

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

**DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO
CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING
CONDITIONS PREVIOUSLY ATTACHED**

Reference No:	2024/70/91008/E
Site Address:	adj, 115, Westfield Lane, Wyke, BD12 9LY
Description:	Variation of conditions 1 (plans) and 3 (landscape) of previous reserved matters approval 2023/90909 pursuant to outline permission 2020/90436 for demolition of 1 dwelling and erection of residential development and associated works with details for access
Recommending Officer:	Ellie Thornhill

DECISION – Variation 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: 30/09/2024

Officer report

Site description

The application relates to land adjacent to 115 Westfield Lane, Wyke, which measures 0.69 ha in size and slopes downhill by approximately 7m from the northeast to the southwest. The site previously hosted a substantial stone built bungalow, set within a large, landscaped curtilage.

The site is accessed from Westfield Lane. There are a number of Tree Preservation Orders along the site's eastern and southern boundaries, as well as two groups of Tree Preservation Orders along the site's northern boundary.

A Public Right of Way (PROW) SPE/31/10 follows a route outside the site's eastern boundary, separated by a palisade fence. Beyond the PROW there is a cul de sac of recently developed two-storey detached dwelling houses. Beyond the site boundary to the northwest there are large dwelling houses set within large garden curtilages fronting onto Westfield Lane. Beyond the boundary to the south there are a mixture of house types set within fairly spacious plots associated with Brookfields Road. To the west there are open views of fields that form part of the adjacent Green Belt.

Description of Proposal

This application is submitted under Section 73 of the Town and Country Planning Act. National Planning Guidance confirms that permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. The guidance also confirms that in deciding any application under Section 73, the local planning authority must only consider the condition/s that are the subject of the application – is it not a complete re-consideration of the proposal.

The application seeks planning permission for the variation of conditions 1 (plans) and 3 (landscape) of the previous reserved matters approval 2023/90909. That approval was issued pursuant to outline permission 2020/90436 for the demolition of one dwelling and the erection of residential development and associated works with details for access.

Condition 1 of the 2023/90909 is as follows:

1. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion and in the interests of highway safety in accordance with Policies LP1, LP2 and

LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

Condition 3 of the 2023/90909 is as follows:

3. All works and operations shall be carried in complete accordance with the submitted Landscape Management Document (no ref, dated July 2023, Web ID 998584) unless otherwise agreed in writing by the Local Plan Authority.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policies LP24, LP32 and LP33, as well as Chapter 15 of the National Planning Policy Framework.

This is a pre commencement condition to secure the necessary landscape maintenance scheme at the appropriate time in the development process.

The variation includes amendments to the approved layout to allow for an extension to the retaining wall around the side of plot 11 due to the additional stability works required. The location of the previously-approved gabion wall to the western boundary has also been amended slightly, to sit within the red line boundary, rather than along it. The red line boundary to the south eastern corner of the site has also been reduced slightly to form more of a right angle to comply with private rights of access.

History of negotiations/amendments received

Additional information in the form of a Tree Survey and Impact Assessment have been submitted to allow officers to assess if there would be any impact on the adjacent TPO-protected trees. Revised landscape plans and a site plan have also been received.

Relevant Planning History

At the application site

2024/91917 Discharge of details reserved by condition 17 (Validation Report) of previous permission 2023/91472 for variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access – Pending consideration.

2024/90051 Non material amendment to previous reserved matters approval 2023/90909 pursuant to outline permission 2020/90436 for demolition of 1 dwelling and erection of residential development and associated works with details for access – Approved.

2023/93339 Work to TPO trees – Granted.

2023/93153 Discharge of condition 30 (travel plan) of previous permission 2023/91472 for variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous permission 2020/90436 for demolition of one dwelling and

erection of residential development and associated works with details for access – Approved.

2023/92612 Work to TPO(s) 10a/06 – Granted.

2023/92487 Work to TPO(s) 10a/06 – Refused.

2023/91472 Variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access – Granted.

