

**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>2023/44/92254/E</b>
Site Address:	Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA
Description:	Discharge of conditions 6 (drainage), 7 (drainage) and 14 (CEMP) of previous reserved matters approval 2021/93286 pursuant to outline permission 2020/91215 for erection of 41 dwellings
Recommending Officer:	Ellie Thornhill

**DECISION – Discharge of Conditions – 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: 18-Jan-2024**

## Officer report

**Application:** 2023/92254

**Site:** Land at Green Acres Close, Emley, Huddersfield, HD8 9RA

**Proposal:** Discharge of conditions 6 (drainage), 7 (drainage) and 14 (CEMP) of previous reserved matters approval 2021/93286 pursuant to outline permission 2020/91215 for erection of 41 dwellings

## Consultation

The council is not required to consult local residents in relation to Discharge of Conditions applications. The application was therefore not advertised via letters to neighbours, site notices or press notices. Local residents have, however, submitted comments to the council, and these are considered below.

The comments of relevant consultees (including the Lead Local Flood Authority) are reported below, where relevant.

## Condition 6: Drainage scheme

*6. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, masterplan design, an assessment of Sustainable drainage including attenuation, water quality and amenity potential, outfalls, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned, and percolation tests, where appropriate) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and retained thereafter.*

**Reason:** *To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

*This pre-commencement condition is necessary to ensure details of drainage are agreed at an appropriate stage of the development process.*

## Assessment

The following documents have been submitted pursuant to condition 6:

- Section 104 Manhole Schedule (reference AMA/21311/D/504 rev P3)
- Flow control manhole (reference AMA/21311/D/505 rev P2)
- Private drainage layout (reference AMA/21311/D/509 rev P2)
- Off-site drainage plan (reference AMA/21311/D/501 rev P3)
- Catchment area plan (reference AMA/21311/D/502 rev P2)

- Section 104 drainage long sections (reference AMA/21311/D/503 rev P3)
- Section 104 layout (reference AMA/21311/D/500 rev P6)
- Location plan (reference AMA/21311/D/510 rev P2)
- Hydraulic calculations (reference SW Network 25.5.22.pfd)

KC Lead Local Flood Authority (LLFA) have been formally consulted. The LLFA have noted that the maximum discharge rate from MHS8 (hydrobrake chamber) during the critical 1 in 100 yr (+ 30% CC) is shown in the calculations as 3.8 l/s (720 minute winter) which is greater than the allowable discharge rate, however as the hydrobrake size is at its minimum diameter (75mm), the LLFA can accept the small increase in discharge rate.

As such, the information/plans submitted pursuant to condition 6 can be supported, subject to none of the dwellings being occupied until the approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate. The drainage scheme shall thereafter be retained.

### **Condition 7: Temporary surface water drainage**

*7. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail: - phasing of the development and phasing of temporary drainage provision. - include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented. - the strategy shall include a plan showing the location of the attenuation storage and supporting calculations, which shall be based on the critical 1 in 2-year storm. It should be assumed that once the site has been stripped that the percentage run-off will be 100 %. The maximum allowable off-site discharge rate shall not exceed 2.5 litres per second per ha for temporary drainage, unless otherwise agreed with the LLFA. The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority*

**Reason:** *To ensure the effective disposal of surface water from the development (including its internal roads) so as to avoid an increase in flood risk and so as to accord with Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.*

*This pre-commencement condition is necessary to ensure details of drainage are agreed at an appropriate stage of the development process.*

### **Assessment**

The following document has been submitted pursuant to condition 7:

- Emley Temporary Surface Water Management Plan (reference Em-AMA-NH-002)

34 representations have been received from members of the public in respect of this condition. Local residents commented "...the temporary drainage to affect the parking area and entrance to the Emley Millennium Green. Any drainage plans that affect the parking area or entrance must be discussed and agreed with the Trustees of the Green and must not block or impede the area at any time".

**Officer comment:** This appears to be a private matter to be resolved between the relevant parties, and is outside the remit of planning.

