

**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:	2024/70/91260/E
Site Address:	Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton
Description:	Variation of conditions 2 (plans and specifications) and 35 (removal of permitted development rights) of previous permission 2021/92801 for erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive – revisions to house types, unit size mix and layout
Recommending Officer:	Victor Grayson

**DECISION – APPROVED SUBJECT TO CONDITIONS AND THE SECTION
106 DEED OF VARIATION**

**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.**

Lee Stoney

AUTHORISED OFFICER

Date: 08-Nov-2024

Officer Report

Site Description

The application site is largely as per the description provided in section 3.0 of the committee report (dated 27/01/2022) for application ref: 2021/92801.

Description of Proposal

Under this Section 73 application, the applicant proposes the variation of the drawings approved under conditions 2 and 35 of planning permission ref: 2021/92801 (dated 14/06/2022) which state:

2) The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule 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 in the interests of visual amenity, residential amenity and other matters relevant to planning and to accord with the Kirklees Local Plan and the National Planning Policy Framework.*

35) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, D and E of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out at any Hadleigh unit, Bamburgh unit or units 1, 46, 47, 48, 49, 50, 51, 138 or 229 (as annotated on drawing 122-PL-01 rev I) without the prior written consent of the Local Planning Authority.

Reason: *In the interests of visual amenity and to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.*

The 2022 permission was for the erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive.

The amendments now proposed involve changing the design of every dwelling, as follows:

- 36x Hadleigh house type – all changing to Windslow house type.
- 36x Bamburgh house type – all changing to Brackley house type.
- 25x Alderton house type – 20x changing to Mawsley house type, the other 5x changing to Tidmington, Brackley, Faverhsam, Oakham and Bircham house types.
- 20x Rothbury house type – 16x changing to Warkleigh house type, the other 4x changing to Shelford (x2), Brackley and Mawsley house types.

- 31x Birkwith house type – 24x changing to Tidmington house type, the other 7x changing to Brackley, Moreton, Mawsley (x2), Shelford and Warkleigh (x2) house types.
- 34x Nidderdale house type – 29x changing to Faversham house type, the other 5x changing to Tidmington (x2), Oakham, Warkleigh and Shelford house types.
- 37x Windsor house type – 29x changing to Oakham house type, the other 8x changing to Warkleigh (x3), Mawsley (x2), Tidmington, Shelford and Faversham house types.
- 4x Settle V0 house type – changing to Oakham, Warkleigh, Brackley and Moreton house types.
- 24x Settle V1 house type – 21x changing to Bourton house type, the other 3x changing to Warkleigh and Bircham (x2) house types.
- 13x Tonbridge house type – 11x changing to Shelford house type, the other 2x changing to Warkleigh house type.
- 8x Tutbury house type – all changing to Bircham house type.
- 23x Brackerley house type (referred to as the “T7” house type in drawings considered under application 2021/92801) – all changing to Brackley house type.

Elevationally, the proposed house types differ to those that they would replace. In some locations (for example, at plots 63 and 64), integral garages (and associated driveways) would be moved. Footprint dimensions would also change to accommodate the applicable Building Regulations, and to reflect the 100mm-200mm additional widths and depths needed for the proposed cavity wall construction. In some locations, groupings of dwellings would change – for example, units 69 and 70 were previously approved as detached dwellings, but would become a semi-detached pair in the revised layout.

The applicant proposes changes to the development’s road layout in connection with the proposed changes to house types.

Under the previous approved application (2021/92801), 36x 2-bedroom, 105x 3-bedroom and 150x 4-bedroom units were approved. This would not change in the following unit size mix now proposed:

- 36x Windslow – 2-bedroom
- TOTAL: 36x 2-bedroom**
- 59x Brackley – 3-bedroom
 - 22x Mawsley – 3-bedroom
 - 24x Warkleigh – 3-bedroom
- TOTAL: 105x 3-bedroom**
- 30x Tidmington – 4-bedroom
 - 33x Faversham – 4-bedroom
 - 33x Oakham – 4-bedroom
 - 16x Shelford – 4-bedroom
 - 10x Bircham – 4-bedroom
 - 5x Moreton – 4-bedroom
 - 23x Bourton – 4-bedroom

TOTAL: 150x 4-bedroom

In relation to the development's affordable housing element, the applicant proposes to introduce First Homes (as part of the intermediate element), and change house types. The development's 58 affordable units would comprise:

- 32x affordable rented (Windslow house type): units 27, 28, 29, 76, 77, 80, 81, 98, 99, 100, 160, 161, 162, 175, 176, 199, 200, 201, 220, 221, 222, 260, 261, 262, 267, 268, 269, 273, 274, 281, 282, and 283.
- 15x First Homes (Brackley house type) units: 25, 26, 30, 31, 101, 102, 197, 198, 263, 264, 265, 266, 279, 284 and 285.
- 11x intermediate (Brackley house type) units: 78, 79, 177, 178, 179, 180, 223, 224, 271, 272 and 280.

History of negotiations/amendments received

Extensive discussions were held between the case officer and the applicant during and after the submission of previous applications 2022/92151 and 2022/93305.

A draft layout was emailed by the applicant on 01/03/2024. This was discussed at an online meeting held on 04/03/2024. Further drawings were submitted on 08/03/2024. In response, on 15/03/2024 the case officer advised:

These amendments could not be considered under the current Section 73 application (2022/93305) as they would need to be put to public consultation.

