

**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:	2024/70/92776/W
Site Address:	Land off, Crossley Lane, Cold Royd Lane & Albany Road, Dalton, Huddersfield, HD5 9JA
Description:	Variation of conditions 2 (plans), 3 (materials), 4 (planting), 11 (floor levels), 12 (landscape), 16 (noise) and 17 (traffic calming) of previous permission 2011/91152 for erection of 131 dwellings, formation of new accesses, laying out of internal access roads, and creation of play areas
Recommending Officer:	Nick Hirst

DECISION – Section 106 Variation of Condition – Approve

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

Victor Grayson

AUTHORISED OFFICER

Date: 16/03/2026

Application: 2024/70/92776/W

Site: Land off Crossley Lane, Cold Royd Lane and Albany Road, Dalton, Huddersfield, HD5 9JA

Proposal: Variation of conditions 2 (plans), 3 (materials), 4 (planting), 11 (floor levels), 12 (landscape), 16 (noise) and 17 (traffic calming) of previous permission 2011/91152 for erection of 131 dwellings, formation of new accesses, laying out of internal access roads, and creation of play areas

Site Description

The application site consists of three parcels of land near to one another (but separated by Crossley Lane and Cold Royd Lane), and two additional parcels not subject to this application.

The sites benefit from planning permission for the erection of 131 dwellings, across the three parcels, via application 2011/91152.

This Section 73 application seeks variations of condition of permission 2011/91152.

The three parcels which permission 2011/91152 concerned are identified as Parcels 1, 2, and 3¹. Of note, outline approval 2015/90430 (with associated Reserved Matters application 2020/90805) granted permission on the two adjacent parcels for a further 122 units. These are referred to as Parcels 4 and 5 but, for the avoidance of doubt, are not under consideration under this Section 73 application.

The following is a brief summary of Parcels 1, 2, and 3:

Parcel 1

Comprises a 2.7ha site bounded by Long Lane to the north and east, and by Lees Head Beck to the south. To the southeast is the boundary with Parcel 4.

The site was historically greenfield, however development associated with 2011/91152 has commenced and has significantly progressed at the time of writing. 2011/91152 approved 60 units on Parcel 1. Access is to be taken off Long Lane (two vehicular accesses), which is to form a loop and a cul-de-sac. There will be a private drive link on the southern boundary of the site, where a number of houses will be accessed and face onto the green corridor, between this site and Lees Head Beck.

¹ Throughout the life of the site's development (under this and earlier applications), the parcels have been variably referred to as 1 to 3 or A to C, with A = 1, B = 2, and C = 3. For consistency hereafter, the parcels are referred to as 1 to 3. Parcels 4 and 5, subject to separate application 2015/90430 have been consistently referred to as parcel 4 and 5.

Parcel 2

Comprises 0.89ha, with a roughly square shape which fronts onto Cold Royd Lane. This site was formerly occupied by a warehouse building that has since been demolished, as such it is a brownfield site. The site is bounded by dwellings on Sutton Avenue and Sutton Drive. There is also a detached dwelling (5 Cold Royd Lane) next to the site. There are a number of trees on the perimeter of the site, but these are not protected, and the site is reasonably level.

Application 2011/91152 approved the erection of 35 dwellings on this parcel. Works that have commenced on this site are limited to foundation construction. Access is to be taken off Cold Royd Lane, and the development would be in the form of a cul-de-sac.

Parcel 3

Comprises a 0.99ha site located on the northern side of Crossley Lane. This site has a frontage of approximately 140m onto Crossley Lane, and is vacant brownfield land, having formerly been occupied by industrial buildings.

2011/91152 approved 36 dwellings on the parcel. The principal access point would be off Crossley Lane. There are to be two additional access points serving communal parking areas. The layout involves a mix of terraced and semi-detached dwellings, and there is to be a strong regular building line onto Crossley Lane.

In terms of the wider area, this has not materially changed since the assessment of application 2011/91152. While largely residential in nature, of note there are commercial units to the east of parcel 3 and a green route along Lees Head Beck to the south of parcel 1.

Description of Proposal

Parcels 1 and 3 have been purchased by Crest Nicholson, the part applicant. Parcel 1 is to host 60 units and parcel 3 is to host 36, for a combined total of 96 dwellings. Narbourne Ltd, is to retain parcel 2.

This variation seeks to amend conditions, via Section 73 of the Town and Country Planning Act 1990, to enable development to progress in a phased approach based on two developers taking forward different parcels, at different times.

In addition, approval of amended house types is sought, to reflect the new developer on site.

The following conditions are sought to be amended:

Condition 2 (plans table)

2. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions attached to this permission which in all cases take precedence.

Reason: *For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion and to accord with Policies D2, BE1, BE2, BE12, H1, H10, H18, T10, T19, D6, G6 and EP4 of the Kirklees Unitary Development Plan.*

It is proposed that condition 2's wording would be retained as proposed, but the plans table amended to include the new house types of the applicant. Given parcel 3 would remain as approved, the original plans would also still need to be listed (i.e., not fully replaced by the new plans).