For the purpose of condition 7, KC LLFA have confirmed their acceptance of the temporary surface water drainage plan and therefore this document can be approved. However, it is recommended that the applicant be reminded that the temporary works are required to be implemented in accordance with the approved scheme and phasing and that no phase of the development shall be commenced until the temporary works approved for that phase have been completed. Condition 7 also states that the approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

#### **Condition 14: Construction Environmental Management Plan**

*14. Prior to the commencement of development (including demolition and ground works) a Construction (Environmental) Management Plan (C(E)MP) shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall be developed following on from public engagement, which shall be included within the report, along with pre-development road condition surveys, a timetable of all works, and details of:*

- *point(s) of access for construction traffic;*
- *construction vehicle sizes and routes;*
- *times of vehicle movements;*
- *parking for construction workers;*
- *signage;*
- *wheel washing facilities within the site;*
- *dust suppression and street sweeping measures;*
- *measures to control noise and vibration;*
- *artificial lighting to be used during construction; and*
- *hours of works.*

*The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works*

*shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development.*

**Reason:** *In the interests of amenity and highway safety, and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.*

*This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process.*

## **Assessment**

The following documents have been submitted pursuant to condition 14:

- Construction Management plan (reference Z155 – 005)
- An example of the letters to be sent to residents
- Construction Environmental Management plan (rev D)
- Covering letter (public engagement results)
- Pre-commencement road survey (including photographs)

34 comments have been received in response to this condition. The concerns raised are as follows:

- The original CEMP did not include any public engagement and residents have the following points for discussions:
  - How do Newett Homes propose to protect the Millennium Green's trees, bushes and wildlife during the development from construction debris, dust and mud, from excess construction noise and artificial lighting. The Millennium Green is used for the release of recovering hedgehogs from the nearby hedgehog hospital. Newett Homes is aware of this and has been approached by the hedgehog hospital with a request to enter the development site to monitor and/or re-home such hedgehogs who may be along the boundary and within the development site. Newett Homes needs to factor this into any of their construction management plans. There also needs to be suitable protection of tree roots on the boundary of the Millennium Green throughout the development phase.
  - How will Newett Homes ensure access to the Emley Millennium Green and other public areas are not impeded during the development. The development site is a central convergence/overlap point for villagers walking in all directions; to the Millennium Green to the South, to the Recreation Park to the East, to the Multi Use Games Area (MUGA) and the Community centre to the West and to watch the cricket to the North. Access by foot to all these areas is important to the village and must be available and connected throughout the construction period.
  - There has not yet been any clear communication from Newett Homes on what will happen to the existing public right of way (PROW DEN/21/20) that crosses diagonally across the site and is the main route to the Millennium Green which has been recently fenced in by

contractors. We assume this right of way will remain open during the course of the development as was the intention during the planning process. Are there plans to divert this PROW? The recently submitted 'Secure by Design' layout dated 11/07/2023 appears to refer to a diversion? If so where exactly will the diversion be and how long will the PROW be diverted for? We assume if there is to be a diversion it will be only for a short space of time at critical points during the development and not for the duration of the development.

- We assume the development will be built in phases. Which phase will be built first? We assume the section on the side of the PROW which is closest to the Green Acres Close (Plots 14 to 29) being built last? We assume Plots 14 to 20 closest to the Ball stop netting will be the final plots to complete on the site.
- When will construction start and how long will it take?
- Parking of construction workers vehicles will be an issue, what are the plans?
- Reassurance that the access from Green Acres Close will not be used by construction workers or deliveries.
- When will the full length of PROW (DEN 21/20) be re-surfaced, dates and timings are important for the village as already stated above, this is an extremely well-used PROW at all times of the day and on all days? The resurfacing will be from the village centre right up the Millennium Green. What other improvements are intended to the PROW. Detailed plans of finishings/edging/lighting etc? Assurance that any maintenance required to tarmac or lighting will be funded by the development management company.
- Details of when the ball stop net will be constructed as this will no doubt interfere with the claimed PROW and the playing of cricket. Assurance that any ongoing issues/maintenance of support stanchions or netting during the construction period will be promptly dealt with by Newett Homes to prevent possible public safety issues, particularly during strong winds/adverse weather conditions experienced in Emley.