We are, however, of the view that most of what is now proposed could be considered under a new Section 73 application. Although you are proposing changes to every one of the development's 291 dwellings (which was one of the concerns relevant to the refused Section 73 application 2022/92151), we are reassured by the scale and nature of the changes illustrated in your elevational comparisons, and by the fact that units 263 to 291 would not creep nearer to existing neighbours (and, in some cases, would be moved further away from those neighbours). Please note, however, that this advice is given subject to:

- *Amendments where – as shown in these latest drawings – dwellings elsewhere within the development would creep nearer to existing neighbours (e.g., at units 1, 34, 35, 47, 48, 174 and 230). NB – this may be a significant concern that would prevent approval of a Section 73 application. If relationships between existing and proposed dwellings were made worse (due to proximity, and related amenity impacts) this may take the proposals outside the scope of what could be approved under Section 73. I would urge you to revisit the above-listed units, and amend what is currently illustrated.*
- *The unit size mix not changing from what was previously approved.*

- *Parking provision not changing from what was previously approved.*
- *Confirmation that the amended estate road layout (including private drives) would still be sufficiently accessible and safe. An explanatory note and swept path diagrams would need to be submitted. On a related matter, I would urge you to engage with the council's Section 38 team as soon as possible, if your team haven't already applied for technical approval.*
- *An updated impermeable areas plan, to confirm that there would be no material change relevant to drainage.*

During the life of the current application the applicant submitted various drawings and supporting documents in response to requests from the case officer.

On 31/07/2024 the applicant submitted proposals related to the development's affordable housing element. In response, on 02/08/2024 the case officer advised:

...we wouldn't be able to accept these late changes under the current Section 73 application (ref: 2024/91260).

Aside from the fact that they would probably necessitate public consultation (which the application fee doesn't resource us to do) and would probably mean the application would have to be brought to committee, the changes themselves are problematic. The approved scheme included the provision of 32 affordable rent units and 26 intermediate units in accordance with our preferred 55%/45% tenure split – changing this to 24 affordable rent units and 34 intermediate units would unacceptably deviate from that preference. Officers wouldn't be able to advise Members that the proposed development was appropriately meeting known affordable housing need.

The applicant subsequently changed the affordable housing proposals to what is now proposed (namely, 32x affordable rented units, 15x First Homes and 11x intermediate units).

On 09/10/2024 the applicant submitted amended drawings to address the comments of KC Highways Development Management.

Extensive exchanges (between the applicant's team and officers) took place in relation to the wording of the necessary Section 106 Deed of Variation.

Relevant Planning History

2019/93303 – Planning permission refused 21/05/2021 for the erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive. The reason for refusal was as follows:

The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom

detached dwellings. Furthermore, the double hedgerow within the site, which is classed as 'important' under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.

2021/92801 – Planning permission granted 14/06/2022 for the erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive.

2022/92151 – Permission refused 23/09/2022 for variation of condition 2 of permission ref: 2021/92801. The reason for refusal was as follows:

The proposed amendments would result in a development that is materially and substantially different to the one which has been approved, that would not deliver an appropriate mix of housing suitable for a range of household types, and that would provide inadequate amenity for existing and future residents. Furthermore, it has not been demonstrated that sufficient off-street parking would be provided. The proposal is therefore contrary to Policies LP11, LP22 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

2022/92229 – Permission refused 29/09/2022 for variation of condition 4 of permission ref: 2021/92801. The reason for refusal was as follows:

The proposal would result in prolonged and unacceptable impacts during the construction phase in relation to residential amenity, highway safety and the movement of traffic. Sufficient justification for the proposal has not been provided. The proposal is therefore contrary to Policies LP21, LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

2022/93305 – Application for variation of condition 2 of permission ref: 2021/92801 withdrawn.

A discharge of conditions application (ref: 2022/92560) is currently under consideration.

Representations

The application has been advertised a site notice posted on 13/06/2024, a press notice published on 13/06/2024, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 08/07/2024.

27 representations were received. The concerns raised can be summarised as follows:

- Loss of greenfield land.
- Loss of Green Belt.
- Site should be a park and nature reserve instead.
- Variations to suit developer should not be accepted.
- Previous approval is out of date and should be reconsidered.
Numerous requested amendments demonstrate previous proposals were unsuitable.
- Cumulative impacts of this and other developments.
- Smaller developments across more sites should be proposed instead.
- Too many homes proposed.
- Other new housing is not yet occupied.
- Changes to house types wouldn't help young people.
- Members had opposed reduction in 4-bedroom units.
- More affordable housing needed.
- Inadequate access proposals.
- Unacceptable access off Hunsworth Lane.
- Developer is attempting access from Brookfield View.
- Access to Links Avenue should not be allowed.
- Rat-run through site.
- Inadequate provision for cycling.
- Traffic and congestion concerns.
- Risks of vehicle accidents.
- Roads should be improved before development commences.
- Internal roads appear narrow and inaccessible to emergency services.
- Inadequate local public transport.
- Local infrastructure (including schools, doctors and dentists) cannot support development.
- Loss of views (including of Emley Moor).
- Harm to quality of life.
- Human rights affected.
- Reduced sunlight to neighbouring property.
- Increased noise.
- Increased light pollution.
- Increased air pollution.
- Health and safety concerns.
- Harm to mental health.
- Playspace will attract anti-social behaviour.
- Vermin concerns.
- Construction phase impacts. Construction management controls will be ineffective.
- Loss of hedgerows and trees.
- Nearby cherry blossom trees should be retained.
- Harm to local wildlife.
- Swift boxes needed.
- New biodiversity report required.
- Site was illegally cleared.
- Site has reverted to a natural wild state.

- Inadequate open space proposed.
- Risks from mine shafts.
- Asbestos is present at the site.
- Increased flood risk. Queries regarding adequacy of surface water proposals.
- Potential access to attenuation tank queried. Proposals demonstrate previous drainage proposals were inadequate. Blue shape on drawings queried.
- Yorkshire Water previously objected.
- New and independent drainage report required.
- Unrealistic to provide amenity/open space in area that floods.
- Applicant does not own all of the site. Proposals encroach onto neighbouring land. Proposals prevent access to and maintenance of neighbouring property.
- Drawings are inaccurate and cannot be fully understood.
- Application should be brought to committee.

Cllr Andrew Pinnock made enquiries regarding the proposed amendments.