Via the changes proposed, the site's housing mix would change from:

- 2-beds: 3 (3%)
- 3-beds: 71 (74%)
- 4-beds: 22 (23%)

To:

- 2-beds: 3 (3%)
- 3-beds: 74 (77%)
- 4-beds: 19 (20%)

House type changes would not be direct swaps. For example, all approved 'house type A' plots would not swap to new 'house type 1'. The aesthetics and design principles between the approved and proposed house types are comparable although more notable changes include:

- A new feature is the inclusion of pitched roof dormers on the front elevations of certain house types.
- Plots C9 to C16 were approved as house type N, a dwelling presenting three storeys to the front and two to the rear. They are now proposed as 3B.F1, a true 2-storey house type, with the retaining works moved into the rear gardens. While the house type N has a single integral garage and one parking space, the 3B.F1 has no garage and two parking spaces to the front.

Conditions 3 (material samples to be provided), 4 (tree protection measures and landscaping), 11 (finished floor level details), 12 (landscape management plan), 16 (noise) and 17 (traffic calming measures)

The following conditions are sought to be varied through the addition of a phasing clause allowing for the required information to be submitted per phase (i.e., parcel 1, 2 or 3), as opposed to the original wording that would need all parcels' information to be provided at once. Amendments to the triggers are also proposed.

Condition 3 as approved:

3. No development shall take place until a sample facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

Reason: *In the interests of the visual amenities of the area and to accord with Policies BE1 and BE2 of the Unitary Development Plan.*

Condition 3 as proposed:

3. No development above sub-structure within each Phase shall take place until a sample facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

Condition 4 as approved:

4. Development shall not commence until a scheme detailing tree, shrub planting including the indication of all existing trees and hedgerows, on and adjoining the site; details of any to be retained together with measures for their protection in the course of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the landscaping scheme shall be implemented in accordance with the agreed phasing. The approved landscaping scheme shall, from its completion be maintained for a period of 5 years. If within that period any tree, hedge or shrub shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent for any variation.

Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policy BE1 of the Unitary Development Plan and the guidance in Chapter 11 of the National Planning Policy Framework.*

Condition 4 as proposed:

4. No development above sub-structure within each Phase shall commence until a scheme detailing tree, shrub planting including the indication of all existing trees and hedgerows, on and adjoining the site; details of any to be retained together with measures for their protection in the course of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the landscaping scheme shall be implemented in accordance with the agreed phasing. The approved landscaping scheme shall, from its completion be maintained for a period of 5 years. If within that period any tree, hedge or shrub shall die, become

diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent for any variation.

Condition 11 as approved:

11. Prior to development commencing details of the finished floor levels of the dwellings shall be submitted for the written approval of the Local Planning Authority. The dwellings shall be constructed in accordance with the approved finished floor levels.

Reason: *To ensure the dwellings remain safe in the event of a 1 in 100 year flood level with an allowance for climate change, in accordance with the guidance contained in the National Planning Policy Framework part 10 meeting the challenge of climate change, flooding and coastal change.*

Condition 11 as proposed:

11. Prior to development commencing in each phase details of the finished floor levels of the dwellings shall be submitted for the written approval of the Local Planning Authority. The dwellings shall be constructed in accordance with the approved finished floor levels.

Condition 12 as approved:

12. Prior to development commencing a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, outside of domestic curtilages, shall be submitted to an approved in writing by the Local Planning Authority. The Landscape Management Plan shall include the following:

- Details of the extent and types of any new planting;*
- Details of any new habitats created within the site;*
- Details of maintenance regimes for existing and any new habitats proposed on the site; and*
- Details of treatments of site boundaries.*

The Landscape Management Plan shall be carried out in accordance with approved details, and any subsequent variation will need to be submitted to and agreed in writing by the Local Planning Authority.

Reason: *To accord with Policy D6 of the Unitary Development Plan and the guidance contained in part 11 of the National Planning Policy Framework “Conserving and enhancing the natural environment”.*

Condition 12 as proposed:

12. Prior to occupation within each Phase a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas,

outside of domestic curtilages, shall be submitted to an approved in writing by the Local Planning Authority. The Landscape Management Plan shall include the following:

- *Details of the extent and types of any new planting;*
- *Details of any new habitats created within the site;*
- *Details of maintenance regimes for existing and any new habitats proposed on the site; and*
- *Details of treatments of site boundaries.*

The Landscape Management Plan shall be carried out in accordance with approved details, and any subsequent variation will need to be submitted to and agreed in writing by the Local Planning Authority.

Condition 16 as approved:

16. The noise attenuation measures listed in Chapter 5 of the Noise Report produced by Hepworths Acoustics (Re No.10643.01/1v1) shall be implemented prior to any of the dwellings identified as requiring attenuation measures being occupied, with written confirmation submitted to the local planning authority that confirms the noise levels identified in the report have been achieved. The approved measures shall thereafter be retained for the lifetime of the development.

***Reason:** To protect the residential amenities of future occupiers in accordance with Policy EP4 of the Unitary Development Plan.*

Condition 16 as proposed:

16. The attenuation measures listed in the Noise Report produced by Hepworths Acoustics NIA-11498-24-11789-v2 Crossley Lane, Dalton (Parcels 1, 3, 4) shall be implemented prior to any of the dwellings within that phase identified as requiring attenuation measures being occupied, with written confirmation submitted to the local planning authority that confirms the noise levels identified in the report have been achieved. The approved measures shall thereafter be retained for the lifetime of the development.