2023/90915 Discharge of conditions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 25, 27, 28, 30, 31, 32, 33, 34 and 36 of previous permission 2023/91472 for the variation of conditions 9, 11, 12, 22, 23, 25, 27, 29, 30, 33, 34 and 38 of previous outline permission 2020/90436 for the demolition of one dwelling and erection of residential development and associated works with details for access – Split decision.

2023/90909 Reserved matters application pursuant to outline permission 2020/90436 for demolition of 1 dwelling and erection of residential development and associated works with details for access – Approved.

Representations

The application has been advertised via site notice, neighbour notification letters and the press.

Final publicity expired: 29/06/2024.

As a result of the above publicity, five comments have been received. The concerns raised are summarised as follows:

- I have concerns around the health and quality of some of the trees down the eastern boundary of the property - which are in a much worse state than they have been in previous years. Lots of branches and foliage are falling from these trees, particularly T6. There are clearly a number of dead branches, and large 4ft and 7ft branches have fallen in the last 12 months (from T6). Tree T6 also falls within 2m of neighbouring property. I would propose that further pruning of these trees (particularly T6) are mandated as part of other proposed tree works, to prevent high risk of damage to neighbouring properties and people (particularly given a public footpath runs under T6, where a 7ft branch fell last year).
- May it be noted this is a retrospective application as the wall already built is much higher and much longer than the original plans. Where were building control when this took place?
- Conservation of the natural environment / effect on trees and the landscape - a 3 metre wall is impassible to ground dwelling wildlife like hedgehogs. They can only now access the development via the road.

- Further trees with TPOs are being removed and "trimmed" in order to "make a better development" these trees were here when original plans submitted. Had these "amendments" been proposed at the start, the development would not have been approved. Yet another backhand and backdoor way of getting things passed, shameful Kirklees for approving.
- Now this T2 tree is considered newly dangerous? Why? Damage by construction process. Any follow up / financial implication because of this?
- On the original application (now confusing due to the sheer number of amendments and further applications) an environmental impact financial contribution was mandated. Is this still the case? Please address, how much and where it is being spent and insure this is occurring in Scholes.
- I object also to design, appearance and layout effect on the character of an area / privacy of neighbours - houses are raised on a 3 metre platform making them equivalent of 4 storey house that overlooks neighbours directly. The retaining wall is not in keeping with the landscape. The long left side has no planting planned. And once planted who will maintain as they will have to use other people's property to access as this cannot be accessed from inside the development due to the 3m drop.
- The most recent application which appears to be requesting for a further increase in size of the gabion wall (from 1.5m to 3.2m) according to doc 1039440). Would this application have been approved if this was the initial requested height?
- I understand the structural qualities and how some of this (on the southern boundary) will be screened somewhat with hedges but this will do very little considering the sheer height proposed.
- The retaining wall is incredibly imposing and to be frank has ruined our outlook from that aspect of the garden.
- It's also worth noting that the heights are slightly misleading on doc 1039440 re B.B. this refers to the max height of our house but because it is slightly unusual in design the height of the roofline nearest the development is actually going to be the height of the proposed fence.
- If 3.2m gabion height was proposed on the initial planning application would this have been accepted?
- The finished height of the top of the fence on the southern boundary will be the height of our roofline nearest the southern boundary
- Can screening of the gabion on the western permitted also be mandated with planting as has been proposed with the southern border.
- Plot 11 will totally dominate our house, block light and the outlook from that aspect is now very unsightly, something which is materially different from initial planning application.
- I assume you will any how but please visit the site from our garden to get a real perspective of proposals.
- I object to the fact that the land has been filled in to be 3metres higher than original and at least a 3metre high wall/cliff edge all along the

edge. This effectively makes these 2 storey houses more like 4 storeys which would surely have received far more objection for upsetting the existing landscape and surrounding housing.

