. Works approved under application 2019/92940 for the erection of 161 residential units including a 50 unit extra car facility (C3) are currently underway at the site but are not yet complete.

The site is bounded by residential properties and Ashbrow School to the East/North East, a woodland to the West and residential properties to the South. To the South East, access can be taken into the site from an existing mini-roundabout which splits Ashbrow Road and Bradley Boulevard.

### Description of development

This application is submitted under Section 73 of the Town and Country Planning Act. National Planning Guidance confirms that permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. The guidance also confirms that in deciding any application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – is it not a complete re-consideration of the proposal.

This application seeks planning permission for the variation of condition 1 (plans) on the previous permission 2022/93697 variation of condition 1 (plans) on the previous 2021/94528 Variation of condition 2 (Plans and Specification) on previous permission 2019/92940 for the erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space.

Condition 1 of the 2022/93697 is as follows:

*1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.*

**Reason:** *For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*

The variation includes amendments to plots 42-43, 46- 82 and the omission of plot 52, given the new and revised Building Regulations Parts F, L, O and S which came into force in June 2022 (requiring any plots which have commenced on site after June 2023 to conform).

The main external changes would be:

- PV panels and associated services
- Ventilation strategy amended to continuous system 3
- External walls amended to GROUP 2022 standards
- Upper floor windows amended and all dummy casements amended to openers.

Alongside the above, the changes would also result in one less 2-bed dwelling being provided. This would be replaced with an additional 3-bed dwelling.

### **History of negotiations/amendments received**

No negotiations have been sought as part of this application process, however an amended site layout plan has been received.

### **Relevant Planning History**

#### At the application site

2022/93697 – Variation of condition 1 (plans) on the previous permission 2021/94528 Variation of condition 2 (Plans and Specification) on previous permission 2019/92940 – Approved.

2023/91437 – Non material amendment to previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2023/90489 – Discharge condition 22 (landscape) on previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2022/93000 – Non Material Amendment to previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2021/94527 – Non material amendment to previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2021/94528 – Variation of condition 2 (Plans and Specification) on previous permission 2019/92940 for the erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2021/93712 – Non material amendment to previous permission 2019/92940 erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2021/92325 – Discharge conditions 8 (validation report), 11 (surface water drainage), 13 (adoptable estate roads), 16 (lighting design strategy for biodiversity), 20 (public footpath), 30 (boundary fence) on previous permission

2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open – Split decision.

2021/91673 – Non material amendment to previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Approved.

2020/90549 – Discharge conditions 4-6,9-15,19,20,22 on previous permission 2019/92940 for erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Split decision.

2019/92940 – Erection of 161 residential units including a 50 unit extra care facility (all class C3) and public open space – Section 106 full permission.

## **Representations**

The application has been advertised via site notice, neighbour notification letters and the press.

Final publicity expired: 26/09/2023.

As a result of the above publicity, no formal representations have been received.

## **Local ward councillors**

Ward councillors have been consulted as part of this application, however, no comments have been received.

## **Consultation Responses**

KC Crime Prevention: I have no objections to the proposal and the external lighting proposed has been considered acceptable in this instance.

## **Planning Policy Background**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

The site is allocated for housing in the Kirklees Local Plan (HS14).

### Kirklees Local Plan:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP7 – Efficient and Effective use of Land and Buildings
- LP11 – Housing Mix and Affordable Housing

- LP20 – Sustainable Travel
- LP21 – Highway Safety
- LP22 – Parking Standards
- LP24 – Design
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP48 – Community Facilities and Services
- LP51 – Protection and Improvement of Local Air Quality
- LP52 – Protection and improvement of Environmental Quality
- LP53 – Contaminated and Unstable Land
- LP63 – New Open Space
- LP65 – Housing allocations

Supplementary Planning Guidance/Documents:

- Housebuilders Design Guide SPD
- Highway Design Guide SPD
- National Design Guide - DCLG: Technical Housing Standards
- Nationally Described Space Standard
- Interim Affordable Housing Policy (Approved January 2020)
- Planning Applications Climate Change Guidance (2021)
- Waste Management Design Guide for New Developments (2020)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19/12/2023, the Planning Practice Guidance Suite (PPGS) first launched 06/03/2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision Making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Protecting Healthy and Safe Communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

**Assessment**

This application is made under S73 of the Town and Country Planning Act 1990, which allows for the 'determination of applications to develop land without compliance with conditions previously attached'. In addition to removing conditions, S73 enables the varying of a condition's wording. The effect of a granted S73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if they remain relevant. The time limit for development to commence cannot be extended through a S73.

