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:	**2023/44/92396/W**
Site Address:	adj, 9, Miry Lane, Thongsbridge, Holmfirth, HD9 7SA
Description:	Discharge conditions 5 (materials), 8 (Phase 1 Desk Study Report), 9. (Phase II Site Investigation Report), 10 (Remediation Strategy) on previous permission 2020/91093 for erection of one dwelling.
Recommending Officer:	Katie Chew

DECISION – Details for conditions 5 and 8 discharged, details for conditions 9 and 10 not discharged.

I hereby authorise the partial approval and partial refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Teresa Harlow

AUTHORISED OFFICER

Date: 12-Dec-2023

Application: 2023/92396

Site Address: Adj, 9 Miry Lane, Thongsbridge, Holmfirth, HD9 7SA.

Proposal: Discharge conditions 5 (materials), 8 (Phase I Desk Study Report), 9 (Phase II Intrusive Site Investigation Report), 10 (Remediation Strategy) on previous permission 2020/91093 for erection of one dwelling.

Condition 5 (materials)

'5. Construction of the dwelling hereby approved above slab / foundation level shall not commence until samples of the materials to be used in the external walls and roofing of the hereby approved dwelling have been submitted to and approved in writing by the Local Planning Authority. The approved dwelling shall be constructed from the approved materials which shall thereafter be retained.
Reason: *In the interests of visual amenity and to ensure that the materials of construction are appropriate to the site and the wider context and to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Council's adopted Housebuilders Design Guide, policy 2 of The Holme Valley Neighbourhood Development Plan and Policies in Chapter 12 of the National Planning Policy Framework'.*

Condition 8 (Phase I Desk Study Report)

'9. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (8) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.
Reason: *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework'.*

Condition 9 (Phase II Intrusive Site Investigation Report)

'10. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (9) further groundworks 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 ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework'.*

Condition 10 (Remediation Strategy)

'11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (9) further groundworks

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 ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 178 and 179 of the National Planning Policy Framework'.*

Officers Assessment

Consultation Responses were received from KC Strategic Waste and KC Environmental Health:

KC Waste (informal) – Comments received 17th August 2023. Within the submitted plans it is suggested that wheelie bins will be stored in the garage. Experience has shown that this is not ideal or does not happen in reality so there would be preference for a bin store/collection point to be provided at the front of the property for 3 bins, although there doesn't appear to be enough space to achieve this.

Officer note: Whilst the above comments are noted, as this is for a simple discharge of condition application which does not relate to waste storage Officers are unfortunately unable to request these changes.

Condition 5 (materials)

The applicant has submitted details of the proposed external materials to be used within the previously approved dwelling. The include Blaxter Sandstone from a quarry in Otterburn Northumberland, purchased from Traditional Stone & Slate Supplies Ltd, Bridge Road, Horbury, Wakefield, WF4 5PP. This stone is to be 100mm coursed tumbled & dyed. In terms of the roofing materials, this is to be Marley Modern Grey interlocking concrete roof tiles from JTD Building Supplies (Roofing Depot) Milnsbridge, 105 Armitage Road, Milnsbridge, HD3 4JW.

The proposed materials are considered to be similar in appearance and colouring to walling and roofing materials used within adjacent neighbouring properties and the dilapidated commercial/industrial building to the rear. Officers therefore consider the materials proposed to be reflective and sympathetic to the character and appearance of the area, and therefore are deemed to be acceptable to allow the discharge of this condition.

From the information submitted in support of this discharge of condition application, Officers consider that subject to the use of these materials within the previously approved dwellinghouse, these details are acceptable to discharge Condition 5.

Condition 8 (Phase 1 Desk Study Report)

Initial comments were received from the Council's Environmental Health team on the 24th October 2023, stating that no Phase 1 report appears to have been provided in the supporting documents for this application. Nevertheless, the submitted document refers to a Phase 1 report completed by Envirosolution Ltd. Environmental Health Officers therefore could not comment on the discharge of Condition 8 until a site-specific Phase 1 report had been submitted by the applicant.

Following receipt of a Phase One Desk Study and Coal Mining Risk Assessment authored by Rogers Geotechnical Services Ltd, dated November 2023 (ref: C3096/23/E/4689).

The Council's Environmental Health Officers noted that the report presents an analysis of the site's historical land use and the surrounding land uses dating back to the 1800s. It also provides details of the environmental setting. The findings reveal potential contaminative uses on the site and/or adjoining land that may have implications for the proposed development and the surrounding environment. Noteworthy activities include but are not limited to an historic Size and Bone Works and a nearby historic landfill. The report concludes, by proposing a ground investigation that includes a period of ground gas monitoring.

Taking the above assessment into account, the Council's Environmental Health Officers accept conclusions drawn within the Phase One Desk Study and Coal Mining Risk Assessment authored by Rogers Geotechnical Services Ltd, dated November 2023 (ref: C3096/23/E/4689) and recommend that Condition 8 is discharged. Officers have no reason to disagree with this conclusion and therefore also support the discharge of Condition 8.

<u>Condition 9 (Phase 2 Environmental Report)</u>

A Phase 2 Environmental Report by RGS Ltd, dated 14th November 2023 (Ref: C3096/22/E/4693) has been received in support of the application to discharge Condition 9.