Consultation Responses

KC Highways Development Management – [comments dated 04/10/2024]:

The road layout is very similar to that previously approved, with slight amendments to suit the amended house types and plot sizes required. The submitted plans have been reviewed and the following issues identified, which need to be addressed:

- Forward visibility around the bends adjacent to plots 12 and 254 cuts across the curtilage of the properties. Forward visibility must be provided within the highway boundary. Applicant should widen footway/carriageway to accommodate forward visibility splay.
- Visibility splays at the junctions adjacent to plots 60 and 68, and 71 and 291 are incorrectly drawn. Applicant should amend accordingly with splay measured from centre of carriageway.
- All private drives must identify a suitably positioned bin collection point adjacent to the adopted highway. Applicant should amend accordingly.
- Vehicle tracking swept paths show numerous locations within the layout where the waste collection vehicle overhangs the carriageway, extending over the footway and parking areas. Applicant should amend layout and demonstrate that all turning movements can be accommodated within the carriageway.

KC Housing Growth – [email of 05/08/2024]: No objection to introduction of First Homes.

Planning Policy and Guidance

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).

Relevant planning policy and guidance is listed in the committee report (dated 27/01/2022) for application ref: 2021/92801. That policy and guidance landscape remains largely unchanged since that committee report was published, however further versions of the National Planning Policy Framework have been published since then (the most recent having been published in December 2023), and Biodiversity Net Gain has become mandatory under the Environment Act 2021. The council has also published the following Supplementary Planning Document and Position Statement relevant to the current application:

- Affordable Housing and Housing Mix SPD (2023)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)

It is also noted that the following documents were not referred to in the committee report (dated 27/01/2022) for application ref: 2021/92801:

- Kirklees First Homes Position Statement (2021)
- Waste Management Design Guide for New Developments (2021 update)
- Social Value Policy (2022)

Assessment

Scope of this application

Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.

It is important to note that when assessing Section 73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.

In this case, the applicant could develop the site in accordance with the previous permission, and this fallback is a material consideration to which significant weight must be given. The principle of residential use at this site has already been accepted by the council.

Alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered. However, these must be considered in light of the matters discussed in the above paragraphs and the applicant's ability to complete the previously-approved development.

Design considerations

The design of every one of the development's 291 dwellings would be changed under the current proposals.

Government guidance previously stated (at Paragraph: 017 Reference ID: 17a-017-20140306, since deleted) that there is no statutory definition of a "minor material amendment", but that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Changing the design of every dwelling in a development of this size could be viewed as falling outside a reasonable definition of "minor" – this was the view taken by the council in relation to application 2022/92151, where it was concluded that the then-proposed changes would have resulted in a development that was materially and substantially different to the one which had been approved. However, in respect of the current proposals, while the design of all 291 dwellings would again be changed, the nature and scale of change proposed at each dwelling would be limited (in this respect, the current proposals differ to those considered under application 2022/92151). The applicant has submitted a comparison document which places approved and now-proposed elevations side-by-side to illustrate the degree of change (for example, for the approved Alderton house type (which would be changed to the Mawsley house type in most locations), the front and rear elevations are shown next to the now-proposed elevations, to enable comparison). This document demonstrates that the degree of change to the dwellings would be minor, even when considered on a site-wide scale where every dwelling would be affected.

The scale of change aside, subject to details (that can be secured by condition), the designs of the proposed dwellings do not raise significant concerns. The proposed elevations are well-proportioned. The designs include features (including pitched and hipped roofs) that respond appropriately to existing surrounding buildings, and that would assist legibility and placemaking. They are similar to those previously approved at this site, and would largely be suitable for this site's context. It is recommended that inappropriate detailing (namely, the decorative barge boards shown on some elevations) be addressed via an amending condition. The applicant has agreed to this.

The proposed changes to the groupings of buildings (such as changing units 69 and 70 from detached dwellings to a semi-detached pair) raise no design concerns. Similar groupings and massings have already been approved elsewhere at this site.

The current proposal would not have a greater impact upon nearby heritage assets than the approved development would have.

Amenity considerations

An approved and proposed overlay comparison drawing was submitted by the applicant. This demonstrates that the proposed dwellings would not be moved closer to existing neighbouring dwellings, and the previously-approved distances between existing and proposed dwellings would not be reduced. In some locations, these distances would in fact be increased under the current proposals.

The heights of the proposed dwellings closest to existing neighbouring properties would not materially increase.

Although fenestration would be amended, the proposed window and door locations do not raise significant new concerns in relation to privacy (when compared with the previously-approved scheme).

Given the above assessment, it is considered that the current proposals would not introduce unacceptable new impacts in relation to the amenities of existing neighbours. This addresses one of the key concerns relevant to the previous refused application 2022/92151.

Relationships between the proposed dwellings within the development are similarly considered acceptable in relation to amenity.

The applicant has provided a document setting out sqm floorspace figures for the proposed house types, with the Moreton house type figure confirmed as 129.3sqm GIA by separate email dated 24/06/2024. These figures demonstrate compliance with the minimum floorspace figures set out in the Government's Nationally Described Space Standards (NDSS).

Unit size mix

The unit size mix would not change from that approved under the previous permission (2021/92801). A mix of 36x 2-bedroom (12%), 105x 3-bedroom (36%) and 150x 4-bedroom (52%) units is still proposed.

Within that unit size mix, 32x Windslow (2-bedroom) units and 26x Brackley (3-bedroom) units are proposed as affordable units. These would replace the 32x Hadleigh (2-bedroom) units and 26x Bamburgh (3-bedroom) units of the previously-approved scheme.

Of note, although the proposed Warkleigh house type includes a study that could potentially be used as a fourth bedroom, the applicant has described this house type as a 3-bedroom unit, and has annotated it as such on drawing PL-WR-11.