The starting point for a S73 application is the previously-granted planning permission, which must carry significant material weight. However, consideration must first be given to whether any material changes in circumstances have taken place. This includes the policy and local context.

In terms of local context, there have been no changes in the environment (including built and natural) which would impact on the assessment of the application.

In light of the above, consideration must be given to the specific changes proposed and their interaction with adopted planning policy.

#### Principle of development

The site is allocated for housing within the Kirklees Local Plan to which full planning permission was granted under application 2019/92940. Therefore, the principle of development has already been established, to which this application relates. The proposed variation would not impact on the principle of development and policies in relation to the development broadly remain unchanged.

#### Housing numbers, mix and tenure

In this instance, the number of units would change by one, taking the total number of residential dwellings to be delivered on this site from 161 to 160. This is due to the changes required to ensure that the development conforms with the latest building regulations.

In terms of housing mix, this would broadly remain unchanged, although, there would be one additional 3-bed dwelling, at the loss of a 2-bed dwelling. However, when taking into account the size of the site and the housing need for Huddersfield North, this change is considered inconsequential. The proposal would remain an efficient and appropriate housing delivery scheme (that met known needs) as required by LP7 and LP11.

There would be no change to the affordable plots as part of this application.

#### Urban design considerations

Policies LP1, LP2 and LP24 of the Kirklees Local Plan are all relevant, as these policies seek to achieve good quality design that retains a sense of

local identify, which is in keeping with the scale of development within the area and is visually attractive.

These aims are also reinforced within Chapter 12 of the NPPF (Achieving well designed plans) where paragraph 131 provides an overarching consideration of design stating that “the creation of high quality buildings and places are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

In this instance, the variation seeks to amend the visual appearance of the previous house types 953, 768, 1054, 1062, 1210, 1062VI, 968 and 765 for plots 42-43 and 46- 82 to the new house types: Fewston, Padbury, Selset, Devoke, Denton, Oldbury and Oulston. The external changes specifically relate to the inclusion of PV panels and associated services, the upper floor windows amended and all dummy casements amended to openers.

Materials would remain as approved to include Edenhall Knaresborough Straw Brick and Edenhall Darlstone Walling black/buff stone. The number of plots to be constructed in each would remain as approved (other than the one dwelling omitted as part of this application).

In light of the above, it has been assessed by officers that the visual changes (proposed to comply with Building Regulations) would be minimal and would not take away from the design aesthetics of the original scheme. This would still offer a high-quality development, which can be supported by officers.

In conclusion, the changes to the scheme are considered to be acceptable and would accord with Policy LP24 of the KLP, Chapter 12 of the NPPF and the aims of the adopted Housebuilders Design Guide SPD.

#### Impact on residential amenity

Paragraph 135 of the National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings.

This is echoed within Kirklees Local Plan Policy LP24 which states that: proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.

In this instance, given the minor design alterations proposed and the location of these dwellings within the site, officers are satisfied that there would be no additional harm to existing nearby residents with regard to overbearing, overshadowing or overlooking.

The changes proposed would also not disadvantage the future occupiers of the plots in any way, as adequate separation distances would be retained (as approved).

For these reasons, the development has been considered acceptable from a residential amenity perspective, to accord with Policy LP24 of the KLP, the aims of the Housebuilder SPD and Chapter 12 of the NPPF.

#### Impact on highway safety

Given the nature of the amendments proposed, no alterations will occur to the previously approved access and parking arrangements. Therefore, there are no concerns in respect to highway safety. This is to accord with Policies LP21 and LP22 of the Kirklees Local Plan and the aims of the Highways Design Guide SPD and National Planning Policy Framework.

#### Other matters

The proposed variation is not considered to impact upon any other material planning considerations such as ecology, drainage, land contamination etc which remain as previously addressed within the parent application (ref: 2019/92940) and subsequent discharge of condition applications. These are addressed via conditions attached to the previous application (reviewed below).