Condition 17 as approved:

17. No development authorised by this permission shall take place until a scheme detailing the proposed traffic calming measures, as shown for indicative purposes on Drawing No 5706-001 Rev B, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines together with an independent safety audit covering all aspects of the work. Before any dwelling is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: *In the interests of the free and safe use of the highway, and to accord with Policy T10 of the Unitary Development Plan.*

Condition 17 as proposed:

17. Prior to occupation of any dwelling within each phase authorised by this permission the traffic calming measures as shown on Paragon Drawing Reference and Timing Schedule shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

New condition sought

To assist the site being developed by two different developers, the applicant seeks for a new condition to be added, requiring that development be undertaken in accordance with a phasing plan. The following wording has been suggested:

X. The development hereby permitted shall be carried out in complete accordance with the Parcel Phasing Plan Reference 23 5666 51 (REV A).

Relevant Planning History

Application Site – Parcels 1, 2, and 3

2011/91152: Erection of 131 dwellings, formation of new accesses, laying out of internal access roads, and creation of play areas – Approved.

2015/92373: Discharge of conditions 3 (materials), 4 (planting) and 12 (landscape management plan) of previous permission 2011/91152 – Approved.

2016/92098: Discharge of conditions 6 (on-site surface water), 10 (surface water-vehicle parking) and 11 (floor levels of dwellings) of previous permission 2011/91152 – Approved.

2016/92795: Discharge of conditions 9 (surface water), 13 (Remediation Strategy) and 17 (traffic calming measures) of previous permission 2011/91152 – Approved.

2021/93393: Certificate of lawfulness to confirm valid commencement of four dwellings approved under 2011/91152 within the 3 year time limit given in condition 1 – Approved.

Note: Application 2021/93393 confirmed that permission 2011/91152 has lawfully commenced and therefore remains an extant permission.

2025/90051: Non material amendment to previous permission 2011/9115 – Approved.

Surrounding Area

Land to North and South of Crossley Lane, Dalton, HD5 0QP – Parcels 4 and 5

2014/93835: Prior notification for demolition of buildings – Approved.

2015/90430: Outline application for erection of residential development comprising (Use Class C3) and incorporating associated new access (to Crossley Lane and Cold Royd Lane), and associated works – Approved.

2020/90805: Reserved matters application pursuant to outline permission 2015/90430 (122 dwellings) – Approved.

2024/92454: Discharge of details reserved by conditions 5 (access highway works), 6 (traffic calming measures), 8 (construction traffic), 9 (Phase II Intrusive Site Investigation Report), 10 (Remediation Strategy) and 14 (landscape) of previous outline permission 2015/90430 – Ongoing.

2024/92458: Discharge of details reserved by conditions 2 (junction works), 5 (CEMP), 6 (CEMP: Biodiversity), 7 (temporary drainage) and 8 (Ecological Design Strategy) of previous reserved matters approval 2020/90805 – Ongoing.

2024/92774: Variation of conditions 5 (highway works), 6 (traffic calming), 7 (visibility splays), 8 (construction traffic), 12 (Validation Report), 13 (FRA), and 14 (landscape) of previous outline permission 2015/90430 – Ongoing.

2024/92775: Variation of conditions 1 (plans), 2 (road widening), 3 (drainage), 4 (internal roads), 5 (CEMP), 6 (CEMP: Biodiversity), 7 (drainage), 8 (EDS), 9a, 9b (drainage), 10 (windows), 11 (lighting), 12 (refuse collection), 13 (cycle parking), 14 (boundary treatments), 17 (landscape) and 18 (materials) of previous reserved matters approval 2020/90805 – Ongoing.

2024/92842: Discharge of details reserved by conditions 3 (drainage) and 4 (adoptable estate roads) of previous Reserved Matters approval 2020/90805 – Ongoing.

2025/91573: Certificate of lawfulness to confirm valid commencement of development approved under outline planning permission 2015/90430 – Ongoing.

History of Negotiations

Negotiations have been undertaken to agree the specific off-site highway works required to deliver each phase, per the phasing sought by the applicant. Clarity and amendments were also sought regarding the internal highway details following concerns from K.C. Highways. Other negotiations have included minor adjustments to certain plots, to more closely align to the

layout and design approved as part of the original parent application, and securing a Section 106 Deed of Variation.

The applicant has worked proactively with officers to address the concerns raised, allowing for officers to support the proposal as amended.

Representations

Final publicity date expired: 21/11/2025

The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the council's adopted Statement of Community Involvement.

The proposal was readvertised via site notice following amendments in October 2025.

One public representation was received in response to the proposal. The following is a summary of the comments received:

- Concerns regarding the impacts on the trees that divide the back of the houses on Sutton Avenue and parcel 2. While it is noted that some of the trees may be unsafe the majority of them are healthy and have nesting boxes that are used every year by the blue tits and robins etc we also have a healthy population of bats and owls that use or live in these trees.

Planning Policy

Kirklees Local Plan (KLP)

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).

Parcels 2 and 3 are within housing allocation HS29, which also includes parcels 4 and 5. Parcel 1 is unallocated land.

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP9** – Supporting skilled and flexible communities and workforce
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycle network
- **LP24** – Design

- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safestyles
- **LP49** – Educational and health care needs
- **LP50** – Sports and physical activities
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban Green Space

The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

Supplementary Planning Documents

- Affordable Housing and Housing Mix SPD (2023)
- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

National Policies and Guidance

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

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places

- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

A consultation draft of a revised National Planning Policy Framework was published on 16/12/2025. This document is at an early stage and may be subject to change. Accordingly, for the purposes of this application, no weight is given to the current consultation document.

Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

Climate change

The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

On 12/11/2019 the council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

Consultation Responses

K.C. Highways: Expressed initial concerns over the internal changes to the proposed roads and sought clarity on the phasing of the off-site highway works. Through engagement with the applicant, these concerns have been addressed and K.C. Highways, in their final comments, confirmed no objection to the proposal.

K.C. Environmental Health: No objection subject to previous conditions being retained and a new condition being imposed relating to noise mitigation measures, to reflect the changes to parcels 1 and 3.

Assessment

This application is made under Section 73 of the Town and Country Planning Act 1990, which allows for the 'Determination of applications to develop land without compliance with conditions previously attached'. In addition to removing conditions, Section 73 enables the varying of a condition's wording. The effect of a granted Section 73 application is the issuing of a fresh planning permission and the decision notice should list all conditions pertaining to it. The application cannot, however, 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, both the unallocated part of the site and the part that falls within HS29, 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.

Descriptions of development may not be changed under Section 73 applications. This is not sought under this application, nor would it be necessary at this site.

Proposed variation of condition 2

Housing mix

Via the changes proposed, the site's housing mix would change from:

- 2-beds: 3 (3%)
- 3-beds: 71 (74%)
- 4-beds: 22 (23%)

To:

- 2-beds: 3 (3%)
- 3-beds: 74 (77%)
- 4-beds: 19 (20%)

As can be seen, the proposal would further increase the provision of 3-bed units. This would cause the development to further depart from the expectations of the council's Affordable Housing and Housing Mix SPD, which has an expected cap of 45% for 3-bed units (in the Huddersfield North sub-area). It should, however, be noted that the SPD was adopted in 2023, well after the original application's determination. Furthermore, it applies a 'comply or justify' principle.

To contextualise the change, the applicant initially sought to provide eight more 4-bed units, at the expense of eight 3-bed units. While this was welcomed in principle, due to constraints with the site and approved layout, the 'new' 4-bed units proposed could only provide two parking spaces. Per the Kirklees Highway Design Guide SPD, 4-bed units are expected to provide three parking spaces, while 3-bed units are expected to provide two. Given the shortfall in parking, which could not be reasonably mitigated, officers advised that the plots should be amended back to 3-bed units (notwithstanding the above concern regarding mix), which the applicant complied with.

Overall, and considering the above context and history of the proposal, while the further increase in 3-bed units weighs against the proposal, that weight is limited and does not, in itself, justify a reason for refusal. The mix, while not ideal, is not materially different to that approved, and is therefore acceptable.

Urban design implications

The layout of the development would not significantly change. Plot locations would predominantly be the same. While dwelling footprints would shift in their plots (to accommodate changing house types and/or other factors), overall, the alterations are minimal and would not materially affect the visual amenity of the proposal.

In terms of the appearance of the dwellings and their architectural design, while the approved and proposed house types are different, the differences are limited with them sharing an architectural styling. Overall, they can each be referred to as contemporary Pennine vernacular, which is fitting and in character for the area.

Materials were controlled via condition 3, which is sought to be varied, and is considered in more detail below.

The most notable proposed amendment is the number of 2.5-storey properties sought. As approved, there were eight 3-storey properties (all on parcel 3) and six 2.5-storey properties (all on parcel 1). As proposed, there would be no 3-storey properties² but there would be 42x 2.5-storey properties (spread across the two parcels). This represents a not insignificant percentage of the 96 units (44%). Nevertheless, this is not, in itself, a cause for concern.

² Following amendments to plots C9 to C16.

2.5-storey properties alongside 2-storey properties are not unusual in residential developments nowadays, nor are the heights of 2.5-storey dwellings considered excessive. Those proposed would not be unduly prominent from outside the site, nor harmful to the established character of the area. The habitable roof space is proposed to be achieved using dormers, with those proposed being modest in size, centrally located, with pitched roofs, resulting in a neat and attractive appearance that would not detract from the overall aesthetic of the properties. The plots that are proposed to include dormers are also well spread through the site, without being overly prominent on Crossley Lane. Therefore, officers have no concerns regarding their inclusion.

Plots C9 to C16 as approved, presented three storeys to the front, and two to the rear, partly retaining the land. As proposed, they are to be 2.5-storey with the retaining works pushed back into their respective gardens. The resulting retaining wall would be set to the rear of the site and would be near fully screened by plots C9 to C16. Therefore, it would not materially impact either the visual quality of the proposed development nor the wider character of the area.

It is acknowledged that the proposal would result in parcels 1 and 3 having different dwelling types to parcel 2. This is not inherently an issue of concern, given the visual separation between the parcels as well as the varied design of dwellings in the wider area. Furthermore, as noted above, the previously-approved and new dwellings are not significantly visually distinctive, and they would share various design features.

Overall, the proposed variations are considered visually attractive. The dwellings proposed are attractive and would suitably harmonise with the established character of the area, in accordance with the aims and objectives of policy LP24 of the Kirklees Local Plan.

Residential amenity implications

Parcels 1 and 3 (those subject to the variations sought) are largely removed from third party dwellings. There are no dwellings adjacent to any of parcel 3's boundaries, nor to the east, south, or west of parcel 1. The properties in parcel 1 that front onto Crossley Lane face those on the opposite side of the road to the north, however, the separation distances proposed are typically in excess of 30m, and not materially different to that approved as part of the original permission.

No alterations are sought to the dwellings on parcel 2, which has a closer relationship with properties on Sutton Avenue and Cold Royd Lane.