- If another house is to be built, it should be on the existing ground level, not the new 3metre high. Otherwise, make it a bungalow.
- It is not possible to see what this amendment refers to so can we have more detailed information?
- Also, the builders work most weekends and the noise/dust issues will affect our private enjoyment over the next few months. Are they allowed to work weekends/bank holidays?
- There are young children living nearby and the language on occasion has been colourful to say the least!
- When will the public right of way be reinstated as per the agreed site plan?
- What changes have been made to the drainage as our gardens have never been so water logged. We live on a hillside so we shouldn't have drainage issues.

The application has been re-advertised via neighbour notification letters given the amendments sought to the red line boundary and the additional tree information received.

Local ward councillors

Ward councillors have been consulted as part of this application, however, no comments have been received.

Consultation Responses

KC Landscape: Given the amended plans received, the application is acceptable from a landscape perspective.

KC Trees: The plans now correspond with each other and therefore, officers have no comments or objections to make.

KC Ecology: No objections, however previous conditions apply.

KC Highway Structures: No objection subject to structures conditions being attached to the decision notice.

Officer comment: There would be no additional retaining walls proposed adjacent to the highway or the public footpath (SPE/31/10).

KC Crime Prevention: No objection to the application, however, additional advice and support has been given in regard to street lighting, lighting for the PROW, and window and door details.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the

Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP7 – Efficient and effective use of land and buildings
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space

Supplementary Planning Guidance/Documents:

Housebuilders Design Guide SPD (2021)
Highway Design Guide SPD (2019)
Biodiversity Net Gain Technical Advice Note (2021)
Planning Applications Climate Change Guidance (2021)
Waste Management Design Guide for New Developments (2020)
Open Space SPD (2021)

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19/12/2023, the Planning Practice Guidance Suite (PPGS) first launched 06/03/2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making
Chapter 5 – Delivering a sufficient supply of homes
Chapter 8 – Promoting Healthy and Safe Communities
Chapter 9 – Promoting Sustainable Transport
Chapter 12 – Achieving well-designed places
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and enhancing the natural environment

Assessment

This application is made under Section 73 of the Town and Country Planning Act 1990, which allows for the ‘determination of applications to develop land without compliance with conditions previously attached’. In addition to removing conditions, Section 73 enables the varying of a condition’s wording. The effect of a granted Section 73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if they remain relevant. The time limit for development to commence cannot be extended through a Section 73 application.

The starting point for a Section 73 application is the previously-granted planning permission, which must carry significant material weight. However, consideration must first be given to whether any material changes in circumstances have taken place since the previous permission was granted. This includes the policy and local context.

In terms of local context, there have been no significant changes in the environment (including built and natural) which would impact on the assessment of the application.

In light of the above, consideration must be given to the specific changes proposed and their interaction with adopted planning policy.

Principle of development

Planning permission has previously been granted at this site for residential development (15 dwellings) under the outline consent 2020/90436 and reserved matters application 2023/90909. Therefore, the principle of development has already been established. The proposed variation would not impact on the principle of development, and policies in relation to the development broadly remain unchanged.

Housing numbers, mix and tenure

In this instance, there would be no change to the housing numbers, mix or tenure. There would also be no change to the affordable plots as part of this application.

Urban design considerations

Policies LP1, LP2 and LP24 of the Kirklees Local Plan are all relevant, as these policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development within the area and is visually attractive.

These aims are also reinforced within Chapter 12 of the NPPF (Achieving well designed plans) where paragraph 131 provides an overarching consideration of design.

In this case, the variation seeks to amend the approved site layout to allow for an extension to the retaining wall around the side of plot 11, due to the additional stability works required. The wall would extend 19.5m, with the height ranging between 2.1m to 3.2m. Additional landscaping is proposed adjacent to the retaining wall to help avoid a stark finish. This would include planting native shrubs as shown on the landscape masterplan ref: R/2679/1L.

In summary, given the landscaping proposed and the stability reasons behind the height of the retaining wall, on balance the proposal can be supported in relation to visual impacts.