#### Planning obligations

If approved, this application will result in a new planning permission being issued. As contributions have already been dealt with under the original application, legal advice was sought as to whether a legal mechanism was required to tie this application back to the existing S106 agreement. Whilst the proposed amendments would not alter any of the previously agreed contributions, a deed of variation would be required to tie this application to the original permission (2019/92940) and the previously approved S73 applications (2021/94528 and 2022/93697).

A Deed of Variation (dated 12/03/2024) has duly been completed.

#### Conditions

National Planning Guidance confirms that for the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect. This approach is reflected in this decision.

Application 2022/93697 (the previous S73 variation application for this site) was granted with 29 conditions:

- 1.Plans and specifications (to remain as is)

2. Phasing plan (to remain as is)
3. CEMP (to remain as is)
4. Construction Management (to remain as is)
5. Construction Management (to remain as is)
6. Remedial Strategy (to remain as is)
7. Validation report (to remain as is)
8. Temporary drainage (to remain as is)
9. Off site surface water drainage (to remain as is)
10. Future management and maintenance of surface water (to remain as is)
11. Junction and highway works (to remain as is)
12. Internal adoptable roads (to remain as is)
13. Retaining walls/structures (to remain as is)
14. LEMP (to remain as is)
15. Lighting scheme (to remain as is)
16. Lighting scheme for the extra care facility (to remain as is)
17. Ventilation scheme for extra car facility (to remain as is)
18. Public link to PROW (to remain as is)
19. Improvement works to PROW (to remain as is)
20. Additional tree planting within site frontage (to remain as is)
21. Phasing plan for soft landscaping (to remain as is)
22. Arboricultural Method Statement/Tree Protection Plan (to remain as is)
23. Surfacing of private curtilage (to remain as is)
24. Lockable gates for plots 14 and 15 (to remain as is, with an updated plan reference)
25. EVCP (to remain as is)
26. Five EVCP for extra care facility (to remain as is)
27. Travel plan (to remain as is)
28. Noise Impact Assessment (to remain as is)
29. Boundary treatments for plots 41 and 44 (to remain as is, with an updated plan reference)

All conditions listed above remain relevant and necessary.

## **Conclusion**

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**Recommendation:** Approve subject to conditions and S106 Legal Agreement (Deed of Variation).

**Decision Authorisation:** Delegated Powers

**Application Number:** 2023/91979

**Officer Recommendation:** Grant Variation of Condition

### **Conditions and Reasons**

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The development hereby permitted shall be carried out in accordance with approved drawing number A(000)017 Rev E (Phasing Plan).

**Reason:** To ensure the development is carried out in a comprehensive and controlled manner in order to accord with Policies LP5, LP21 and LP24 of the Kirklees Local Plan.

3. The development shall be carried out in complete accordance with the approved Construction Environmental Management Plan for Biodiversity (CEMP) (Ref 13945e/CR REV 1) submitted within application ref 2020/90549 for the full period of construction.

**Reason:** To mitigate the impact of the construction of the development on biodiversity and to accord with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

4. The development shall be carried out in accordance with the details approved pursuant to condition 5 on 23/10/2020 under application ref: 2020/90549 in relation to Construction Management.

**Reason:** In the interests of highway safety and residential amenity and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

5. The development shall be carried out in accordance with the details approved pursuant to condition 6 on 23/10/2020 under application ref: 2020/90549 in relation to Construction Management.

**Reason:** To mitigate the impact of the construction of the development on residential amenity and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

6. The development hereby permitted shall be carried out in accordance with the approved Remedial Strategy prepared by Sirius Geotechnical dated 22/06/2018 (ref: C6944A/JF/8479). In the event that remediation is unable to proceed in accordance with the approved Remedial 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 remove unacceptable risks to human health and the environment and to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

7. Following completion of the measures identified in the approved Remedial Strategy (or any approved revised Remediation Strategy) a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for that part of the site in accordance with the approved Remedial 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. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure unacceptable risks to human health and the environment have been addressed and to accord with Policy LP53 of the Kirklees Local Plan and guidance given in the National Planning Policy Framework.