Accordingly, officers are satisfied that the variations sought would not prejudice the amenity of existing residents.

Consideration must also be given to the potential impacts upon the dwellings approved pursuant to outline 2015/90430 (with the associated Reserved Matters approval 2020/90805), identified as parcels 4 and 5.

Officers are satisfied that the proposed layout of the dwellings, and the changes sought, would not be materially different to the previously-approved relationship between parcels 1 and 3, and 4 and 5.

Finally, consideration must be given to the amenity of future occupiers. The sizes of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units.

The following table lists the proposed dwellings against the relevant NDSS standard:

House type	Internal area (GIA sqm)	NDSS minimum (GIA sqm)	NDSS met?
2B.CR / 2-bed	71	70	Yes
TC2+ / 2-bed	77	70	Yes
TF (previously approved) / 3-bed	82	84	No
3B.L1 / 3-bed	82	84	No
3B.H1 / 3-bed	80	84	No
3B.R1 / 3-bed	86	84	Yes
3B.CH2 / 3-bed	93	93	Yes
TG / 4-bed	109	97 ³ /103 ⁴	Yes
TP / 4-bed	111	97/103	Yes
4B.F2 / 4-bed	105	97/103	Yes
4B.K1 / 4-bed	114	97/103	Yes
4B.H2 / 4-bed	120	97/103	Yes
4B.D1 / 4-bed	128	97/103	Yes

Three house types would fall below the NDSS. However, it must be acknowledged that the original application was determined before the NDSS

³ For 2-storey homes

⁴ For 3- or 2.5-storey homes

were published⁵. As approved, several of the original house types also fell below NDSS. For example, approved house type C2 (a 2-bed) and C3 (a 3-bed) each provide 67sqm of floorspace. The NDSS would seek 70sqm and 84sqm respectfully. Given the nominal shortfall identified in the above table, and having regard to the previous approval, on balance the size of the units is considered acceptable. This also takes into account that, other than the identified shortfall, all proposed units would otherwise provide a high standard of amenity (commensurate garden sizes are noted, as is the fact that all habitable rooms would be served by suitably sized windows that provide a good level of outlook and natural light).

The separation distances within the site, between the new dwellings, are appropriate, raising no issues regarding overbearing impacts, overshadowing, or overlooking between future residents.

The previously-applied condition 16 related to noise mitigation measures and would be impacted upon by the proposed variation to condition 2. Condition 16 has been sought to be varied and is considered below.

Highway implications

Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

For highway implications, the variation of condition 2 principally relates to the internal road and how the plots relate to it. In their comments dated 10/02/2026, K.C. Highways provided the following assessment of the proposal (as amended):

Since the original planning permission was granted in November 2013 the Highway Authority's view on the most appropriate traffic calming measures and treatment of the Crossley Lane corridor has changed and following discussions with the Highway Safety Team a revised scheme has been developed.

As the scheme has developed it has been reviewed and subject to a Stage 1 RSA. The latest proposals, which incorporate recommendations identified in the RSA are considered acceptable in principle and that there are no significant issues that cannot be suitably addressed at detailed design. Implementation of the works will require the Applicant to enter into a Section 278 Agreement with the Highway Authority, where the detailed design will be finalised and subject to a Stage 2 RSA.

⁵ Published 27/03/2015.

It is noted that the Applicant is in initial discussions with the Highway Authority's Highway Design Team with regards to entering into a Section 278 Agreement and implementation of the highway works. HDM are satisfied that condition 17 can be varied to reflect the latest scheme, as per the above listed plans.

Whilst not specifically requested as a matter for consideration in this application the submission also includes revised site layout plans for parcels 1 and 3, which have been revised to address comments raised by the Highway Authority's Section 38 Team. The Applicant is in discussions with the Section 38 Team, with regards to gaining technical approval and entering into a Section 38 Agreement for adoption of the internal road layout. The revised layouts have been reviewed and following discussions with the Section 38 Team, HDM are satisfied that from a planning perspective the layout of parcels 1 and 3 are acceptable.

In summary, the internal road changes sought are in response to the applicant's ongoing engagement with K.C. Highways (Section 38 team). The plans, as now submitted, align with the works undertaken with the Section 38 team and are considered acceptable, for planning purposes, with final engagement with the Section 38 team understood to be ongoing.

More generally, the proposed variation to the house types would not affect how the development would relate to the on-site road or wider highway network. Proposed parking levels are considered acceptable and accord with that approved as part of the original application.

Consideration of the proposed variation of condition 17 (traffic calming measures) is considered later in this assessment.

Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. It would therefore comply with policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

Other matters

The variation of condition 2, seeking to vary the layout and proposed house types, is not considered to impact any other material planning considerations, subject to the conditions previously imposed being reimposed (as required). This is considered in further detail below.

Variation of condition 2 – conclusion

The wording of condition 2 would not change to facilitate the desired amendments however the plans table would be revised to reflect the additional plans. As parcel 2 is to be unaffected by this change, the previously-listed plans would need to be retained, not replaced.

Proposed variation of condition 3 (material samples to be provided).

Condition 3 as approved:

3. No development shall take place until a sample facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

Reason: *In the interests of the visual amenities of the area and to accord with Policies BE1 and BE2 of the Unitary Development Plan.*

Condition 3 as proposed:

3. No development above sub-structure within each Phase shall take place until a sample facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed of the approved materials.