**Officer comment:** Many of the above questions are for the applicant to address, rather than for the council as Local Planning Authority. Some of the questions are outside of the remit of this Discharge of Condition application.

- Work has begun before the CEMP and other pre-commencement conditions have been discharged, with access being taken via Warburton and Green Acres Close.

**Officer comment:** This has been noted.

- The Developer has failed to carry out any public engagement at all as required by this planning condition prior to submitting their CEMP to Kirklees. Work Commenced on site on Monday 23rd October. The developer posted letters to locals on Friday 20th October regarding commencement of work together with a copy of the filed CEMP. The notice period of one working day cannot be deemed reasonable notice of commencement on such a large site. In the letter the developer asks

for comments on the CEMP. There is an address but no email correspondence, only a QR code reader, this is not good public relations nor very inclusive as many of the residents of the village are elderly and do not have smart phones or the ability to use the internet. Consultation should be with everyone who is, or maybe affected by the development. We are aware of several issues people would like to raise in relation to the CEMP and Kirklees should ensure there is a correct period for these issues to be considered before any more site work is carried out.

- The developers CEMP also states at 5.2 that prior to works commencing on site all neighbouring occupiers will be contacted by the public liaison person – this has not happened at all.

**Officer comment:** These concerns have been noted.

- The developer initially chose to deny requests for access to the site by the local Hedgehog Hospital to look for nesting hedgehogs released into the area to recuperate – giving access only after work had commenced and after pressure from locals (hedgehogs have been released on the Millennium Green and surroundings for several years)

**Officer comment:** This concern is outside the remit of this Discharge of Condition application.

- Issues with the CEMP that are apparent to local residents:
  - 1.3 of the CEMP refers to a plan reference number that does not match the reference on the plan. It is also clear that the CEMP plan submitted to Kirklees is different and has different information to the plan posted through the doors of local residents (which is also difficult to read and make out any information on, particularly for the many elderly)
  - 5.2 of the CEMP states prior to works commencing on site all neighbouring occupiers will be contacted by the public liaison person – this has not happened at all.
  - 5.5 – There is no notice board.
  - 5.12 – The developer initially chose to deny requests for access to the site by the local Hedgehog Hospital to look for nesting hedgehogs released into the area to recuperate (hedgehogs have been released on the Millennium Green and surroundings for several years) it is clear that if there had been public engagement in relation to the CEMP this is something that could have been specifically dealt with. The Hedgehog Hospital has been in existence for several years and should have been factored properly into any site management plans.
  - 6.2 of the CEMP talks about time slots for deliveries but make no reference to when those will be? Will they avoid local rush hours traffic so that residents can get to work/school without issue. Wentworth Drive junction and traffic through the village generally during rush hours is very heavy and often at a standstill.
  - 6.5 The CEMP states all deliveries will be stored in the compound area however the compound area is small and unlikely to store all deliveries, all site traffic and Site cabins?
  - 6.6 all deliveries should avoid rush hours.

- 6.7 of the CEMP states that all parking for site staff will be in the compound however the compound area is small and unlikely to store all deliveries, all site traffic and Site cabins? The CEMP refers to parking for site staff, what about site contractors? There is no designated parking for contractors. There is likely to be in excess of 30 contractors vehicles on a daily basis, and we have read up to 70, where will they park within the site? we need reassurance that any parking will not spill out onto Wentworth Drive and block and case issues for residents.
- CEMP Plan does not show any site office/visitor location at the front of the site – do people have to walk/travel through the site to make contact/speak to staff/sign in?
- The CEMP plan shows permanent and temporary fencing by way of a red line with no distinction between what is permanent and what is temporary. Further the red line denoting fencing continues straight across the access to the Millennium Green which should be kept open at all times (this is only shown on the plan posted to residents and doesn't show on the plan submitted to Kirklees) The developer has no right to block access by vehicle or foot from Green Acres Close to the Millennium Green.