Affordable housing

Regarding the development's affordable housing provision, while the house types of the affordable units would change (as would the house types of all tenures), the applicant does not propose any changes to the locations or sizes (in terms of number of bedrooms) of the development's affordable units. 32x affordable rented units are proposed in the same locations as previously approved. 26x intermediate units are also proposed in the same previously-approved locations, although the applicant now wishes to distinguish 15x of those as First Homes (which the council regards as an intermediate tenure). The following is proposed under the current application:

- 32x affordable rented (Windslow house type): units 27, 28, 29, 76, 77, 80, 81, 98, 99, 100, 160, 161, 162, 175, 176, 199, 200, 201, 220, 221, 222, 260, 261, 262, 267, 268, 269, 273, 274, 281, 282, and 283.
- 15x First Homes (Brackley house type) units: 25, 26, 30, 31, 101, 102, 197, 198, 263, 264, 265, 266, 279, 284 and 285.
- 11x intermediate (Brackley house type) units: 78, 79, 177, 178, 179, 180, 223, 224, 271, 272 and 280.

The above proposals are considered acceptable.

Highways and parking

The proposed development's road layout is largely unchanged from what was previously approved under application 2021/92801, however some amendments were made by the applicant in connection with the proposed changes to house types. The amended layout raised concerns regarding visibility and swept paths in some locations (as set out in the comments of KC Highways Development Management dated 04/10/2024). In response, the applicant submitted amended drawings on 09/10/2024. KC Highways Development Management have not yet commented on these drawings, however it is considered that if concerns regarding visibility and swept paths remain outstanding, recommended condition 8 provides an opportunity to resolve these matters after the current application is determined.

KC Highways Development Management had also advised that private drives must identify a suitably positioned bin collection point adjacent to the adopted highway. It is recommended that this matter be addressed via future submissions pursuant to conditions 7 and 15.

Regarding parking, on 05/07/2024 the applicant emailed to confirm "...the parking provision on site will not change from that previously approved and that each plot will have the same number of spaces".

Drainage

An impermeable areas plan has been submitted by the applicant. This states that 18,736.5sqm and 28,844.9sqm of impermeable area (for the northern and southern parts of the site respectively) are proposed. These figures take into

account the changes to footprints and layout proposed under the current application.

The development's total amount of impermeable surfaces would need to be reflected in the further information to be submitted pursuant to recommended condition 16.

Section 106 agreement

Permission ref: 2021/92801 was subject to a Section 106 agreement dated 13/06/2022. For the current application, a Section 106 Deed of Variation is required to:

- Tie the amendments approved under the current Section 73 application to the obligations secured in relation to the previous permission; and
- Update the provisions related to affordable housing (including references to house types, and the addition of provisions relating to First Homes).

An acceptable Section 106 Deed of Variation was completed on 06/11/2024.

Conditions

Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously-imposed conditions (attached to the previous permission ref: 2021/92801), and to update, revise, add to or delete redundant conditions as part of the assessment of the current application. Those conditions would normally be re-imposed in any subsequent approval of a Section 73 application, as the effect of the Section 73 approval is the issue of a fresh grant of permission.

To date, no details submitted pursuant to the conditions of permission 2021/92801 have been approved. Therefore, it is recommended that the conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 29, 30, 31, 32 and 34 be re-imposed unchanged. The following amendments to conditions are recommended:

- Condition 1 – Rewording to timescale.
- Condition 24 – Replace wording for clarity.
- Condition 27 – Replace wording for clarity.
- Condition 28 – Added stipulation that decorative barge boards shall not be installed.
- Condition 33 – Delete superfluous text.
- Condition 35 – Update house type names.

On 30/10/2024 the applicant agreed to the pre-commencement conditions.

Other planning considerations

The education contributions secured under the Section 106 agreement associated with permission ref: 2021/92801 would not need to be revisited.

The proposed amendments would not result in a significant decrease in green space.

Six detailed soft landscaping drawings were submitted by the applicant, however it is not recommended that these be included in the list of approved drawings on the council's decision letter, as they include proposals for planting potentially invasive species such as *Lonicera nitida*, *Ligustrum ovalifolium* and *Prunus lusitanica*. Detailed soft landscaping will be considered further pursuant to recommended condition 29.

The proposed amendments have no significant adverse implications in relation to other planning considerations.

In representations made in response to the council's consultation, residents have stated that the applicant does not own all of the application site, that the proposals encroach onto neighbouring land, and that the proposals would prevent access to and maintenance of neighbouring property. These representations have been relayed to the applicant, who have contested the claims, and have provided land ownership information in support of their position. In relation to one of the neighbouring properties, the case officer overlaid the applicant's application site red line boundary and a plan provided by the neighbouring owner – this did not demonstrate an encroachment. Of note, the "1m strip" blue line shown outside the red line boundary on some drawings does not define the application site, and therefore if/where that strip encroaches into neighbouring land it would not trigger a need (under the current application) for notice to be served or for a different ownership certificate to be completed.

Other concerns raised by residents relate to the principle of development at this site, and to matters considered under previous applications (and which are not specifically relevant to the proposals being considered under the current application).

Conclusion

This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation of conditions 2 and 35 as indicated.

Subject to conditions, the proposed changes are considered acceptable.

The NPPF 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 – Grant planning permission subject to conditions and a Section 106 Deed of Variation

Decision Authorisation – Delegated Powers

Application Number – 2024/91260

Officer Recommendation – Grant planning permission subject to conditions and a Section 106 Deed of Variation

Conditions and Reasons

1. The development hereby permitted shall be begun before 14/06/2025.

Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule 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 in the interests of visual amenity, residential amenity and other matters relevant to planning and to accord with the Kirklees Local Plan and the National Planning Policy Framework.

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 pre-development road condition surveys (covering an area to be agreed beforehand with Local Planning Authority officers), a timetable of all works, and details of:

- Any phasing of development;
- Hours of works;
- Point(s) of access for construction traffic (as stipulated by condition 4);
- Construction vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for construction workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- 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;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during construction;
- Site waste management, including details of recycling/disposing of waste resulting from construction works;
- 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;

- Artificial lighting used in connection with all construction-related activities and security of the construction site;
- Measures to minimise biodiversity impacts during construction;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- 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. 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 and prior to the occupation of no more than 200 dwellings of the development hereby approved unless otherwise agreed in writing by 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 impacts are devised and agreed at an appropriate stage of the development process.

