

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	2024/44/91338/E
Site Address:	10 & 12, Windmill Hill Lane, Emley Moor, Huddersfield, HD8 9TA
Description:	Discharge conditions 3 and 4 (materials), 5 (boundary treatments), 6 (Phase I Desk Study Report), 11 (bat/bird boxes) on previous permission 2023/92732 for demolition of existing dwellings and erection of two detached dwellings
Recommending Officer:	Nicole Helliwell

DECISION – DISCHARGE OF CONDITIONS - SPLIT DECISION

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

Sarah Longbottom

AUTHORISED OFFICER

Date: 05-Jul-2024

Officer Report

Reference No. 2024/44/91338/E

Site Address: 10 & 12, Windmill Hill Lane, Emley Moor, Huddersfield, HD8 9TA

Proposal: Discharge conditions 3 and 4 (materials), 5 (boundary treatments), 6 (Phase I Desk Study Report), 11 (bat/bird boxes) on previous permission 2023/92732 for demolition of existing dwellings and erection of two detached dwellings

Assessment

Condition 3 – Materials

3. The detached dwellings hereby approved shall be faced in natural stone for the external walls and blue slates for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.

Reason: *In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Council's Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.*

Assessment of Condition 3

This condition is not a pre-commencement condition, nor does it require details to be submitted, and therefore does need to be discharged.

Condition 4 – Materials

4. Prior to development commencing on the superstructure of the dwellings hereby approved, details of all the external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such.

Reason: *This pre-commencement condition is in the interest of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.*

Assessment of Condition 4

The applicant has submitted a supporting document (dated 13th May 2024) which details the walling and roofing materials as well as images. The proposed walling materials would be 140mm Calder pitched face stone. It is also noted that the roofing materials would be 20 x 10 Marguis slate. These materials would be in keeping with those used in the surrounding area. Therefore, these details are deemed to be acceptable for the purposes of the condition and therefore condition 4 can be discharged. This is subject to the development being completed using the approved materials.

Condition 5 – Boundary Treatments

5. Notwithstanding the submitted plans and information, before development commences on the superstructure of the dwellings hereby approved, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwellings are first brought into use and thereafter retained.

Reason: *This pre-commencement condition is in the interest of visual and residential amenity, in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 13 of the National Planning Policy Framework.*

Assessment of Condition 5

The applicant has submitted a document title 'site plan' (drawing no. 001 revision A, dated April 2024) and a supporting document (dated 13th May 2024) which details the location, height and materials of the proposed boundary treatments. The proposed boundary treatment would comprise a dry stone wall to the front boundary of the application site. The wall would measure 0.9m in height and would be constructed in natural stone. The proposed boundary treatment would be in keeping with the existing walls at the opposite site of the road and would not cause any significant harm to visual amenity.

Furthermore, it is noted that a feathered edge fence would be installed to enclose the private outdoor amenity spaces to the rear of the plots. The fence would have a maximum height of 1.8m and would be constructed in timber. However, it is noted that the previously approved plan 'proposed site layout' (2042-23-004 Rev. A, dated 27th November 2023) showed that the rear gardens would be enclosed by a 0.9m high stone wall. Therefore, it is considered that the use of the proposed boundary fence would not be appropriate to its green belt setting and would result in a material difference in the level of openness. On this basis, the condition cannot be discharged at this stage and must remain.

Condition 6 – Phase I Desk Study Report

6. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: *This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 183 and 184 of the National Planning Policy Framework.*

Assessment of Condition 6

The applicant has submitted a document titles 'Phase I Environmental Desk Study Report' (Ref. C4313_24_E_6607_PO-2954, dated 23rd April 2024) in

support of condition 6. KC Environmental Health have read the report which includes a Groundsure report and a Coal Mining Risk Assessment (CMRA). A site walkover was undertaken on the 25th April 2024. The Phase I report provides an appraisal of the site history and previous surrounding land uses, since the 1854 and an assessment of the environmental setting.