The investigation included the excavation of two trial pits in October 2022. Samples were retrieved and sent for chemical analysis. The results of the analysis were then compared to assessment criteria. The geology was confirmed as topsoil over made ground (up to 1.50m) and clay. Exceedances in lead were identified in the made ground at TP01 and TP02. No other exceedances were identified, and no asbestos was found. The report provides justification for the lack of ground gas monitoring, supporting either the installation of CS3 ground gas protection measures or ground gas monitoring to confirm the risk from ground gases.

The Council's Environmental Health Officers noted in their initial comments that as a Phase 1 report has not been submitted alongside the application, they could not comment in full on the discharge of this condition.

Following on from the receipt of the Phase One Desk Study and Coal Mining Risk Assessment authored by Rogers Geotechnical Services Ltd, dated November 2023 (ref: C3096/23/E/4689), Environmental Health Officers provided further comments of which they noted that the Phase 2 report references a prior Phase 1 desk study conducted by Envirosolution, stating that *'Envirosolution has quantified the site as a low risk for ground gas where no significant ground gas source has been identified nearby during the desk study*.'

However, the Phase 1 report by RGS identifies a potential risk from nearby landfill, and the Phase 2 report by RGS does acknowledge that monitoring would solidify the ground gas conclusions. The Council's records indicate that the nearby historic landfill primarily contained household wastes, with historical fluctuations in methane and carbon dioxide levels noted during spike testing.

Due to these concerns, Environmental Health Officers are unable to accept the proposed CS3 measures without a period of ground gas monitoring to substantiate the conclusions. This is imperative to ensure the safe occupation of the site, aligning with policy LP53 of the Kirklees Local Plan and paragraphs 183 and 184 of the National Planning Policy Framework.

For these reasons, ENVH Officers consider the Phase 2 Environmental Report prepared by Rogers Geotechnical Services Ltd, dated November 14, 2023 (Ref: C3096/22/E/4693) insufficient to discharge Condition 9 and recommend that Condition 9 remain until further notice. Officers have no reason to dispute this conclusion and therefore support the retention of Condition 9 on previously approved application 2020/91093.

Condition 10 (Remediation Strategy)

A Phase 3 Remediation Strategy Report, authored by RGS Ltd. dated 20th July 2023 (ref: C3096/23/E/5507) has been received in support of the application to discharge Condition 10.

This report sets out that further to the site specific risk assessment provided within the environmental report (C3096/22/E/4693, November 2022) and subsequent gas monitoring letter (C3096/22/E4855, 1st June 2023), it is considered that some remediation will be required at this site. This report provides the strategy for that remediation outlining what their intentions are during the groundworks and construction phases of the development, and what is to be done within the garden areas of the approved dwelling. Section 3.4 outlines details in respect of Gas Protection Measures.

The Council's Environmental Health Officers acknowledge the remediation strategy provided and the details contained therein; however, they consider ground gas monitoring to be necessary for this site and therefore, they cannot consider the remediation strategy until the ground gas regime is characterised in accordance with best practice guidance. Condition 10 must therefore remain until further notice.

Summary

It is therefore concluded that the details submitted are considered to be acceptable to satisfy Conditions 5 and 8. However, conditions 9 and 10 of the previously approved application 2020/91093 must remain until further notice.

Decision Notice Text

Condition 5 (Materials)

You have submitted the following details:

- Application Form – outlining details of the proposed external walling and roofing materials, received 10th August 2023.
- Photographs of the external walling materials to be used, received 6th October 2023 via email from applicant's agent Mr. Andrew Smith.
- Email from applicant's agent Mr. Andrew Smith, dated 4th October 2023 containing details of the proposed stone and roofing materials.

The development shall be completed in the materials hereby approved and thereafter retained, as such the condition remains in perpetuity.

Condition 8 (Phase I Desk Study Report)

You have submitted the following details:

- Phase One Desk Study and Coal Mining Risk Assessment authored by Rogers Geotechnical Services Ltd, dated November 2023 (ref: C3096/23/E/4689), received 28th November 2023.

The submitted information is considered acceptable, therefore Condition 9 is considered to be discharged.

Condition 9 (Phase II Intrusive Site Investigation Report)

You have submitted the following details:

- Phase 2 Environmental Report prepared by Rogers Geotechnical Services Ltd, dated November 14, 2023 (Ref: C3096/22/E/4693), received 10th August 2023.

The submitted information is not considered to satisfy the requirements of Condition 9 as Environmental Health Officers consider that ground gas monitoring needs to be undertaken at this site. Without this monitoring being undertaken ENVH Officers are unable to assess the proposed CS3 measures outlined within the above report as this monitoring would help to substantiate the conclusions drawn. Therefore Condition 9 of previously approved application 2020/91093 must remain until further notice.

Condition 10 (Remediation Strategy)

You have submitted the following details:

- Phase 3 Remediation Strategy Report, authored by RGS Ltd. dated 20th July 2023 (ref: C3096/23/E/5507), received 10th August 2023.

As above, the submitted information is not considered to satisfy the requirements of Condition 10 as Environmental Health Officers consider that ground gas monitoring needs to be undertaken at this site. Therefore, the submitted remediation strategy cannot be considered acceptable units the ground gas regime is characterised in accordance with best practice guidance. Therefore Condition 10 of previously approved application 2020/91093 must remain until further notice.

Report dated: 8th December 2023.