

**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:	2024/44/90591/W
Site Address:	Land at, Lancaster Lane, Brockholes, Holmfirth, HD9 7BP
Description:	Discharge conditions 3 (internal estate roads) and 5 (future management and maintenance) on previous permission 2021/91578 (APP/Z4718/W/21/3284361) for erection of 9 detached dwellings with associated works
Recommending Officer:	John Holmes

DECISION – APPROVE DISCHARGE OF CONDITIONS

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.

Julia Steadman

AUTHORISED OFFICER

Date: 28-Aug-2024

DISCHARGE OF CONDITIONS

The merits of the application have previously been assessed under reference 2021/91578 and permission granted for the erection of 9 detached dwellings with associated works

The applicant is now seeking to discharge Conditions 3 (internal estate roads) and 5 (future management and maintenance)

ASSESSMENT

Both conditions relate to highways matters and are somewhat interlinked. The requirements of the conditions are set out below.

Condition 3 states the following:

No development shall take place until a scheme detailing the proposed internal adoptable estate roads, including works to the public footpath and measures to restrict vehicle access to New Mill Road via Lancaster Lane, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, details of how the Public Right of Way on Lancaster Lane will be protected, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme so approved and retained as such thereafter.

Condition 5 states the following:

No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority which details arrangements for the future management and maintenance of proposed carriageways, footways, areas of soft landscaping and footpaths. The submitted scheme shall include details of a management company, group or organisation that will ensure the continued maintenance of all carriageways, footways and footpaths within the site that are not put forward for adoption. Following occupation of the first dwelling on the site, all carriageways, footways areas of soft landscaping and footpaths not put forward for adoption shall be maintained in accordance with the approved management and maintenance details.

As part of this application the following has been submitted: -

- Site plan 001RevD
- Site Plan 005RevB
- Maintenance Plan 007RevB
- Landscaping Plan 006RevB
- Unadopted Road Details Plan 703RevC

- Drainage Sheet 1 plan 601REVE
- Sections Plan 3100revP03
- Proposed Levels Plan 702RevG
- Document Titled Drainage Asset Maintenance Schedule
- Road Safety Audit Stage 2
- Drawing titled 'Signing and Lining'
- Colour Rendition Report
- Lighting Layout Plan 1301RevA
- Outdoor Lighting Report dated 1st June 2020
- Document titled 'Private Road and Maintenance and Management Plan
- Extent of Unadopted Road Plan 013

The Council's Highways Development Management Team and Highways Structures Team have been consulted regarding the submitted scheme. Verbal discussions have taken place with the Lead Local Flood Authority (LLFA) also. Following review and discussions, the entry control system to prevent vehicular access (provision of bollards) was amended. In addition, the surfacing being proposed was also amended.

Details of the proposed internal adoptable estate roads, including works to the public footpath and measures to restrict vehicle access to New Mill Road via Lancaster Lane have been submitted. The submitted scheme also includes full sections, drainage works, details of how the Public Right of Way on Lancaster Lane will be protected, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work

The submitted scheme sets out the future management and maintenance of proposed carriageways, footways, areas of soft landscaping and footpaths. The submitted scheme shall include details of a management company, group or organisation that will ensure the continued maintenance of all carriageways, footways and footpaths within the site that are not put forward for adoption

Following review of the revised details, the Highways Team recommended the drainage arrangements be revised, such that they were in an area outside of the remit of the right of way. An amended plans was provided which proposed this (drawing 602RevF). However, it was subsequently acknowledged this would conflict with the requirement of condition no.11 of the permission that states the development shall be carried out in accordance with the Drainage Strategy prepared by Holloway Jennings, ref. Bm/5017/Drainstrat, dated 13th August 2021, details of which were submitted pursuant to Discharge of Condition application 2020/92432.

As such, the above list of documents sets out those which ensure compliance with the requirement of condition no.11, and which also provide for the information requirements of conditions 3 and 5. Furthermore, other than the location of the drainage, they have been confirmed as acceptable by both the Highways Development Management Team (who has liaised with the public rights of way team) and the Highways Structures Team.