Section 2.4.1 summarises the coal information, informing that the site is within an area that may be affected by coal mining. As such, a Coal Mining Risk Assessment has been undertaken by the Coal Authority in September 2023. The Coal Mining Risk Assessment considers a medium risk from potential shallow unrecorded coal mining within the Second Brown Metal (2BM) and Third Brown Metal (3BM) coal seams. The Coal Mining Risk Assessment goes on to recommend an intrusive investigation to determine the presence of coal workings, additionally, due to a nearby fault, it is recommended that a gas risk assessment is completed for the site.

Section 2.5 identifies an historic landfill site: Fletcher Park (our site ref: 52/17), our mapping shows the landfill to be circa 90m to the edge of the filled area, the landfill included general waste. Officers were unable to find any commentary regarding why the risk from landfill gas has been dismissed in the preliminary conceptual site model. KC Environmental Health disagree with this conclusion and will require an updated conceptual site model and gas monitoring with any future phase 2 report. Alternatively, Officers would require the phase 2 to provide additional robust commentary to qualify the conclusions in relation to gas monitoring at the site.

KC Environmental Health have concerns that burning on site has not been considered as a source of contamination within the preliminary conceptual site model and section 4.2.1. In Officer's earlier response dated the 13th of October 2023 (this was in relation to the parent planning application), Officers referred to burning at the site. Burning at the site and its associated contamination risk has not been acknowledged within the report. KC Environmental Health strongly suggest that a comprehensive phase 2 intrusive investigation should include sampling.

Officers welcome the report and in order to move the application forward are willing to accept it, however, the risk from gas associated with the landfill and site contamination will need to be fully assessed in any future phase 2 intrusive report.

Condition 11 – Bat and Bird Boxes

11. Prior to the commencement of development, a plan detailing the positioning, location and specification of two integral bat roosting features, two integral swift boxes, and 13x13cm 'hedgehog highways' at the bottom of all boundary

features shall be submitted to and approved in writing to the local authority. The features shall be installed to the manufacturers specification and retained thereafter as detailed in the approved plans.

Reason: *This pre-commencement condition is necessary to provide an enhancement to biodiversity in line with LP30 and the requirements of Chapter 15 of the National Planning Policy Framework.*

Assessment of Condition 11

The applicant has submitted a document title 'site plan' (drawing no. 001 revision A, dated April 2024) in support of condition 11. The plan details the location of the two integral bat roosting features, the two integral swift boxes and the hedgehog highways.

KC Ecology have confirmed that the submitted information is sufficient to discharge condition 11.

Decision Notice Text

Condition 3 – Materials

This condition is not a pre-commencement condition, and no details are required to be submitted, and therefore does not need to be discharged.

Condition 4 – Materials

- Supporting Document (dated 13th May 2024)

It is considered that the proposed walling and roofing materials are acceptable for the purposes of condition 4. However, condition 4 can only be fully discharged when the proposal is constructed and maintained in accordance with the details approved.

Condition 5 – Boundary Treatments

- Site Plan (ref. 001 revision A, dated April 2024)
- Supporting Document (dated 13th May 2024)

The submitted details are not acceptable at this time and therefore it is recommended that Condition 5 remain until further notice.

Condition 6 – Phase I Desk Study Report

- Phase I Environmental Desk Study Report (Ref. C4313_24_E_6607_PO-2954, dated 23rd April 2024)

KC Environmental Health accept the Phase 1 Environmental Desk Study Report and recommend the discharge of Condition 6. The applicant is reminded that all other contaminated land conditions remain.

Condition 11 – Bat and Bird Boxes

- Site Plan (ref. 001 revision A, dated April 2024)

The submitted details are considered acceptable for the purposes of condition 11. This condition will be discharged by their installation prior to occupation of the development, and retention thereafter.

Dated: 17/06/2024