8. The temporary drainage for the construction phase shall be implemented and carried out in accordance with the details approved pursuant to condition 9 on 23/10/2020 under application ref: 2020/90549, until the approved permanent surface water drainage system is in place for that phase and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

9. The development shall be operated and retained in accordance with the details approved pursuant to condition 10 on 23/10/2020 under application ref: 2020/90549, in relation to off-site surface water drainage.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage in the interests of amenity and environmental well-being and to accord with Policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

10. The development shall be carried out in complete accordance with the details approved pursuant to condition 11 on 19/01/2023 under application 2021/92325, in relation to the future management and maintenance of surface water drainage.

**Reason:** To ensure that there are suitable arrangements in place for the surface water drainage system to ensure an acceptable standard of operation for the lifetime of the development. This is to accord with Policy LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

11. The junction and associated highway works between the proposed estate road and adopted highway shall be carried out in complete accordance with details on 23/10/2020 under application ref: 2020/90549.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout. This is to accord with Policy LP21 of the Kirklees Local Plan.

12. The development shall be carried out in complete accordance with the details approved pursuant to condition 13 on 19/01/2023 under application 2021/92325, in relation to the internal adoptable estate roads and retained thereafter. The works shall be completed prior to the occupation of the corresponding development phase, as detailed under Condition 2.

**Reason:** To ensure that suitable access is available for the development to accord with Policy LP21 of the Kirklees Local Plan.

13. Prior to the installation of any of retaining walls/structures near or abutting existing and proposed adoptable highway, excluding those shown on drawing numbers Y005-KMH-PROW-01 Rev B (green wall) and Y005 Rev B (embankment adjacent to attenuation tank), details of the siting, design, structural calculations and material to be used in the construction of the retaining walls/structures shall be submitted to and approved in writing by the Local Planning Authority. Each phase of the development shall not be brought into use until the approved works for that corresponding phase have been constructed in accordance with the approved details. The works shall thereafter be retained as such.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout and to accord with Policy LP21 of the Kirklees Local Plan.

14. The development shall be carried out in complete accordance with the Landscape and Ecological Management Plan (ref: 13945f/CR/V2 Rev 3 Awe), including the Public Open Space Plan (drawing A(000)012 Rev O) and the Planting Plan (c-1417-01 Rev M). The development shall thereafter be retained in accordance with the approved details.

**Reason:** In the interests of biodiversity and to accord with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

15. The lighting scheme for biodiversity shall be installed and maintained in accordance with the strategy approved pursuant to condition 16 on 19/01/2023 under application 2021/92325.

**Reason:** In the interests of biodiversity and to accord with Policy LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

16. A lighting scheme for any external lighting relating to the extra care facility shall be submitted to and approved in writing by the Local Planning Authority before any such lighting is first installed. The scheme shall include the following information:-

- a) The proposed hours of operation of the lighting
- b) The location and specification of all of the luminaires
- c) The proposed design level of maintained average horizontal illuminance for the areas that needs to be illuminated.
- d) The predicted vertical illuminance that will be caused by the proposed lighting when measured at windows of any properties in the vicinity.
- e) The measures that will be taken to minimise or eliminate glare and stray light arising from the use of the lighting that is caused beyond the boundary of the site
- f) The methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required.

The external artificial lighting shall be installed and operated thereafter in accordance with the approved scheme.

**Reason:** In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan.

17. Details of the installation and/or erection of any extract ventilation system, including details of the methods of treatments of emissions and filters to remove odours and control noise emissions, for the extra care facility shall be submitted to and approved in writing by the Local Planning Authority before the extra care facility is first brought into use. The ventilation system shall thereafter be retained as such and operated when the extra care apartment's kitchen is in use and maintained in accordance with the manufacturer's instructions.

**Reason:** In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan.

18. The development shall be carried out in complete accordance with the details approved pursuant to condition 19 on 23/10/2020 under application ref: 2020/90549, in relation to the design of the public link within the north-west part of the site that connects to public footpath Huddersfield 382. The path shall be provided before 50% of the dwellings in phase 2 are occupied and shall thereafter be retained as such.

**Reason:** To enhance the accessibility of the development and promote sustainable travel. This is to accord with Policies LP3 and LP20 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

19. Details of a scheme for improvement works to the existing definitive public footpath Huddersfield 382 which runs to the western boundary of the site shall be submitted to and approved in writing by the Local Planning Authority before any dwelling within phase 2 is first occupied. The scheme shall include details of any proposed widening, surfacing, lighting and drainage works. The scheme of improvement works shall be implemented before 50% of the dwellings in phase 2 are occupied and shall thereafter be retained as such.

