

**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:	2024/44/90237/W
Site Address:	adjacent, Britannia Road, Golcar, Huddersfield, HD3 4QB
Description:	Discharge of conditions 3 (construction environmental management plan), 4 (public right of way), 5 (retaining walls), 6 (Phase II Report), 7 (Remediation Strategy), 9 (Remediation Validation Report) and 18 (Japanese Knotweed) of previous permission 2021/92062 for erection of 9 dwellings and associated works
Recommending Officer:	Nick Hirst

DECISION – Discharge of Conditions – Split Decision

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: 25/10/2024

Application: 2024/90237

Site: adjacent, Britannia Road, Golcar, Huddersfield, HD3 4QB

Proposal: Discharge of conditions 3 (construction environmental management plan), 4 (public right of way), 5 (retaining walls), 6 (Phase II Report), 7 (Remediation Strategy), 9 (Remediation Validation Report) and 18 (Japanese Knotweed) of previous permission 2021/92062 for erection of 9 dwellings and associated works

Assessment

Condition 3 (construction environmental management plan)

3. Prior to the commencement of development (including 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 include details of:

- a) Any phasing of development and timetable of all works;*
- a) Hours of works;*
- b) Details of construction access arrangements;*
- c) Construction vehicle sizes and routes;*
- d) Numbers and times of construction vehicle movements;*
- e) Locations of HGV waiting areas and details of their management;*
- f) Parking for construction workers;*
- g) Loading and unloading of plant and materials;*
- h) Storage of plant and materials;*
- i) Signage;*
- j) Lighting during construction works;*
- k) Temporary drainage arrangements, including details of the disposal of surface water from the development including methods to manage silt;*
- l) Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;*
- m) Street sweeping;*
- n) Measures to control and monitor the emission of dust and dirt during construction;*
- o) Site waste management, including details of recycling/disposing of waste resulting from construction works;*
- p) Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;*
- q) Artificial lighting used in connection with all construction-related activities and security of the construction site;*
- r) Site manager and resident liaison officer contacts, including details of their remit and responsibilities.*

- s) *Engagement with local residents and occupants or their representatives; and*
- t) *Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).*

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.

Reason: *In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 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 and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

The applicant's CEMP has been drafted as a direct response to the above condition, with details laid out in response to each of the condition's subcategories. This has greatly assisted prompt assessment of the submitted details.

The submitted details have been reviewed by officers including those of K.C. Highways and K.C. Environmental Health, and are considered acceptable. The information put forward suitably addresses each of the condition's subcategories and is commensurate in detail to the scale of the development. It is therefore recommended that the details be approved.

Notwithstanding the above, the condition has an ongoing requirement which prevents full discharge at this stage. A note detailing this requirement is recommended to be included on the decision notice.

Condition 4 (public right of way)

4. Prior to development commencing, a strategy for the protection of Public Rights of Way HUD/451/10, HUD/285/10, and HUD/285/20 and their users during the period of construction, and the making good of any damage caused to the surface of the footpath, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the details so approved and any damage made good before the extensions are first occupied.

Reason: *This is a pre-commencement condition in the interests of ensuring safe access and use of the Public Rights of Way for all those using it and maintenance/repair following any damage which may arise through the implementation of the approved proposals, in accordance with the aims of Policy LP21 of the Kirklees Local Plan.*

Public Right of Way (PROW) routes exist to the side and rear of the site.

The applicant has provided a detailed photographic survey of the PROWs around the site which establishes the current state of repair. This will allow an evidenced assessment of if / when any damaged is caused during the construction period. The applicant has also confirmed that no HGV vehicles will utilise the routes, with all access to the site to be via Britannia Road. Heras fencing will be erected around the site, separating it from the PROW.

Matters of excavation adjacent to the PROWs are managed via condition 5.

The above measures have been discussed with K.C. PROW, who raised no objection. Officers are satisfied that the measures are sufficient to ensure that the PROW will remain open and unprejudiced during construction. Therefore, it is recommended that the details be approved. An ongoing requirement prevents full discharge at this time, and a note regarding this is recommended to be included on the decision notice.

Condition 5 (retaining walls)

5. Prior to development commencing, 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 highways, including Public Rights of Ways HUD/451/10, HUD/285/10, and HUD/285/20, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a timeframe for implementation of the works. The development shall be undertaken in accordance with the approved details, including the timeframe, and the implemented approved works shall thereafter be retained.

Reason: *To ensure the stability of retaining structures on site, for the safe and efficient operation of the highway and to comply with Policy LP21 of the Kirklees Local Plan.*

This is a pre-commencement condition to ensure the necessary design has been secured prior to relevant works being undertaken

This condition requires technical and fully dimensioned sectional plans to detail the proposed engineering and retaining works, to allow officers to assess that the works would be undertaken safely and without prejudicing the stability of the highway (including PROWs). No such details have been provided and K.C. Highways (Structures) have raised an objection.

In addition to the missing details, the plans which have been submitted (including a block plan and non-dimensioned sections) indicate changes to the approved plans. This includes previous vertical retaining walls being changed to batters. It is beyond the scope of this DoC submission to amend the approved plans.

Considering the above, it is recommended that a refusal be issued regarding the submitted details. A note regarding the changes to the plans (and these not being appropriate within a DoC) is recommended.