Officers have no concerns over amending condition 3 to include separate phasing requirements, allowing for the separate discharge for parcels 1, 2 and 3.

In terms of the trigger changing from 'no development shall take place' to 'no development above sub-structure', likewise this raises no concerns in principle, although officers consider the wording of 'pre-superstructure', more clearly defined and appropriate. Since 2011 government guidance has steered Local Planning Authorities away from pre-commencement conditions, unless necessary. In this case the proposed 'above sub-structure' limit would be an appropriate trigger.

Notwithstanding the above, it should be noted that condition 3 has been previously discharged via application 2015/92373. During the course of the application, officers have considered the new submitted material details for parcels 1 and 3 and found them to be acceptable, being of suitable quality and in keeping with the surrounding area (and similar to those previously approved via the DoC application). In light of this, the following condition has been agreed with the applicant and is now recommended:

3. The development shall be constructed of the facing and roofing materials specified on the following drawings, unless otherwise approved in writing by the local planning authority by means of an application for the approval of details reserved by condition:

- *Parcel 1 – 23:5666:30 Rev. C*
- *Parcel 2 – P09:4267:51 Rev 0 (approved under Discharge of Condition application 2015/92373).*
- *Parcel 3 – 23:5666:31 Rev. C*

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

Proposed variation of condition 4 (tree protection measures and landscaping)

Condition 4 as approved:

4. Development shall not commence until a scheme detailing tree, shrub planting including the indication of all existing trees and hedgerows, on and adjoining the site; details of any to be retained together with measures for their protection in the course of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the landscaping scheme shall be implemented in accordance with the agreed phasing. The approved landscaping scheme shall, from its completion be maintained for a period of 5 years. If within that period any tree, hedge or shrub shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent for any variation.

Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policy BE1 of the Unitary Development Plan and the guidance in Chapter 11 of the National Planning Policy Framework.*

Condition 4 as proposed:

4. No development above sub-structure within each Phase shall commence until a scheme detailing tree, shrub planting including the indication of all existing trees and hedgerows, on and adjoining the site; details of any to be retained together with measures for their protection in the course of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the landscaping scheme shall be implemented in accordance with the agreed phasing. The approved landscaping scheme shall, from its completion be maintained for a period of 5 years. If within that period any tree, hedge or shrub shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent for any variation.

Similar to condition 3, officers have no objection to the initial proposed amended version of condition 4, with the adding of phasing allowances being logical. However, again, condition 4 has been previously discharged, and since the application was submitted discussions have progressed. Therefore, the following amended wording, with specific landscaping plans referenced, has been agreed with the applicant and is recommended:

4. The development and the works comprising the landscaping scheme for each Parcel of the development shall be carried out in accordance with the following approved details and phasing for that Parcel, unless

otherwise approved in writing by the local planning authority by means of an application for the approval of details reserved by condition:

- *Parcel 1 – 23:5666:101 Rev. B*
- *Parcel 2 – P09 4267 122 (approved under Discharge of Condition application 2015/92373).*
- *Parcel 3 – 23:5666:103 Rev. B*

The approved landscaping shall be carried out during the first planting, seeding or management season following commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition, and shall be maintained for a period of five years from the completion of planting works. If within that period any tree, hedge or shrub shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the local planning authority gives its written consent for any variation.

Reason: *To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policies LP24 and LP30 of the Kirklees Local Plan and the guidance in Chapter 15 of the National Planning Policy Framework.*

Proposed variation of condition 11 (finished floor level details)

Condition 11 as approved:

11. Prior to development commencing details of the finished floor levels of the dwellings shall be submitted for the written approval of the Local Planning Authority. The dwellings shall be constructed in accordance with the approved finished floor levels.

Reason: *To ensure the dwellings remain safe in the event of a 1 in 100 year flood level with an allowance for climate change, in accordance with the guidance contained in the National Planning Policy Framework part 10 meeting the challenge of climate change, flooding and coastal change.*

Condition 11 as proposed:

11. Prior to development commencing in each phase details of the finished floor levels of the dwellings shall be submitted for the written approval of the Local Planning Authority. The dwellings shall be constructed in accordance with the approved finished floor levels.

As above, officers have no objection to the initial proposed amended version of condition 11, with the adding of phasing allowances being logical. However, again, condition 11 has been previously discharged and since the application was submitted discussions have progressed. Therefore, the following amended wording, with the approved levels referenced, has been agreed with the applicant and is recommended:

11. No dwelling here approved shall have its finished floor level be lower than those identified on the following plans, as approved under Discharge of Condition application ref. 2016/92098:

- Plan ref. 906/03/SK5
- Plan ref. 906/03/SK7
- Plan ref. 906/03/SK9

unless otherwise approved in writing by the local planning authority by means of an application for the approval of details reserved by condition

Reason: To ensure the dwellings remain safe in the event of a 1 in 100 year flood level with an allowance for climate change, in accordance with the guidance contained in the National Planning Policy Framework part 14 meeting the challenge of climate change, flooding and coastal change.

Proposed variation of condition 12 (landscape management plan)

Condition 12 as approved:

12. Prior to development commencing a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, outside of domestic curtilages, shall be submitted to an approved in writing by the Local Planning Authority. The Landscape Management Plan shall include the following:

- Details of the extent and types of any new planting;
- Details of any new habitats created within the site;
- Details of maintenance regimes for existing and any new habitats proposed on the site; and
- Details of treatments of site boundaries.