**Reason:** To enhance the accessibility of the development and promote sustainable travel. This is to accord with Policies LP3 and LP20 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

20. Notwithstanding the submitted landscaping plan, a scheme for additional tree planting to the site frontage to compensate for the loss of 4no. protected

trees that lie immediately to the northeast of the approved access shall be submitted to and approved in writing by the Local Planning Authority before any dwelling in phase 1 is first occupied. The additional tree planting shall be provided before works commence on phase 2 of the development. The tree planting so approved shall be maintained for a period of five years from planting. If, within this period, any of the trees shall die, become diseased or be removed, they shall be replaced with others of similar size.

**Reason:** In the interests of visual amenity and biodiversity and to accord with Policies LP24, LP33 and LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

21. The development shall be carried out in complete accordance with the phasing plan for the soft landscaping scheme approved pursuant to condition 22 on the 17/03/2023 under application ref 2023/90489. The approved soft 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:** In the interests of visual amenity and biodiversity and to accord with Policies LP24, LP11 and LP30 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

22. The development shall be carried out in accordance with the approved Arboricultural Method Statement/Tree Protection Plan (ref: BA6485AIA\_E).

**Reason:** So as to protect to viability of the protected mature trees within/adjacent to the application site and to accord with Policy LP33 of the Kirklees Local Plan.

23. The approved vehicle parking areas located within private residential curtilage shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13/05/2009 (ISBN 9781409804864) as amended or superseded. The parking areas shall be surfaced as such before the dwelling to which they relate is first occupied and thereafter retained.

**Reason:** In the interests of highway safety and to mitigate flood risk and to accord with Policies LP21 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

24. A lockable gate to the shared access to Plots 14 and 15, as indicated on plan Y005-KMH-XX-DR-K-001, shall be provided before either of these dwellings are first occupied. The gate shall thereafter be retained as such.

**Reason:** To enhance the security of these plots and reduce opportunities for crime and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

25. The electric vehicle recharging points as shown on drawing number A(000)001 Rev AT and specified within the Rolec product catalogue (Wallpod: EV HomeCharge, page 3) shall be provided before the dwelling to which they

relate is first occupied. The recharging points shall thereafter be retained as such.

**Reason:** To mitigate the impact of the development on air quality and to accord with Policy LP24 of the Kirklees Local Plan, guidance contained in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

26. A scheme for the provision of five electric vehicle recharging points for the extra care facility shall be submitted to and approved in writing by the Local Planning Authority before the extra care facility is first occupied. The electric vehicle charging points shall be provided before the extra care facility is first brought into use and shall thereafter be retained.

**Reason:** To mitigate the impact of the development on air quality and to accord with Policy LP24 of the Kirklees Local Plan, guidance contained in the National Planning Policy Framework and the West Yorkshire Low Emissions Strategy.

27. The measures detailed in the approved Travel Plan (ref SC/17209/TP/6, dated August 2019) shall be implemented in full prior to the site being brought into use.

**Reason:** To promote sustainable forms of travel and to accord with Policies LP3 and LP20 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

28. The development shall be provided in accordance with the works specified within the approved Noise Impact Assessment prepared by Dragonfly Consulting dated August 2019 (Ref: DC 3217-R1v2) and thereafter retained as such.

**Reason:** In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

29. The boundary treatment for plots 41 and 44 shall be completed in accordance with the boundary treatment plan (ref A(000)015 rev Z) and shall be provided before the dwelling to which it relates is first occupied and shall be thereafter retained.

**Reason:** To enhance the security of these plots in the interests of mitigating opportunities for crime and to accord with Policy LP24 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Civic Centre 3, Market Street, Huddersfield (Kirklees Highway Design: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**NOTE:** Noisy construction related activities should not take place outside the hours of: 07.30 to 18.30 hours Mondays to Fridays 08.00 to 13.00 hours Saturdays With no noisy activities on Sundays or Public Holidays Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the abovementioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

**NOTE:** Public Right of Way HUD/382/20 runs adjacent to the application site. This Public Right of Way shall not be interfered with or obstructed at any time before, during or after the construction period. For further information, please contact [publicrightsofway@kirklees.gov.uk](mailto:publicrightsofway@kirklees.gov.uk).