The applicant has stated that they are in a situation whereby there is no guarantee amendment to the drainage arrangements would / could be supported and that to pursue such an option via an amendment of condition no.11 is both not viable but also not considered to be reasonable / necessary given the drainage arrangements have previously been approved by condition no.11.

The input of consultees is noted, however in this case it is considered that to achieve a scheme which is considered wholly supportable by technical consultees would likely lead to a conflict with other consultee requirements (the LLFA in this case) and condition no.11. The LLFA have stated they had concern for the amended drainage layout shown on drawing 602revF. A third drainage option which is acceptable to the LLFA and the Highways Team(s), whilst potentially exists, has not been forthcoming in light of the previous permission at the site and consent of the drainage scheme as permitted by condition no.11.

The submitted scheme would see a small amount of the highway undertaken to an adoptable standard, with the remainder being a private access. A maintenance schedule forms part of the approved drainage strategy as well as part of the submitted scheme. Essentially the maintenance would be divided between the respective landowners, across the 9 dwellings (once all had been sold).

Lighting is included as part of the submitted scheme, as well as the access control arrangements and the surfacing of the access.

Conclusion

The information requirements of conditions 3 and 5 have been satisfied by the scheme which has been submitted. The input from consultees is noted, and whilst an approach of the LPA is usually to follow that input, there are considered to be circumstances which justify deviating from such advice in this instance.

In particular the fact the drainage strategy design and maintenance arrangements (which is being queried by consultees in relation to its suitability within a right of way) has been approved by another condition upon the permission already. In this context the reference to drainage within condition no.3 is considered to require the approved scheme to be in compliance with the approved drainage scheme also.

Amendments have been made to the submitted scheme to address / accommodate comments which includes the surfacing and access control arrangements for the access.

Therefore, in this case, having regard to the input of technical consultees and the requirements of conditions in place upon the grant of permission it is considered that there is a requirement for a balanced view to be taken by the

LPA in relation to the discharge of conditions 3 and 5. The site is acknowledged to be a difficult site to develop, and all endeavours have been taken to ensure the recommendations / requirements of consultees have been incorporated.

However, there appears to be a conflict in relation to the drainage strategy, and specifically the location of storage tanks. Whilst it would be preferable these are sited elsewhere, the LLFA have confirmed the approved drainage strategy is the preferred option. No other satisfactory siting has been demonstrated and it is considered it would be unreasonable of the LPA to insist this is the case given the requirements of the consent.

A reasonable maintenance regime has been put forward and it is considered that the level of risk, whilst present, is not to such a degree that would justify the LPA refusing to discharge the conditions on this basis in this case.

It is therefore recommended that conditions 3 and 5 be discharged on the basis of the submitted details.

DECISION LETTER TEXT

Conditions 3 and 5.

You have submitted the following: -

- Site plan 001RevD
- Site Plan 005RevB
- Maintenance Plan 007RevB
- Landscaping Plan 006RevB
- Unadopted Road Details Plan 703RevC
- Drainage Sheet 1 plan 601REVE
- Sections Plan 3100revP03
- Proposed Levels Plan 702RevG
- Document Titled Drainage Asset Maintenance Schedule
- Road Safety Audit Stage 2
- Drawing titled 'Signing and Lining'
- Colour Rendition Report
- Lighting Layout Plan 1301RevA
- Outdoor Lighting Report dated 1st June 2020
- Document titled 'Private Road and Maintenance and Management Plan
- Extent of Unadopted Road Plan 013

The details submitted for conditions 3 and 5 are considered to be acceptable, it is a requirement of these conditions that before any building is brought into use the scheme has been completed in accordance with the submitted scheme and that following occupation of the first dwelling on the site, all carriageways, footways areas of soft landscaping and footpaths not put forward for adoption shall be maintained in accordance with the approved management and maintenance details.