The Landscape Management Plan shall be carried out in accordance with approved details, and any subsequent variation will need to be submitted to and agreed in writing by the Local Planning Authority.

Reason: To accord with Policy D6 of the Unitary Development Plan and the guidance contained in part 11 of the National Planning Policy Framework “Conserving and enhancing the natural environment.”

Condition 12 as proposed:

12. Prior to occupation within each Phase a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, outside of domestic curtilages, shall be submitted to an approved in writing by the Local Planning Authority. The Landscape Management Plan shall include the following:

- *Details of the extent and types of any new planting;*
- *Details of any new habitats created within the site;*
- *Details of maintenance regimes for existing and any new habitats proposed on the site; and*
- *Details of treatments of site boundaries.*

The Landscape Management Plan shall be carried out in accordance with approved details, and any subsequent variation will need to be submitted to and agreed in writing by the Local Planning Authority.

The phasing of the condition is considered acceptable.

The submission of a management strategy for landscaping is no longer considered necessary prior to development commencing, with pre-occupation (per plot) being appropriate.

The proposed amendment would retain the aims and objectives of the condition, in a reasonable way, and is therefore recommended to be accepted.

Proposed variation of condition 16 (noise)

Condition 16 as approved:

16. The noise attenuation measures listed in Chapter 5 of the Noise Report produced by Hepworths Acoustics (Re No.10643.01/1v1) shall be implemented prior to any of the dwellings identified as requiring attenuation measures being occupied, with written confirmation submitted to the local planning authority that confirms the noise levels identified in the report have been achieved. The approved measures shall thereafter be retained for the lifetime of the development.

Reason: *To protect the residential amenities of future occupiers in accordance with Policy EP4 of the Unitary Development Plan.*

Condition 16 as proposed:

16. The attenuation measures listed in the Noise Report produced by Hepworths Acoustics NIA-11498-24-11789-v2 Crossley Lane, Dalton (Parcels 1, 3, 4) shall be implemented prior to any of the dwellings within that phase identified as requiring attenuation measures being occupied, with written confirmation submitted to the local planning authority that confirms the noise levels identified in the report have been achieved. The approved measures shall thereafter be retained for the lifetime of the development.

Splitting the condition's requirements into phases is considered acceptable in principle. However, the document referred to in the condition (Hepworths Acoustics (Re No.10643.01/1v1)) no longer reflects the amended layout and details for parcels 1 and 3. Therefore, an updated Noise Impact Assessment (Environmental Noise Solutions Limited (ref. NIA-11498-24-11789-v2)),

specific to the current Section 73 proposal, has been submitted. The report has been considered by officers and K.C. Environmental Health and found to be acceptable.

Parcel 2 is not sought to be amended as part of this application; therefore, the original NIA report is required pursuant to that parcel.

Parcels 1 and 3, as proposed to be amended, need to be built in accordance with the updated NIA report.

Accordingly, it is recommended that condition 16 be split into two parts (a and b, to avoid renumbering all conditions), one relating to parcels 1 and 3, and the other parcel 2, as follows:

16a. No dwelling within Parcel 1 or Parcel 3 of the development shall be occupied until any noise attenuation measures identified as being required for that dwelling have been implemented and completed in accordance with the Noise Impact Assessment: Proposed Residential Development – Land at Crossley Lane, Dalton, Huddersfield (Parcels 1, 3 and 4), reference: NIA-11498-24-11789-v2 Crossley Lane, Dalton (Parcels 1, 3, 4), produced by Environmental Noise Solutions Limited and dated 05/08/2024.

The approved noise attenuation measures shall thereafter be retained.

There shall be no changes to the approved noise attenuation measures unless details of revised noise attenuation measures have first been submitted to and approved in writing by the local planning authority by means of an application for the approval of details reserved by condition.

Reason: *To protect the residential amenities of future occupiers in accordance with Policy LP52 of the Kirklees Local Plan.*

16b. No dwelling within Parcel 2 of the development shall be occupied until any noise attenuation measures identified as being required for that dwelling have been implemented in accordance with Chapter 5 of the Noise Report produced by Hepworths Acoustics (Ref No: 10643.01/1v1).

The approved noise attenuation measures shall thereafter be retained.

There shall be no changes to the approved noise attenuation measures unless details of revised noise attenuation measures have first been submitted to and approved in writing by the local planning authority by means of an application for the approval of details reserved by condition.

Reason: *To protect the residential amenities of future occupiers in accordance with Policy LP52 of the Kirklees Local Plan.*

Proposed variation of condition 17 (traffic calming measures)

Condition 17 as approved:

17. No development authorised by this permission shall take place until a scheme detailing the proposed traffic calming measures, as shown for indicative purposes on Drawing No 5706-001 Rev B, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines together with an independent safety audit covering all aspects of the work. Before any dwelling is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: *In the interests of the free and safe use of the highway, and to accord with Policy T10 of the Unitary Development Plan.*

Condition 17 as proposed:

Prior to occupation of any dwelling within each phase authorised by this permission the traffic calming measures as shown on Paragon Drawing Reference and Timing Schedule shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Condition 17 has been previously discharged via DoC application 2016/92795. However, the proposed off-site highway works have continued to be revised and progressed upon through the course of the application (in conjunction with K.C. Highways (Section 278 and Section 38 teams), with K.C. Highways confirming the final details are acceptable for planning purposes. This included identifying which works are necessary for which phase.