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
<b>Received via this Variation of Conditions Application: 2023/91979</b>			
Cover letter	Dated 21/06/2023	-	19/07/2023
Boundary treatment plan	A(000)015	Z	19/07/2023
Planning pack (house types)	2022 ASHBROW	-	19/07/2023
Materials layout	Y005-KMH-XX-DR-K-0003	-	19/07/2023
Planning layout	Y005-KMH-XX-DR-K-001	-	24/11/2023
<b>Received via Variation of Condition Application: 2022/93697</b>			
Cover letter	-	-	16/11/2022
Ashbrow As Built Section	Y005	Rev B	21/03/2023
Approved AIP - Embankment	K60829	2	30/11/2023
<b>Received via Variation of Condition Application: 2021/94528</b>			
Tensartech Green slope	-	-	16/09/2022
Vegetation for retaining structures	Issue date 18/07/2016	-	16/09/2022
Plot levels sheet 1 (including green wall)	114509/2037	Rev P	16/09/2022
Plot levels sheet 2 (including green	114509/2038	Rev R	16/09/2022

wall)			
Site Sections (Section A-A & B-B)	A(001)002	Rev E	16/09/2022
Site section B-B (PROW)	A(000)051	Rev D	16/09/2022
Site section D-D	A(001)104	Rev C	16/09/2022
Proposed Site Sections (Section E-E & F-F)	A(001)005	Rev D	16/09/2022
Site section A-A (PROW)	A(000)050	Rev F	16/09/2022
Landscape and Ecological Environmental Management Plan	13945f/CR/V2	Rev 3	16/01/2023
Planting plan	c-1417-01	Rev M	16/01/2023
POS plan	A(000)012	Rev O	16/01/2023
GTM sections	22-5342-F1	Rev 0	31/01/2023
Design for Green Terramesh Reinforced Earth Slope	21-5325	-	11/05/2023
Green wall and PROW details	Y005-KMH-PROW-01	Rev B	11/05/2023
Approved AIP for the Terramesh Earth Embankment	K60827	Rev 2	30/11/2023
GTM plan	22-5342-F1	Rev C	30/11/2023
GTM elevation	22-5342-F1	Rev C	30/11/2023
GTM sections	22-5342-F1	Rev C	30/11/2023
<b>Received via Non Material Amendment Application Reference: 2023/91437</b>			
Elevations for extra care bed	3340(3)001 W	-	16/05/2023
<b>Received via Discharge of Condition Application Reference: 2023/90489</b>			
Landscape phasing plan	c-1417-06	Rev B	13/02/2022
<b>Received via Non Material Amendment Application Reference. 2022/93000</b>			
Site layout entrance for extra care unit	3340(1)004 AF	-	08/09/2022
Wall amendment proposal for extra care unit	3340(1)019	-	08/09/2022
Materials binder (as originally	Marshalls	-	08/09/2022

approved)			
<b>Received via Discharge of Condition Application Reference. 2021/92325</b>			
Outdoor lighting report	By DfL dated 01/12/2020	Rev E	02/08/2021
Investigation of situ soils	C6944F/MB/9430	-	02/08/2021
Section 38 Legal Plan	114509/2014	Rev X	02/08/2021
Lighting layout	0664-DFL-HLG-XX_XX-DR-EO-1303 Rev F	P05	02/08/2021
Lighting strategy report	LSAR1	-	02/08/2021
Report to discharge condition 11	114509/01A	-	18/10/2022
S104 agreement (confidential)	Email dated 17/01/2203	-	17/01/2023
<b>Received via approved Variation of Non Material Amendment 2021/91673</b>			
Extra Care Facility – Floor Plans	3340(2)001 R	-	19/05/2021
Extra Care Facility – Comparison Elevations	3340(3)007 B		19/05/2021
<b>Received via approved Discharge of Condition Application Reference. 2020/90549</b>			
Retaining wall details (land above highway)	272/134/1005	Rev A	16/04/2020
Drainage detail sheet 1	114509/2008	Rev C	16/04/2020
Drainage detail sheet	114509/2009	Rev C	16/04/2020
Longitudinal sections sheet 1	114509/2025	Rev H	16/04/2020
Longitudinal sections sheet 2	114509/2026	Rev H	16/04/2020
Longitudinal sections sheet 3	114509/2027	Rev H	16/04/2020
Longitudinal sections sheet 4	114509/2028	Rev H	16/04/2020
Longitudinal sections sheet 5	114509/2029	Rev I	16/04/2020
Longitudinal sections sheet 7	114509/2045	Rev E	16/04/2020
Longitudinal sections sheet 8	114509/2049	Rev B	16/04/2020
Path details within POS	c-1417-04	-	16/04/2020
Landing cross	KMH/2021/100/04	-	16/04/2020