This application also seeks to gain permission for the slight re-location of the western gabion retaining wall which appears to have been built slightly further in from the site's red line boundary, as opposed to along it. The height of the wall would vary due to land levels from 2.5m to 3.1m. A 2.1m vertical timber fence is also proposed along the top of the retaining wall. Whilst officers would wish to see the retaining wall lower along this elevation, the changing land levels and requirement to ensure that the land is structurally stable for the houses above it, on balance this proposed structure can be supported. The gabion wall has been constructed from stone which is a sensitive material for this edge of countryside location.

Along with the above, the application site red line boundary to the southeastern corner of the site has also been reduced slightly to form more of a right angle. This is to accord with private rights of access. The change to plan would mean that the 2.8m right of access would sit closer to the adjacent trees. This will be considered in more detail within the report below.

In conclusion, the changes to the scheme are considered to be acceptable and would accord with Policy LP24 of the KLP, Chapter 12 of the NPPF and the aims of the adopted Housebuilders Design Guide SPD.

Impact on residential amenity

Paragraph 135 of the National Planning Policy Framework states that Local Planning Authorities should seek to achieve a good standard of amenity for all existing and future occupants of land and buildings.

This is echoed within Kirklees Local Plan Policy LP24 which states that: proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between

buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.

In this instance, the only third party residential property likely to be impacted by the works proposed/constructed is 24 Brookfields Road (the detached bungalow) to the south of the site. Officers note that there would be some additional overbearing impact and overshadowing upon this neighbour's amenity, given the changes in land levels and the fact that 24 Brookfields Road is a bungalow.

However, given the angle of this property and the separation proposed to allow for the landscaped area and right of access, the plans show that 6.1m would be retained from these neighbours boundary and 8.3m from their nearest elevation extending to 12.3m. Officers also note that before development began dense hedge/tree cover was established along this boundary, also creating a level of overbearing impact and overshadowing affecting this neighbour's amenity. As such, on balance, officers do not consider the retaining wall (including plot 11) to have an unacceptably detrimental overbearing and overshadowing impact upon this neighbour's amenity, particularly given the angle of 24 Brookfields Road, the location of its windows and its ability to receive sunlight to its front and rear elevations and garden (given that plot 11 is situated to the north).

The fence proposed along the retaining wall would further preserve this neighbour's privacy and would be of a light weight design.

Amenity of future occupiers

The changes proposed would also not disadvantage the future occupiers of the plots in any way, as adequate separation distances would be retained (as approved).

For these reasons, the development is considered acceptable from a residential amenity perspective, to accord with Policy LP24 of the KLP, the aims of the Housebuilder Design Guide SPD and Chapter 12 of the NPPF.

Impact on highway safety

Given the nature of the amendments proposed, no alterations would occur to the previously-approved access and parking arrangements. Therefore, there are no concerns in relation to highway safety. This accords with Policies LP21 and LP22 of the Kirklees Local Plan and the aims of the Highway Design Guide SPD and the National Planning Policy Framework.

Other matters

Trees, ecology and landscape

Amended plans have been sought to ensure that the Tree Protection Plan and Landscape Plan match. Given this, and the submission of an Arboricultural

Impact Assessment (ref: 230204f), officers are satisfied that there would be no undue impact on the protected trees within the site, particularly those located to the southeast. KC Ecology have confirmed that the changes proposed would not have any undue impact on ecological receptors. KC Landscape have also confirmed that the revised landscape information is acceptable as it shows replacement trees and specifications.

Planning obligations

The amendments proposed would not alter the Section 106 contributions secured in connection with the Reserved Matters application 2023/90909. That Section 106 agreement was dated 20/07/2023.

It is also noted that a clause (clause 8) was also included within that Section 106 agreement to capture future Section 73 applications, to ensure that the contributions would still be secured in the event that a Section 73 permission was subsequently issued. As such, a Deed of Variation is not required in relation to this current Section 73 application.

Conditions

National Planning Guidance confirms that for the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect. This approach is reflected in this decision.