Conditions 6 (Phase II Report), 7 (Remediation Strategy), 9 (Remediation Validation Report)

6. Prior to development commencing, notwithstanding the submitted information, a Phase II Intrusive Site Investigation Report shall be submitted to, and approved by, the Local Planning Authority.

Reason: *So as to prevent land, groundwater and surface water contamination, to ensure the site is fit to receive new development in the interest of health and safety, so as to accord with Policy LP52 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions is available to enable appropriate remedial and mitigation measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.*

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6 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: *So as to prevent land, groundwater and surface water contamination, to ensure the site is fit to receive new development in the interest of health and safety, so as to accord with Policy LP52 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions is available to enable appropriate remedial and mitigation measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.*

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning

Authority shall be notified in writing within 2 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 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.*

The submitted details have been reviewed but are not supported by K.C. Environmental Health (see their consultation response dated 20/02/2024). K.C. Environmental Health have stated that the submitted documents are the same as those provided at application stage (application ref: 2021/92062), and which were not accepted by K.C. Environmental Health at that time (necessitating the need for the above conditions). K.C. Environmental Health have referred to their consultation response from that application, dated 18/08/2021, which sets out the various issues with the submission documents.

Officers support this assessment and recommend the above conditions are not discharged.

Condition 18 (Japanese Knotweed)

18. In the event that Japanese Knotweed is identified within the site prior to or during the construction phase, all works on site (save for site investigation works) shall cease immediately. Prior to development recommencing, an 'invasive non-native species protocol' shall be submitted to, and approved in writing by, the Local Planning Authority. The protocol shall detail the containment, control, and removal of Japanese Knotweed species on site. Thereafter the development shall be undertaken in accordance with the approved scheme.

Reason: *To prevent the spread of non-native invasive species, to safeguard and enhance the function of the application site, in line with the aims and objectives of Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*

K.C. Ecology have reviewed and accepted the submitted details, as outlined in their consultation response dated 08/02/2024. Officers support this assessment and recommend that details be approved.

The condition has an ongoing requirement which prevents full discharge at this time. A note stating this is recommended to be included on the decision notice.

Summary

The details submitted pursuant to the following conditions may be approved:

- 3, 4, 18.

The details submitted pursuant to the following conditions cannot be approved:

- 5, 6, 7, 9.

Recommendation: Issue split decision

Report Dated: 24/10/2024.

Proposed Letter Text

Condition 3 (construction environmental management plan)

You have submitted the revised Construction (Environmental) Management Plan, as received by the council 05/07/2024, pursuant to condition 3. I can confirm that the submitted details are acceptable for the initial requirements of the condition. However, be aware that the condition has the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

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.

Condition 4 (public right of way)

You have submitted the document titled Appendix K – Public Right Of Way pursuant to condition 4. I can confirm that the submitted details are acceptable for the initial requirements of the condition. However, be aware that the condition has the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

Thereafter the development shall be carried out in complete accordance with the details so approved and any damage made good before the extensions are first occupied.

Condition 5 (retaining walls)

This condition requires technical and fully dimensioned sectional plans to detail the proposed engineering and retaining works, at or near the new and existing highway, to allow officers to assess that the works would be undertaken safely and without prejudicing the road network. No such adequate details have been provided.

Further to the above, the plans which have been provided indicate changes to the proposed design and method of retention / engineering works within the site from the approved plans. It is outside the scope of the Discharge of Condition process to make such amendments to the approved plans.

For the avoidance of doubt, no approval is hereby issued pursuant to condition 5.

Conditions 6 (Phase II Report), 7 (Remediation Strategy), 9 (Remediation Validation Report)

You have submitted the following documents pursuant to conditions 6, 7, and 9:

- Phase 2 Site Investigation Report, authored by Your Environment, dated March 2021 (ref: YEX1601)
- Land Remediation statement authored by Eco Control Solutions

The submitted details are not accepted.

Your attention is drawn to the consultation response from K.C. Environmental Health. The reports submitted as part of this Discharge of Condition application are the same as those submitted under the previous planning application (ref: 2021/92062), where K.C. Environmental Health raised various issues. No further details have been provided and therefore all previously-raised concerns remain.

For the avoidance of doubt, conditions 6, 7, or 9 are not hereby discharged.

Condition 18 (Japanese Knotweed)

You have submitted the document titled 'Land Remediation at Britannia Road, Huddersfield, HD3 4QB' pursuant to condition 18.

I can confirm that the submitted details are adequate for the initial requirements of condition 18.

Notwithstanding the above, be aware that condition 18 has ongoing requirements which must be adhered to, to ensure ongoing compliance. These are:

In the event that Japanese Knotweed is identified within the site prior to or during the construction phase, all works on site (save for site investigation works) shall cease immediately. Prior to development recommencing, an 'invasive non-native species protocol' shall be submitted to, and approved in writing by, the Local Planning Authority. The protocol shall detail the containment, control, and removal of Japanese Knotweed species on site. Thereafter the development shall be undertaken in accordance with the approved scheme.

Submission of further details

If the requested details are provided within six weeks of the date of this letter, they will be accepted as part of this application. Please quote 2024/90237 and send the details directly to nick.hirst@kirklees.gov.uk.

After six weeks, a new Discharge of Condition application will need to be required.