section			
Step cross section	KMH/2021/100/04	-	16/04/2020
Longitudinal Section	KMH/2021/100/04	-	16/04/2020
Construction method statement	Dated February 2020	-	16/04/2020
Proposed site plan for construction management and build-out	A(000)031	D	16/04/2020
Surface Treatment Plan	A(000)018	Rev D	16/04/2020
Road safety audit 1/2	JHB/AKRSA1.2Rev2	-	16/04/2020
Surface water management plan	HSS-PL-001-Water	Version 6	23/06/2020
Refuse tracking	114509/2030	Rev D	23/06/2020
Headwall detail	114509/2047	Rev D	23/06/2020
Section 104 drainage layout	114509/203	Rev BB	23/06/2020
Initial phase surface water management plan	Y005-KM-XX-DR-HS-002	Rev B	23/06/2020
Footpath link to PROW	A(000)107	Rev C	23/06/2020
Updated site layout plan	A(000)001	Rev AH	23/06/2020
Construction Environmental Management Plan	13945e/CR	Rev 1	14/07/2020
Lighting plan (section 38)	114509/2014	Rev S	15/07/2020
<b>Received Via approved Original Full Planning Application Reference. 2019/92940</b>			
Location Plan	A(000)100	-	09/09/2019
Retained Land Plan	A(000)019	-	09/09/2019
Proposed Site Sections (Section C-C)	A(001)003	-	09/09/2019
House Type 768	01191A_HT 768-01	Rev C	09/09/2019
House Type 768	01191A_HT 768-04	Rev C	09/09/2019
House Type 953	01191A_HT 953-01	Rev C	09/09/2019
House Type 968 (semi-detached)	01191A_HT 968-03	Rev D	09/09/2019
House Type 968 v1 (reconstituted stone option)	01191A_HT 968v1	Rev C	09/09/2019

House Type 968 (detached reconstituted stone option)	01191A_HT 968-02	Rev C	09/09/2019
House Type 1016	01191A_HT 1016-01	Rev C	09/09/2019
House Type 1210	01191A_HT 1210-01	Rev B	09/09/2019
House Type 1054V1 NDSS Variation	A(1054V1)001	-	09/09/2019
House Type 1062V1 NDSS Variation	A(1062V1)001	-	09/09/2019
House Type 1054BV1 NDSS Variation	A(1054BV1)001		09/09/2019
House Type 1054B NDSS Variation	A(1054B)001	Rev C	09/09/2019
House Type 1054 NDSS Variation	A(1054)001	Rev C	09/09/2019
House Type 1062B NDSS Variation	A(1062B)001	Rev D	09/09/2019
House Type 1062 NDSS Variation	A(1062)001	Rev D	09/09/2019
Proposed Balcony Details	A(001)001	-	09/09/2019
Proposed Plot Levels (Sheet 3)	114509/2039	Rev N	17/01/2020
Street Elevation 3	A(000)022	-	09/09/2019
Site Sections	3340 (4)001 H	-	09/09/2019
Extra Care Facility – Site Layout	3340 (1)004 X	-	09/09/2019
Extra Care Facility – Isometrics	3340 (3)002 L	-	09/09/2019
Extra Care Facility – Site Location Boundary	3340 3340(1)007 C	-	09/09/2019
Extra Care Facility – Ground Floor Communal Areas Plan	3340 (2)005 E	-	09/09/2019
Flat Type A (1 bed)	3340(2)010 B	-	09/09/2019
Flat Type A bay (1 bed)	3340(2)011 B	-	09/09/2019
Flat Type A+ (1 bed +)	3340(2)014 B	-	09/09/2019
Flat Type B (2	3340(2)102 B	-	09/09/2019

