

**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:	2023/44/92092/E
Site Address:	Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU
Description:	Discharge of condition 5 (new retaining walls) of previous reserved matters approval 2022/91047 for a development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access)
Recommending Officer:	Ellie Thornhill

DECISION – Discharge of Condition – Refuse

I hereby authorise the refusal 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: 01-Jul-2024

Officer report

Application: 2023/92092

Site: Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU

Proposal: Discharge of condition 5 (new retaining walls) of previous reserved matters approval 2022/91047 for a development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access)

Condition 5: New retaining walls

5. There shall be no commencement of each phase of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls / building retaining walls adjacent to the existing/proposed highway has first been submitted to and approved in writing by the Local Planning Authority, in liaison with the Local Highway Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: *In the interest of highways safety, in accordance with Policy LP21 of the adopted Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.*

This pre-commencement condition is necessary to ensure details of highway structures etc are designed and approved at an appropriate stage.

Assessment

In support of condition 5 the following documents have been submitted:

- Redi-Rock Wall Design 3.36m reference P0121-265-001 rev 0.
- External Levels (Phase 1 Sheet 1 of 2) reference 09.21011-ACE-00-ZZ-DR-C-3200 rev P9.
- External Levels (Phase 2 Sheet 1 of 2) reference 09.21011-ACE-00-ZZ-DR-C-3201 rev P9.
- Southern Boundary Sections 00.23009-ACE-00-ZZ-DR-C-03604 rev P4.
Redi-Rock Wall Design Calculations reference 0121-265.
- Marshalls Proposed Layout Red-Rock Retaining Wall reference 5856952 Layout -1.
- Redi-Rock Retaining Wall Design reference 0121-265 rev A.
- Email between the developer and KC Highway Structures dated 28/10/2023.
- Approval In Principle for Proposed Private Retaining Wall at Blue Hills Farm Adjacent to A58 Whitehall Road West, Birkenshaw rev P4 dated 08/11/2023.
- Certificate of Construction Compliance dated 21/02/2024.
- Certificate for the design and check of highway structures (ref: L66044)

- Email between the developer and KC Highways dated 21/03/2023.

The submitted plans show a retaining wall along the southern frontage of the site facing onto the Whitehall Road West (A58). Officers have visited the site, and ascertained that the retaining wall appears to already be in situ.

KC Highway Structures have confirmed that the proposed boundary wall is acceptable from a structures perspective, as an Approval In Principle and Construction Compliance Certificate have been issued.

However, from a visual perspective, officers are concerned regarding the design and height of the retaining wall. The specification provided shows the wall to be constructed using a RediRock (grey concrete blocks) retaining wall product.

The wall as built does not appear in keeping with the surrounding character and appearance. Nearby boundary treatments include natural stone walls, soft landscaping, low timber railing, and (at one corner of the nearby roundabout) a short section of natural stone blocks. The wall as built also differs to the materials used in the elevations of nearby buildings.

Furthermore, the height of the wall varies from 1.6m to 3.8m, with no clear justification provided to explain this, other than the site levels have been heavily influenced by highway requirements. Creating acceptable private amenity space is not considered to be a suitable justification for the height of the wall, given that gardens can be slightly sloped and still be useable. The wall – particularly its southern corner which is the first thing seen at this key (main road) entry point to Birkenshaw – is visually obtrusive and overdominant, and gives the development an inappropriate, fortified appearance. Furthermore, it prevents the development from engaging with and animating the road, and as a result the development effectively turns its back on the most important public realm it abuts. No boundary treatments of a similar height and length exist in the site's immediate vicinity.

Given the substantial height and stark appearance of the retaining wall, officers cannot support the design of this structure and therefore condition 5 cannot be discharged.

Decision notice text

Pursuant to condition 5 you have submitted:

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- External Levels (Phase 1 Sheet 1 of 2) reference 09.21011-ACE-00-ZZ-DR-C-3200 rev P9.
- External Levels (Phase 2 Sheet 1 of 2) reference 09.21011-ACE-00-ZZ-DR-C-3201 rev P9.
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KC Highway Structures have confirmed that the proposed boundary wall is acceptable from a structures perspective, as an Approval In Principle and Construction Compliance Certificate have been issued.

However, officers have significant concerns regarding the height and stark materials used for the retaining boundary wall, due to its prominence along the A58 and the fact that the area is characterised by lower boundary treatments which feature more appropriate materials.

As such, the retaining wall cannot be supported and therefore condition 5 cannot be discharged.

Dated: 01/07/2024.