4. Prior to the commencement of development (including ground works), a vehicular access into the site shall be created at Hunsworth Lane for use by construction traffic. This access shall be used by construction traffic for the duration of the construction phase, and no other access to or egress from the site for construction traffic shall be provided, enabled or used unless approved in writing by the Local Planning Authority.

Reason: In the interests of amenity, to ensure the highway is not obstructed, in the interests of 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.

5. Prior to the first use of the approved vehicular access point at Hunsworth Lane (including use by construction traffic with the exception of construction traffic associated with the formation of the construction access point), vegetation and boundary treatments shall be set back to the rear of the proposed visibility splays as shown on approved plan ref: LTP/3836/P2/01.01 rev E. The visibility splays shall be cleared and kept clear of all obstructions to visibility above 0.6m measured from the ground thereafter.

Reason: To ensure adequate intervisibility is provided and maintained in the interests of pedestrian and highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that adequate visibility is provided to enable works vehicles to enter and exit the site.

6. Prior to the commencement of development (including ground works) a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be 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 details of how flooding of adjacent land is prevented; and
- Include methods of preventing contamination of watercourses once the new drainage has been installed.

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 risk of flooding does not increase during the construction phase, to limit the siltation of any on- or off-site surface water features, and to accord with Policy LP27 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid increased flood risk are devised and agreed at an appropriate stage of the development process.

7. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become occupied prior to the completion of the development, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of those residential units. The temporary arrangements so approved shall be implemented prior to the first occupation of those residential units, and shall be so retained thereafter for the duration of the construction works unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory arrangements are implemented in relation to waste during the construction phase, in the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

8. Prior to the commencement of development (excluding ground works, establishing the site compound, clearing the site (excluding trees and vegetation that is subject to statutory protection and/or is to be retained as part of the development hereby approved) and undertaking initial enabling

works) a scheme detailing the proposed internal adoptable roads shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of swept paths for a 11.85m refuse vehicle, full sections, drainage details, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of this work. No part of the development shall be brought into use until the internal adoptable roads for that part of the development have been completed in accordance with the approved plans and details or unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure that details of internal adoptable roads are agreed at an appropriate stage of the development process.

9. Prior to the commencement of development (excluding ground works, establishing the site compound, clearing the site (excluding trees and vegetation that is subject to statutory protection and/or is to be retained as part of the development hereby approved) and undertaking initial enabling works) full details of the permanent site entrance at Hunsworth Lane shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of sight lines, road markings, construction specifications, details of surface finishes and any signage, an independent safety audit covering all aspects of this work, and details of the delivery of the scheme under an appropriate Section 278 approval. Unless otherwise agreed in writing by the Local Planning Authority, no more than 50 dwellings of the development hereby approved shall be occupied prior to the implementation of the approved scheme for use by residential traffic.

Reason: To ensure suitable vehicular access is provided for residents of the development hereby approved, to ensure existing residential streets are not subjected to unacceptable increases in traffic, in the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of the Hunsworth Lane entrance are agreed, and that the entrance is provided, at an appropriate stage of the development process.

10. Prior to the development commencing on the superstructure of any dwelling hereby approved, details of pedestrian connections between the site and adjacent land (namely, Links Avenue and Mazebrook Avenue) shall be submitted to and approved in writing by the Local Planning Authority. The details shall relate to levels, surface materials, construction methods, any handrails, splays to ensure adequate intervisibility for pedestrians and other road users, and measures to ensure opportunities for crime and anti-social behaviour are limited. The development shall be implemented in accordance with the details so approved. The approved works shall be retained thereafter.

Reason: In the interests of ensuring usable, convenient, safer and attractive pedestrian routes are provided, to contribute toward the creation of a walkable and well-connected neighbourhood, to encourage the use of sustainable modes of transport, to mitigate the highway and air quality impacts of the

development, and in the interests of minimising the risk of crime and anti-social behaviour in accordance with Policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

11. Prior to the first occupation of any specified dwelling hereby approved, the approved vehicle parking area(s) for that dwelling shall be surfaced and drained in accordance with “Guidance on the permeable surfacing of front gardens (parking areas)”, 13/05/2009 (ISBN 9781409804864) as amended or superseded, and shall thereafter retained throughout the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

12. Where highway retaining structures are necessary, prior to development commencing on the superstructure of any dwelling hereby approved, the design and construction details of any such structures (and any temporary highway retaining structures that may be deemed necessary) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained as such thereafter.

Reason: To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

13. Prior to the first occupation of any specified dwelling hereby approved, details of secure, covered and conveniently-located cycle parking for use by residents of that dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and the cycle parking shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and encouraging the use of sustainable transport modes, and to accord with Policies LP20, LP21, LP22 and LP24 of the Kirklees Local Plan.

14. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the dedicated facilities to be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space; and
- One Standard Electric Vehicle Charging Point (of a minimum output of 16A/3.5kW) for every 10 unallocated residential parking spaces.

Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. The charging points installed shall be retained thereafter.

Reason: To ensure residents of the development are encouraged to use lower-carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with Policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

15. Prior to the commencement of superstructure works, details of storage and access for collection of wastes from the residential units hereby approved, and details of management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority. The details shall confirm that waste collection points shall not obstruct access to private driveways, and shall include details of management measures (including measures to control odour and vermin) and measures to discourage flytipping. The works and arrangements comprising the approved details shall be implemented prior to first occupation and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

16. Prior to the commencement of development (including ground works) a detailed design of surface water attenuation shall be submitted to and approved in writing by the Local Planning Authority. The design shall include flow control devices restricting the rate of surface water discharge from the site to a maximum of 17.5l/s to Nann Hall Beck and 3.5l/s to Yorkshire Water infrastructure leading to the River Spen. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100 year storm events with a 30% allowance for climate change. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter until such a time as it is adopted by the statutory undertaker.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