Application 2023/90909 (the Reserved Matters application) was granted with nine conditions:

- 1) Plans and specifications (condition to remain as is).
- 2) This Reserved Matters approval relates to development for which outline permission was granted under application reference 2020/90436 dated 02/10/2020 (condition to be amended slightly).
- 3) All works and operations shall be carried in complete accordance with the submitted Landscape Management Document (no ref, dated July 2023, Web ID 998584) (condition to be revised with updated document).
- 4) Full details of boundary treatments (condition to remain as existing).
- 5) The dwellings shall be faced in Forterra Southdown Multi Red Brick for the walls, flat grey roof tiles for the roof and buff artificial stone for the heads (condition to remain as existing).
- 6) The approved vehicle parking areas shall be surfaced and drained in a permeable surface (condition to remain as existing).
- 7) Details of the proposed internal adoptable estate roads (condition to remain as existing).
- 8) All works and operations shall be carried in complete accordance with Construction Traffic Management Plan rev 01 (condition to remain as existing).

9) Submission of a highway defects survey identifying a scheme to reinstate any subsequent defects on Westfield Lane (condition to remain as existing).

Representations

- I have concerns around the health and quality of some of the trees down the eastern boundary of the property - which are in a much worse state than they have been in previous years. Lots of branches and foliage are falling from these trees, particularly T6. There are clearly a number of dead branches, and large 4ft and 7ft branches have fallen in the last 12 months (from T6). Tree T6 also falls within 2m of neighbouring property. I would propose that further pruning of these trees (particularly T6) are mandated as part of other proposed tree works, to prevent high risk of damage to neighbouring properties and people (particularly given a public footpath runs under T6, where a 7ft branch fell last year).

Comment: Works to the protected trees including T6 would require a separate Tree Works application.

- May it be noted this is a retrospective application as the wall already built is much higher and much longer than the original plans. Where were building control when this took place?

Comment: This concern has been noted and this application seeks to regularise any unauthorised work.

- Conservation of the natural environment / effect on trees and the landscape - a 3 metre wall is impassible to ground dwelling wildlife like hedgehogs. They can only now access the development via the road.

Comment: The application has been assessed by KC Ecology, and no such concerns have been raised.

- Further trees with TPOs are being removed and "trimmed" in order to "make a better development" these trees were here when original plans submitted. Had these "amendments" been proposed at the start, the development would not have been approved. Yet another backhand and backdoor way of getting things passed, shameful Kirklees for approving.

Comment: This concern has been noted.

- Now this T2 tree is considered newly dangerous? Why? Damage by construction process. Any follow up / financial implication because of this?

Comment: Revised landscape and tree information has been sought due to the anomalies shown on the original plans. These show T2 to be retained.

- On the original application (now confusing due to the sheer number of amendments and further applications) an environmental impact financial contribution was mandated. Is this still the case? Please

address, how much and where it is being spent and insure this is occurring in Scholes.

Comment: The Section 106 package/contributions secured in connection with the Reserved Matters application would remain unchanged as part of this application.

- I object also to design, appearance and layout effect on the character of an area / privacy of neighbours - houses are raised on a 3 metre platform making them equivalent of 4 storey house that overlooks neighbours directly. The retaining wall is not in keeping with the landscape. The long left side has no planting planned. And once planted who will maintain as they will have to use other people's property to access as this cannot be accessed from inside the development due to the 3m drop.

Comment: The design concerns have been addressed within the report above. The landscaped areas would also be managed and maintained by a management company for a period of at least five years.

- The most recent application which appears to be requesting for a further increase in size of the gabion wall (from 1.5m to 3.2m) according to doc 1039440). Would this application have been approved if this was the initial requested height?
- If 3.2m gabion height was proposed on the initial planning application would this have been accepted?

Comment: Each application is assessed on its own merits.

- I understand the structural qualities and how some of this (on the southern boundary) will be screened somewhat with hedges but this will do very little considering the sheer height proposed.

Comment: This concern has been noted and officers have taken a balanced view on the scheme.

- The retaining wall is incredibly imposing and to be frank has ruined our outlook from that aspect of the garden.

Comment: The visual aesthetics of the wall have been considered in the report above. The right to a view is not a material planning consideration.