**Officer comment:** These comments have been noted and the CEMP has been reviewed by KC Environmental Health and KC Highway Development Management, where necessary. Officer's comments can be seen below.

Officer assessment regarding the specific requirements of condition 14 is set out in the following paragraphs.

### *Public engagement*

Condition 14 includes a requirement for the Construction (Environmental) Management Plan (C(E)MP) to be developed following on from public engagement, and requires of this public engagement to be included within the submitted document. Condition 14 does not specify what form that public engagement should take.

The submitted plan clarifies that neighbours have been contacted by means of letter drops prior to commencement, and will be communicated with as the project develops. Responsible persons have been identified and contact details shall be displayed to the public at pertinent points, for example the site entrance.

A complaints procedure is included within the submitted plan, confirming response times and record keeping.

The applicant's submission also includes details public engagement undertaken with local residents. This included a letter drop to 60-70 properties located on Wentworth Drive, Wentworth Avenue and Green Acres Close. An email was also issued to ward Councillors to notify them of the construction works.

The letter sought to inform residents of the commencement date for the development and copies of the CEMP were enclosed outlining the processes Newett Homes have in place during the construction phase. The applicant has stated that the CEMP is informed by best construction practice, British Standards, relevant health and safety legislation and best practice, and consideration for the local area.

Newett Homes invited views on the CEMP and set up an online survey form via Google Forms for residents to provide any comments. A copy of website link and the letter posted to residents has been provided.

For any residents unable to access the online survey, the CEMP also provided a contact number of the customer liaison person, responsible for communication with local residents throughout the construction works, whom queries and comments could also be directed to. Additionally, the letter provided an email address, contact number and postal address as alternate forms of correspondence.

A 14-day period was allowed for residents to provide any comments, between 19/10/2023 and 02/11/2023.

As of 10/11/2023, the covering letter submitted with the revised CEMP outlined that no comments had been received in response to the survey. However, Newett Homes received requests from a local hedgehog charity for them to survey the site and rescue any hedgehogs prior to construction works commencing. This was arranged on 25/10/2023.

#### *Pre-development road condition surveys*

A pre-development road condition survey has been submitted to and accepted by the council's Section 38 Team in advance site works commencing.

#### *Timetable of all works*

The submitted plan gives a description of the programme of works, starting October 2023, with plot production to commence in January 2024.

#### *Details of point(s) of access for construction traffic*

Access onto the site would be from Wentworth Drive (to the west) of the site. No unauthorised access would be permitted.

#### *Details of construction vehicle sizes and routes*

Site vehicles would consist of vehicles such as cars and vans through to standard size HGV's. Should there be a requirement for any larger vehicles, such as those carrying abnormal loads, advanced warning would be given to the police, highways authorities and bridge and structure owners as necessary.

With regard to construction vehicles, these would take the following routes to the site:

Travelling from M1 Southbound:

- M1 southbound exiting at Junction 39 / Take A636, turning off onto Woodhouse Lane and travelling westbound towards Emley / Turn off onto Wentworth Drive and enter the site.

Travelling from M1 Northbound:

- M1 northbound exiting at Junction 38 / Take A637, turning off onto Woodhouse Lane and travelling westbound towards Emley / Turn off onto Wentworth Drive and enter the site.

Travelling from M62 Eastbound:

- M62 eastbound exiting at Junction 25 / Take A644 and exit onto the Moor Top Rd/B6118 / Exit onto Wakefield Rd/A642 before turning onto Paul Lane, MoorTop Lane, Lenacre Lane, Westfield Lane, Jagger Lane, Chapel Lane before turning onto Wentworth Drive and entering the site.

All deliveries would be deposited and stored within designated areas within the site compound area and transported across the site as and when required.

The arrangements detailed above are considered acceptable.

#### *Times of vehicle movements*

Deliveries would be scheduled to a time slot and a member of the site staff will meet the courier at the site entrance.