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

17. Prior to the commencement of development (including ground works) a scheme detailing the management of residual risk of blockage scenarios after swales / ditches within the site have been constructed (for example, through the use of walling and landscape features and safe flood routing) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also include a detailed management plan (itinerary, schedule and access) for the swale / ditch to the northern boundary of the site. Following the completion of works comprising the approved scheme, the approved maintenance and management scheme shall be implemented thereafter.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

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

18. Notwithstanding what is shown on the drawings hereby approved, no building or other obstruction including landscape features shall be located over or within an 8m wide protected strip crossing the site (5m and 3m either side of the centre line of the western section, and 3m and 5m either side of the centre line of the eastern section) along the public 800mm diameter syphon sewer located to the south of the site. No construction works in the relevant area(s) of the site shall commence until measures to protect the public sewerage infrastructure within the site boundary have been implemented in full accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The details shall include but shall not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the required stand-off or protection measures are to be achieved via diversion or closure of any sewers crossing the site, the developer shall submit evidence in writing to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

Reason: In the interests of ensuring water infrastructure is protected and can be inspected, maintained, adjusted, repaired and altered by the statutory undertaker without hindrance.

19. Prior to the commencement of development (including ground works) a further Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include ground gas monitoring data.

Reason: To ensure unacceptable risks to human health and the environment are identified, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified at an appropriate stage of the development process.

20. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 19, prior to the commencement of development (including ground works, other than those required to inform a site investigation report) a Remediation Strategy shall be 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 unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

21. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 20. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works on site (other than site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, 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 unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

22. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely

completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

23. Prior to the commencement of development (including ground works but excluding works related to land stability remediation) remedial treatment works to address land instability arising from shallow coal mining legacy and recorded mine shafts 419426-001, 419426-002 and 419426-005 shall be carried out in full. Following completion of the remediation works referred to in this condition and prior to the first occupation of any specified dwelling hereby approved, a Coal Legacy Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure the site is made stable and to minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that remedial measures related to the site's coal mining legacy are carried out at an appropriate stage of the development process.

24. Prior to any part of the development hereby approved being brought into first use, a further Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:

- Determine the impact that the development will have on air quality (taking into consideration any cumulative impact from other local developments);
- Include a calculation of the monetary damages from the development; and
- Include a fully-costed mitigation plan detailing the proposed low emission mitigation measures. The monetary value of the damages shall be reflected in money spent on the low emission mitigation measures.

The approved low emission mitigation measures shall be implemented before the development is brought into first use and shall be retained thereafter.

Reason: In the interests of amenity and to mitigate the air quality impacts of the development in accordance with Policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

25. Prior to the commencement of development (including ground works) a further Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall specify the measures to be taken to protect the development hereby approved from noise from all significant noise sources (including road traffic) that are likely to affect the development. The assessment shall:

- Determine the existing noise climate;
- Predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time), and other habitable rooms of the development; and

- Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new dwellings (including ventilation if required).

Prior to the first occupation of any specified dwelling hereby approved all works specified for that dwellings in the approved Noise Impact Assessment shall be carried out in full and such works shall thereafter be retained.

Reason: In the interests of amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan.

26. Prior to the commencement of superstructure works, details of all external materials to be used shall be submitted to the Local Planning Authority, and samples shall be left on site for the inspection and approval in writing of the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

27. Prior to the first occupation of any dwelling with external lighting (other than street lighting on streets to be adopted), details of the external lighting for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a scheme detailing street lighting to all private (unadopted) roads/drives/courtyards and shall not include low-level or bollard street lighting. The external lighting shall be designed to avoid harm to residential amenity, increased highway safety risk, risk of creating opportunities for crime and anti-social behaviour, and disturbance to wildlife. All external lighting shall be installed in accordance with the details (including specifications and locations) so approved, and the external lighting shall be maintained thereafter in accordance with the approved details. No dwellings accessed from a private (unadopted) road/drive/courtyard shall be brought into use until the street lighting so approved for that road/drive/courtyard has been installed and brought into use, and the street lighting shall be retained as such thereafter. No other external lighting shall be installed without prior written consent from the Local Planning Authority.

Reason: In the interests of residential amenity and highway safety, to prevent significant ecological harm, to safeguard habitat, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

28. Other than where indicated on the drawings hereby approved, and other than in relation to elevations not facing a highway, no cables, plumbing, foul pipes, vents, burglar alarm boxes, and/or CCTV cameras or related equipment and installations shall be located or fixed to any external elevation(s) of the development hereby approved. Should any such equipment or installations be considered necessary, details of these shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the details so approved. Notwithstanding what is shown on the drawings hereby approved, all dwellings shall be provided with straight barge boards and no

decorative barge boards such as those shown in the front elevation on drawing PL-MW-12 shall be installed.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan.

29. Prior to the commencement of superstructure works, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- Details of existing and proposed levels, and regrading;
- Planting plans, including additional treeplanting notwithstanding what is shown in the drawings hereby approved;
- Details of tree pit sizes and soils;
- Species schedules;
- Details of initial aftercare and long-term maintenance;
- Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion;
- Details (including samples, if requested), of paving and other hard surface materials;
- Details of all on-site open spaces (including details of their purpose(s) and management) and of any areas for designated, informal, incidental and/or doorstep play;
- Details of covenants (or other suitable arrangements) regarding street tree retention, management and maintenance;
- Details of how soft landscaping has been designed to prevent and deter crime and anti-social behaviour; and
- Notwithstanding what is shown on the drawings hereby approved, details (including sections and details of levels) of all boundary treatments, and any retaining walls and gabions, corresponding with measures relating to flood routing and providing for the movement of hedgehogs.

No part of the development hereby approved shall be occupied until all hard and soft landscaping has been implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements.

Reason: In the interests of local ecological value, visual amenity and highways safety, to ensure high quality open spaces are provided, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30, LP32, LP33, LP47 and LP63 of the Kirklees Local Plan, and chapters 8, 12 and 15 of the National Planning Policy Framework.

30. Prior to the commencement of development (including ground works), an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out in accordance with the documents so approved.

Reason: To protect trees in the interests of visual amenity and biodiversity and to accord with Policy LP33 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of tree protection measures are agreed at an appropriate stage of the development process.