- It's also worth noting that the heights are slightly misleading on doc 1039440 re B.B. this refers to the max height of our house but because it is slightly unusual in design the height of the roofline nearest the development is actually going to be the height of the proposed fence.

Comment: This has been noted.

- The finished height of the top of the fence on the southern boundary will be the height of our roofline nearest the southern boundary .

Comment: This has been noted.

- Can screening of the gabion on the western permitted also be mandated with planting as has been proposed with the southern border.

Comment: Officers do not consider it reasonable or necessary to mandate planting to the rear of the western retaining wall, given the limited space available. It would be difficult to manage and maintain this area, with the retaining wall forming the boundary edge for the site.

- Plot 11 will totally dominate our house, block light and the outlook from that aspect is now very unsightly, something which is materially different from initial planning application.

Comment: A full assessment upon visual and residential amenity has been undertaken as part of this application.

- I assume you will any how but please visit the site from our garden to get a real perspective of proposals.

Comment: A site visit has been undertaken for this application.

- I object to the fact that the land has been filled in to be 3metres higher than original and at least a 3metre high wall/cliff edge all along the edge. This effectively makes these 2 storey houses more like 4 storeys which would surely have received far more objection for upsetting the existing landscape and surrounding housing.

Comment: This concern has been noted.

- If another house is to be built, it should be on the existing ground level, not the new 3metre high. Otherwise, make it a bungalow.

Comment: This concern has been noted.

- It is not possible to see what this amendment refers to so can we have more detailed information?

Comment: Officers consider adequate information to have been submitted with the application.

- Also, the builders work most weekends and the noise/dust issues will affect our private enjoyment over the next few months. Are they allowed to work weekends/bank holidays?

Comment: Concerns regarding statutory nuisance (during construction) should be reported to the Council's Environmental Health Team.

- There are young children living nearby and the language on occasion has been colourful to say the least!

Comment: This concern is outside of the remit of planning.

- When will the public right of way be reinstated as per the agreed site plan?

Comment: The Public Right of Way lies outside of the red line boundary for this application and therefore no changes are proposed.

- What changes have been made to the drainage as our gardens have never been so water logged. We live on a hillside so we shouldn't have drainage issues.

Comment: This amendment does not seek to change the drainage strategy for the site.

Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve subject to conditions

Decision Authorisation: Delegated Powers

Application Number: 2024/91008

Officer Recommendation: Grant Variation of Condition

Conditions and Reasons

1) The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion and in the interests of highway safety in accordance with Policies LP1, LP2 and LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

2) This approval amends the previous Reserved Matters approval (application reference 2023/90909) dated 21/07/2023 and relates to development for which outline permission was granted under application reference 2020/90436 dated 02/10/2020. The development shall be carried out in strict accordance with the conditions set out in the outline planning permission, except as modified by this permission.

Reason: For the avoidance of doubt and to ensure that development complies with the requirements and conditions of the outline permission and the approval of reserved matters.

3) All works and operations shall be carried in complete accordance with the submitted Landscape Management Document (Amended Sept 2024) unless otherwise agreed in writing by the Local Plan Authority.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policies LP24, LP32 and LP33, as well as Chapter 15 of the National Planning Policy Framework.

4) Prior to the occupation of development, full details of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall then be provided in full compliance with the approved details before any dwelling is occupied.

Reason: To ensure that the boundary treatments are designed appropriately to respect and enhance the character of the area, to create a high quality place, to ensure suitable forward visibility through the site, and to ensure adequate privacy for future occupants, in accordance with Kirklees Local Plan Policies LP21, LP22 and LP24, Chapters 9 and 12 of the National Planning Policy Framework and the Housebuilders and Highway Design Guide SPDs.

5) The dwellings shall be faced in Forterra Southdown Multi Red Brick for the walls, flat grey roof tiles for the roof and buff artificial stone for the heads unless otherwise agreed in writing with the Local Planning Authority.

Reason: As to ensure the scheme is delivered with high quality materials, in accordance with Local Plan Policy LP24, Chapter 12 of the National Planning Policy Framework and The Housebuilders Design Guide SPD.