bed)			
Extra Care Facility – Boundaries	3340 (1) 006 J	-	09/09/2019
Images 1	3340 (3)010 C	-	09/09/2019
Images 2	3340 (3)011 C	-	09/09/2019
Images 3	3340 (3)012 C	-	09/09/2019
Images 4	3340 (3)013 B	-	09/09/2019
Section 38 Proposed Kerbing Plan	114509/2013	Rev K	09/09/2019
Section 38 Proposed Surfacing Plan	114509/2012	Rev L	09/09/2019
Car Parking Layout – Housing	A(000)023	-	09/09/2019
Public Right of Way Retaining Wall (1 of 2)	272/134/1003	Rev B	17/01/2020
Public Right of Way Retaining Wall (2 of 2)	272/134/1004	Rev B	17/01/2020
Phasing Plan	A(000)017	Rev E	09/09/2019
Phasing Plan – Phase 1	A(000)025	-	09/09/2019
Phasing Plan – Phase 1	A(000)026	-	09/09/2019
Phasing Pan – Phase 2	A(000)027	Rev A	09/09/2019
Phasing Plan – Phase 3	A(000)028	-	09/09/2019
Arboricultural Impact Assessment Plan	Barnes & Associates BA6485AIA_E 02/08/19	-	09/09/2019
Tank Access Shaft Schedule	114509/2042	Rev F	28/11/2019
Attenuation Tank Details (Southern Tank)	STS1981-001	Rev D	28/11/2019
Attenuation Tank Details (Northern Tank)	STS1981-101	Rev E	28/11/2019
Section 104 Drainage Layout	114509/2003	Rev X	28/11/2019
Impermeable Area Plan	114509/2052	Rev F	17/01/2020
Utility Survey	12526-223-2_ UMS(1)	-	09/09/2019
Utility Survey	12526-223-2_ UMS(2)	-	09/09/2019
Utility Survey	12526-223-2_ UMS(3)	-	09/09/2019
Utility Survey	12526-223-2_ UMS(4)	-	09/09/2019

Flood Risk Assessment	Weetwood July 2019	Final Report v1.4	09/09/2019
Micro Drainage Calculations – Southern Tank	Dated 28/11/2019	-	28/11/2019
Micro Drainage Calculations – Northern Tank	Dated 28/11/2019	-	28/11/2019
Attenuation Tank Information	Letter from ARP dated 05/07/2019 Ref KMT/21/JEDjc	-	09/09/2019
Geoenvironmental Appraisal	Sirius C6944A June 2016	-	09/09/2019
Supplementary Ground Investigation	Sirius C6944D/MB/8981/REV A 23/07/2019	-	09/09/2019
Ground Gas Risk Assessment	Sirius C6944A/NI/7449 10/08/2016	-	14/11/2019
Remedial Strategy	Sirius C6944A/JF/8479 22/06/2018	-	09/12/2019
Archaeological Evaluation by Trial Trenching	Maparch 02/08/2018	-	09/09/2019
Supporting Information	Sirius C6944A/MB/8669 25/10/2019	-	09/09/2019
Road Safety Audit – Stage 1	JHB Consulting 24/10/2017	Final report	09/09/2019
Transport Assessment Addendum	SCP SC/17446/TN03 01/08/2019	-	09/09/2019
Travel Plan	SCP SC/17209/TP/6 August 2019	-	09/09/2019
Extended Phase 1 Habitat Survey Report	JCA Ltd 13945/jb 26/01/2018	-	09/09/2019
Badger Survey & Report	JCA Ltd 13945c/JB 10/07/2019	-	09/09/2019
Bat Survey & Report	JCA Ltd 13945a/JBRev1 Dated 08/02/2019	-	09/09/2019
Arboricultural Impact Appraisal	Barnes & Associates BA6485AIA_E 31/07/2019	-	09/09/2019
Air Quality Addendum	Redmore Environmental 1276-1r2 31/07/2019	-	09/09/2019
Design & Access Statement	July 2019	-	09/09/2019
Planning Statement	Arup Dated 01/08/2019	-	09/09/2019
Statement of	Arup Dated 01/08/2019	-	09/09/2019

Community Involvement			
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance, no negotiations have been sought as part of this application process, however an amended site layout plan has been received. The conditions and plans table have also been agreed in writing with the applicant.

Dated: 02/04/2024.