31. The translocation of the site's hedgerows shall be carried out in strict accordance with the Hedgerow Translocation Method Statement (FPCR, 10/01/2022) and no change therefrom shall take place without the prior written consent of the Local Planning Authority

Reason: To ensure the hedgerows are retained on-site, to ensure their viability and survival is not jeopardised and to accord with Policies LP30 and LP33 of the Kirklees Local Plan and the Hedgerows Regulations 1997.

32. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless authorised in writing by the Local Planning Authority in response to evidence to be submitted to the Local Planning Authority demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

Reason: To prevent significant ecological harm to birds, their eggs, nests and young and to accord with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

33. Prior to the commencement of superstructure works, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The BEMP shall ensure that no less than a 10% biodiversity net gain (i.e., 10% above the site's pre-development biodiversity value based on its habitat units baseline) is achieved post-development, and shall include the following:

- Description and evaluation of features to be managed and enhanced;
- Details of the extent and location/area of proposed enhancement works on appropriate scale maps and plans;
- Details corresponding with landscaping details to be submitted pursuant to condition 29;
- Details of ecological trends and constraints on site that might influence management;
- Aims and Objectives of management;
- Appropriate management actions for achieving the Aims and Objectives;
- An annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years);
- Details of the management body or organisation responsible for implementation of the BEMP; and
- Details of an ongoing monitoring programme and remedial measures.

The BEMP will be reviewed and updated every five years and implemented for a minimum of 30 years. The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will

be secured by the developer with the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully-functioning biodiversity objectives of the originally-approved BEMP. The development shall be implemented in accordance with the approved BEMP and all measures and features shall be retained in that manner thereafter.

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

34. Prior to the commencement of development (including ground works), a Biodiversity Gain Plan (BGP) shall be submitted to and approved in writing by the Local Planning Authority. The BGP shall demonstrate a measurable biodiversity net gain and shall include:

- Details of the measures taken or to be taken to minimise the adverse effect of the development on the biodiversity of the on-site habitat and any other habitat;
- The pre-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 3.0 (or latest version, if available);
- The post-development biodiversity value of the on-site habitat, measured using the Biodiversity Metric 3.0 (or latest version, if available);
- Details of any off-site habitat enhancement required to achieve a biodiversity net gain, including pre-development and target biodiversity value.

The BGP shall inform the BEMP referred to under condition 33.

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain (based on biodiversity metric calculations which require data relating to the site's pre-development condition) are agreed at an appropriate stage of the development process.

35. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, D and E of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out at any Windslow unit, Brackley unit or units 1, 46, 47, 48, 49, 50, 51, 138 or 229 (as annotated on drawing 122-PL-01 rev W) without the prior written consent of the Local Planning Authority

Reason: In the interests of visual amenity and to ensure the amenities of existing neighbouring residential units and the residential units hereby

approved are protected in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

NOTE: This permission is subject to conditions requiring the submission of further and/or amended information prior to commencement of development or at other points during the development process. To assist in the prompt discharge of conditions, you may wish to submit separate Discharge of Conditions applications for each of those conditions that require submissions. This may be particularly advisable where your submissions are likely to require extensive consultation, consideration of complex technical matters, and/or negotiation. Alternatively, grouping submissions relevant to a specific topic, or interrelated topics (for example, pursuant to highways-related conditions) under a single application, and/or grouping submissions pursuant to pre-commencement, pre-superstructure and pre-occupation conditions, may assist prompt discharge. For further advice on conditions-stage submissions, please contact the case officer.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM);*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice; and*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group*

NOTE: All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants (<http://www.association-of-noiseconsultants.co.uk/> and 020 8253 4518) or the Institute of Acoustics (<http://www.ioa.org.uk> and 0300 999 9675) for a list of members.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of 07:30 and 18:30 Mondays to Fridays, and 08:00 and 13:00 hours on Saturdays, with no working Sundays or Public Holidays. These hours should be referred to in any Construction Environmental Management Plan to be submitted to the Local Planning Authority for approval. In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974 (Section 60), Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

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

Council 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: To discuss road adoption arrangements under Section 38 of the Highways Act 1980, please contact Highway Adoptions on 01484 221000 or highways.section38@kirklees.gov.uk.

NOTE: All new storm water attenuation tanks / pipes / culverts with internal diameter / spans exceeding 0.9m must be located off the adoptable highway. Any decision to locate these facilities within the adoptable highway footprint must be accompanied with a full risk evaluation report with particular reference to their proposed inspection, structural assessment and maintenance regime in compliance with the CDM Regulations 2015 requirements. Furthermore, all new precast pipes / culverts / storage tanks proposed for use within the footprint of an adoptable highway must comply with the Specification for Highway Works (SHW-Series 500 or 2500) and/or must be accredited with a BBA (The British Board of Agrément Roads and Bridges) or HAPAS (Highway Authority Product Approval Scheme) or equivalent certificate. The adopting authority (i.e. Yorkshire Water) will also be required to produce and submit a legally-binding undertaking to the Highway Authority explicitly stating that they have a full understanding of their obligations in relation to the systematic and cyclical inspection and structural assessment of any attenuation structure located within the highway footprint, in full compliance with the Well-managed Highway Infrastructure – A Code of Practice 2016 or any corresponding superseding document thereafter.

NOTE: Please refer to the comments of Yorkshire Water (dated 11/01/2022) regarding sewer connections and water supply.

NOTE: A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof. At non-residential developments, the requirement for one standard electric vehicle charging point for at least 10% of parking spaces may initially be reduced to one charging point for at least 5% of parking spaces with the remainder provided at an agreed trigger point. For developments where some or all of the parking is likely to be used for shorter stay parking (30mins to 4 hours) then Fast (7-23kW) or Rapid (43kW+) charging points may be more appropriate. If Fast or Rapid charging points are proposed together with restrictions on the times that vehicles are allowed to be parked at these points then a lower number of charging points may be acceptable. The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity. The installation must comply with all applicable electrical requirements in force at the time of installation.