#### *Details of parking for construction workers*

On-site parking for site staff is located within the compound area on the appended Construction Management Plan.

#### *Signage details*

Signage would be erected at the site entrance. This would provide details of the site manager along with a contact number. The signage as shown within the CEMP would also make members of the public aware that there is live construction at the site and would set out site safety rules and regulations.

#### *Details of wheel washing facilities within the site*

As set out in Appendix D of the CEMP, appropriate measures are proposed if visible mud or debris is detected. This would include sweeping dusty surfaces, a road sweeper and wheel wash facilities.

### *Details of dust suppression and street sweeping measures*

The submitted plan confirms that construction activities would be undertaken following the guidance within the Institute of Air Quality Management (IAQM) document "Guidance on the assessment of dust from demolition and construction", it goes on to include tables from the guidance, including control mechanisms to be employed within the appendices. Monitoring and record keeping is included within the plan and Kirklees Council officers will expect these documents to be available for inspection on site.

See above commentary regarding street sweeping measures.

### *Details of measures to control noise and vibration*

The submitted plan confirms that construction activities would be undertaken following the guidance within British Standard BS 5228 'Noise and vibration control on construction and open sites', site specific controls are listed.

Measures regarding monitoring and record keeping are included within the submitted plan and Kirklees Council officers will expect these documents to be available for inspection on site.

### *Details of artificial lighting to be used during construction*

According to the submission documents, artificial light will only be used within the dwellings. This can therefore be supported.

### *Hours of works*

The submitted plan proposes construction hours of: 07.30 to 18.30 hours Mondays to Fridays 08.00 to 13.00 hours on Saturdays. These correspond with the council's standard operating hours that require construction related noise to be inaudible beyond the site boundary outside these hours.

In light of the above assessment, it is considered that the requirements of condition 14 have been met. However, the applicant is reminded that the development is required to be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction, and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Furthermore, upon completion of the development, post-development road condition surveys and a schedule of remedial works are required to be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works are required to be carried out following the completion of all construction works related to the development.

## **Decision notice text**

### **Condition 6: Drainage scheme**

Pursuant to condition 6, you have submitted:

- Section 104 Manhole Schedule (reference AMA/21311/D/504 rev P3)
- Flow control manhole (reference AMA/21311/D/505 rev P2)
- Private drainage layout (reference AMA/21311/D/509 rev P2)
- Off-site drainage plan (reference AMA/21311/D/501 rev P3)
- Catchment area plan (reference AMA/21311/D/502 rev P2)
- Section 104 drainage long sections (reference AMA/21311/D/503 rev P3)
- Section 104 layout (reference AMA/21311/D/500 rev P6)
- Location plan (reference AMA/21311/D/510 rev P2)
- Hydraulic calculations (reference SW Network 25.5.22.pfd)

Details set out in the documents submitted are considered acceptable pursuant to condition 6 and are hereby approved. However, please note that none of the dwellings may be occupied until the approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate. The drainage scheme is required to thereafter be retained.

### **Condition 7: Temporary surface water drainage**

Pursuant to condition 7, you have submitted:

- Emley Temporary Surface Water Management Plan (reference Em-AMA-NH-002)

The Temporary Surface Water Management Plan is considered acceptable for the purpose of condition 7, however you are reminded that the temporary works are required to be implemented in accordance with the approved scheme and phasing, and no phase of the development may be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme is required to be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

### **Condition 14: Construction Environmental Management Plan**

Pursuant to condition 14, you have submitted:

- Construction management plan (reference Z155 – 005)
- An example of the letters to be sent to residents
- Construction environmental management plan (rev D)
- Covering letter (public engagement results)
- Pre-commencement road survey (including photographs)

Details set out in the above-listed documents are considered acceptable and are hereby approved.

Please note, however, that the development is required to be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction, and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Furthermore, upon completion of the development, post-development road condition surveys and a schedule of remedial works are required to be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works are required to be carried out following the completion of all construction works related to the development.

**Dated:** 17/01/2024