6) Unless otherwise agreed in writing, prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13/05/2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained throughout the lifetime of the development.

Reason: As to ensure the development does not material impact the highway safety and to achieve a satisfactory layout, in accordance with Kirklees Local Plan Policies LP21 and LP22, Chapters 9 and 12 of the National Planning Policy Framework and the Highway Design Guide SPD.

7) Prior to the occupation of the development hereby approved, details of the proposed internal adoptable estate roads shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, 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 shown on approved plans and retained thereafter.

Reason: To ensure that suitable access is available for the development, to ensure the development does not material impact the highway safety, and to achieve a satisfactory layout, in accordance with Kirklees Local Plan Policies LP21 and LP22, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

8) All works and operations shall be carried in complete accordance with Construction Traffic Management Plan rev 01 unless otherwise agreed in writing by the Local Planning Authority, all construction arrangements shall be carried out in accordance with the approved schedule throughout the period of construction.

Reason: To ensure that construction vehicles do not material harm the safety of the highway, in accordance with Kirklees Local Plan Policies LP21 and LP24, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

9) Upon completion of the development and before any building is occupied, a highway condition survey identifying a scheme to reinstate any subsequent defects on Westfield Lane, not identified in Existing Highway Condition Survey ref: O-16.10 shall be submitted to and approved in writing by the Local Planning Authority. All of the identified works shall be implemented before any part of the development is first brought into use.

Reason: To ensure that construction vehicles do not material harm the safety of the highway, in accordance with Kirklees Local Plan Policies LP21 and LP24, Chapters 9 and 12 of the National Planning Policy Framework and the Highways Design Guide SPD.

Note: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

Note: Adoption under Section 38 of the Highways Act: It is brought to the Applicants' notice that the Highway Development, Investment & Regeneration, Civic Centre 3, Market Street, Huddersfield HD1 2JR (Kirklees Street Care: 0800 7318765 or 'Highways.Section38@kirklees.gov.uk') must be contacted to discuss road adoption arrangements under Section 38 of the Highways Act 1980.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Approved layout	2023-018-001	P	02/05/2024
Gabion wall sections	2023-018-101	-	02/05/2024
Site plan and location plan	2023-018-001	V	02/05/2024
Tree TPO consent (decision notice)	-	-	14/06/2024
Landscape masterplan	R/2679/1L	-	10/09/2024
Landscape details	R/2679/2K	-	10/09/2024
Landscape management document	July 2023	-	17/09/2024
Arboricultural Impact Assessment	230204f	-	10/07/2024
Arboricultural Method Statement	230204d	-	05/07/2024
Received via Non material amendment 2024/90051			
Covering letter	Dated 02/05/2024	-	02/05/2024
Received via Reserved Matters application 2023/90909			
Location Plan	2023-018-005	-	13/04/2023
Existing Site Plan	2023-018-008	-	13/04/2023
Demolition plan/sections	2023-018-MSC-DM	-	13/04/2023
Proposed Elevations	2023-018-PINE-001	B	09/05/2023
Proposed Elevations	2023-018-HAZEL-001	B	09/05/2023
Proposed Elevations	2023-018-	B	09/05/2023

	HAWTHORN-001		
Proposed Elevations	2023-018-BIRCH-001	B	09/05/2023
Proposed Site / Block Layout	2023-018-003 - Tracking	N	11/07/2023
Proposed Site / Block Layout	2023-018-002 – Visibility Splays	N	11/07/2023
Proposed Longitudinal Sections	124.008.06	F	14/07/2023
Existing Highway Condition Survey	O-16.10	-	17/07/2023
Construction Traffic Management Plan	-	01	17/07/2023
Refuse Vehicle Tracking Layout	124.008.18	A	24/05/2023
Tree Survey	230204	-	13/04/2023
Design and Access Statement	-	-	13/04/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. In this instance, additional information in the form of a tree survey and Impact Assessment have been submitted to allow officers to assess if there would be any impact on the adjacent TPO trees. Revised landscape plans have also been received.

Dated: 23/09/2024