NOTE: References to “(as amended)” documents in the plans and specifications schedule below reflect the amendments made during the life of applications 2021/92801 and 2024/91260. Not all documents were (or needed to be) updated to reflect these amendments.

Plans and specifications schedule:

Plan/document type	Reference	Version	Date received
Location Plan	122-01-SK		12/07/2021
Site Layout	122-PL-01	rev W	09/10/2024
Site Materials Layout	122-PL-002	rev C	20/01/2022
Landscape Masterplan	P20-2441.001	rev M	09/08/2024
Affordable Housing Plan	122.11		02/08/2024
Site Materials Layout	122-PL-002	rev G	24/07/2024
Hunsworth Lane – Proposed Highway Access	LTP/3836/P2/01.01	rev E	25/01/2022
Unlocated Mine Shaft and No-Build Zone	2828/16		05/10/2021
Public Open Space Areas Plan (as amended)	122-AP-02	rev A	02/08/2021
Bircham elevations	PL-BH-02		03/05/2024
Bircham floor plans	PL-BH-01		03/05/2024
Bircham floor plans	PL-BH-11		03/05/2024
Bourton elevations	PL-BT-02	rev A	03/05/2024
Bourton elevations	PL-BT-12	rev A	03/05/2024
Bourton floor plans	PL-BT-01	rev A	03/05/2024
Bourton floor plans	PL-BT-11		03/05/2024
Brackley elevations and plans	PL-BC-01		03/05/2024
Brackley elevations and plans	PL-BC-11		03/05/2024
Faversham elevations	PL-FV-02	rev A	03/05/2024
Faversham elevations	PL-FV-12		03/05/2024
Faversham floor plans	PL-FV-01	rev A	03/05/2024
Faversham floor plans	PL-FV-11		03/05/2024
Mawsley elevations	PL-MW-02	rev A	03/05/2024
Mawsley elevations	PL-MW-12		03/05/2024

Mawsley floor plans	PL-MW-01		03/05/2024
Mawsley floor plans	PL-MW-11		03/05/2024
Moreton elevations	PL-MR-02	rev A	03/05/2024
Moreton elevations	PL-MR-12		03/05/2024
Moreton floor plans	PL-MR-01	rev A	03/05/2024
Moreton floor plans	PL-MR-11		03/05/2024
Oakham elevations	PL-OA-02	rev A	03/05/2024
Oakham elevations	PL-OA-12		03/05/2024
Oakham floor plans	PL-OA-01		03/05/2024
Oakham floor plans	PL-OA-11		03/05/2024
Shelford elevations	PL-SF-02	rev A	03/05/2024
Shelford elevations	PL-SF-12		03/05/2024
Shelford floor plans	PL-SF-01		03/05/2024
Shelford floor plans	PL-SF-11		03/05/2024
Tidmington elevations	PL-TD-02		03/05/2024
Tidmington elevations	PL-TD-12		03/05/2024
Tidmington floor plans	PL-TD-01		03/05/2024
Tidmington floor plans	PL-TD-11		03/05/2024
Warkleigh elevations	PL-WR-02		03/05/2024
Warkleigh elevations	PL-WR-12		03/05/2024
Warkleigh floor plans	PL-WR-01		03/05/2024
Warkleigh floor plans	PL-WR-11		03/05/2024
Windslow elevations and floor plans	PL-WN-01		03/05/2024
Windslow elevations and floor plans	PL-WN-11		03/05/2024
Brick Double Garage Front Pitch	G1-00-PD		02/08/2021
Standard Distribution Substation Drawing	C991543	rev D	02/12/2021
Planning Policy Statement (as amended)	ID Planning, July 2021		02/08/2021
Design and Access Statement (as amended)	September 2019		02/08/2021
Historic Environment Desk-	AOC, 24032, October 2017		02/08/2021

Based Assessment			
Geophysical Survey	WYAS Archaeological Services, 3289, June 2019		02/08/2021
Geoenvironmental Appraisal	Lithos, 2828/1A, July 2019		02/08/2021
Flood Risk Assessment	ARP, 873/79r1d, 18/10/2021	rev D	20/10/2021
Concept Drainage Strategy – Sheet 1	995		20/10/2021
Concept Drainage Strategy – Sheet 2	996		20/10/2021
Impermeable Areas Plan	PL-01		19/06/2024
NDSS Compliance Table	Harron Homes, 13/01/2022		13/01/2022
Noise Impact Assessment (as amended)	Surface, August 2019		02/08/2021
Air Quality Assessment (as amended)	Redmore Environmental, 2443r2, 11/09/2019	version 1	02/08/2021
Health Impact Assessment	ID Planning, September 2019		02/08/2021
Revised Transport Assessment	Sanderson Associates, 300752-001-01, 25/01/2022	version 01	25/01/2022
Vehicle Tracking Layout	122.10		09/10/2024
Travel Plan	Sanderson Associates, 10973/001/02, 12/09/2019		02/08/2021
Ecological Impact Assessment (as amended)	Brooks Ecological, R-3212-05-C, 03/12/2020	rev C	02/08/2021
Water Vole Survey	Brooks Ecological, R-3212-02 (R-3212-03 on page 2), 10/09/2019		02/08/2021
Bat Activity Survey	Brooks Ecological, R-3212-04, 25/10/2019		02/08/2021
Biodiversity Management Plan (as amended)	Brooks Ecological, R-3212-06-A, 03/12/2020	rev A	02/08/2021
Hedgerow Assessment and Report	Brooks Ecological, R-3212-02, 10/09/2019		02/08/2021
Hedgerow Translocation Method Statement	FPCR, 10/01/2022	rev A	13/01/2022

Updated Hedgerow Position Statement	FPCR, 10390/SMM, 21/01/2022		24/01/2022
Arboricultural Report	AWA, AWA2797, August 2019		02/08/2021
Statement of Community Involvement (as amended)	ID Planning, September 2019		02/08/2021

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 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.

Report Dated: 06/11/2024