As a result, the proposed amendment to condition 17 is considered out of date, with the following wording instead recommended:

17. No dwelling within any phase shall be occupied under that phase's allocated off-site highway improvement works, as identified by plan ref. PRGN-937-HGH-DR-CH-0001 rev. G, have been completed. Unless otherwise approved in writing by the Local Planning Authority, by means of an application for the approval of details reserved by condition, the off-site highway works shall be in accordance with the following plans:

- *PRGN-937-HGH-DR-CH-0001 rev. F*
- *PRGN-937-HGH-DR-CH-0002 rev. E*
- *PRGN-937-HGH-DR-CH-0003 rev. F*
- *PRGN-937-HGH-DR-CH-0004 rev. E*
- *PRGN-937-HGH-DR-CH-0005 rev. F*
- *PRGN-937-HGH-DR-CH-0006 rev. F*

Reason: In the interests of the free and safe use of the highway, and to accord with Policy LP21 of the Kirklees Local Plan.

New condition sought

To assisting in achieve the site being developers by two different developers, the applicant seeks for a new condition to be added, requiring that development be undertaken in accordance with a phasing plan. The following wording has been suggested:

X. The development hereby permitted shall be carried out in complete accordance with the Parcel Phasing Plan Reference 23 5666 51 (REV A).

Officers do not consider the above condition to be necessary, serving no material purpose. By virtue of the amendments to conditions recommended under this application, a phased approach to the development has been made integral to the proposal, which the above condition would not materially contribute towards.

Given the condition is not considered to be necessary, it fails the six tests for conditions and is not recommended to be included.

Previous Conditions and Planning Obligation(s)

As this is an application under Section 73 of TCPA 1990 it would, in effect, be a new permission. Planning practice guidance (The Use of Conditions) confirms that the original planning permission would continue to exist whatever the outcome of this application under Section 73, and that the conditions imposed on the original permission still have effect unless they have been discharged.

The PPG also confirms that for the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect (Paragraph: 040 Reference ID: 21a-040-20190723).

Application 2011/91152 was approved with 18 conditions. Of those, seven have been considered above. Those remaining are considered as follows:

- Condition 1: Imposed a time limit for commencement. Given the development has commenced, it is recommended that the condition be removed as it no longer serves a function. Subsequent conditions should not, however, be renumbered (renumbering would risk confusion when referring to the conditions of the respective permissions).

- Condition 5: Requires parking spaces to be provided and suitably drained. This continues to serve a purpose and is recommended to be retained.
- Condition 6: Required that details of surface water attenuation be submitted and approved. This condition was discharged via Discharge of Condition application 2016/92098.

Notwithstanding the current application's proposed changes, the details approved via DoC application 2016/92098 remain valid. The location of the attenuation tank and its size is not materially affected by the variations sought. Accordingly, it is recommended that condition 6 be amended to a compliance condition, referencing the previously-approved details.

- Condition 7: Establishes an easement of 4m over a sewer crossing the site. This continues to serve a purpose and is recommended to be retained.
- Condition 8: Requires that the development be served by separate drainage and surface water systems. This continues to serve a purpose and is recommended to be retained.
- Condition 9: Required that details of surface water point of discharge be submitted and approved. This condition was discharged via Discharge of Condition application 2016/92795.

As with condition 6, the changes under this Section 73 application do not materially impact upon the previously-approved details. Accordingly, it is recommended that condition 9 be amended to a compliance condition, referencing the previously approved details.

- Condition 10: Requires surface water from parking and hardstanding areas to pass through an interceptor and prevents roof water going into the interceptors. This continues to serve a purpose and is recommended to be retained.
- Condition 13: Required a remediation strategy to be submitted and approved. This condition was discharged via DoC application 2016/92795. Given that the proposed development does not seek to materially change the layout of the development (i.e., encroach outside of the approved confines of the development), there are considered to be no grounds to seek a new remediation strategy. It is recommended that condition 13 be removed, although condition 14 (considered below) would need to be amended accordingly. Again, no renumbering of subsequent conditions is recommended.
- Condition 14: Requires development to be undertaken in accordance with the remediation strategy approved pursuant to condition 13, with provisions for unexpected contamination. This continues to serve a

purpose and is recommended to be retained, although it is recommended to be amended to specifically reference the approved remediation strategy, per Discharge of Condition 2016/92795, as discussed above.

- Condition 15: Requires a post-remediation validation report to be submitted and approved. This continues to serve a purpose and is recommended to be retained.
- Condition 18: Requires that the areas to be used by vehicles including parking, loading and unloading areas be surfaced and drained before the development is brought into use. This continues to serve a purpose and is recommended to be retained.

Outdated policy references in the conditions need to be updated to refer to the current Local Plan.

No new conditions are considered necessary.

Application 2011/91152 was granted subject to a Section 106 agreement which secured various planning obligations. A Section 106 deed of variation has been secured, carrying over all previous obligations. The Section 106 agreement was uploaded to the council's website on 09/03/2026, and was therefore visible to the public from the morning of 10/03/2026. This publication (prior to determination of the application) complies with Article 40(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. No public comments were received relating to it. The final agreement is dated 06/03/2026.

Representations

- Concerns regarding the impacts on the trees that divide the back of the houses on Sutton Avenue and parcel 2. While it is noted that some of the trees may be unsafe the majority of them are healthy and have nesting boxes that are used every year by the blue tits and robins etc we also have a healthy population of bats and owls that use or live in these trees.

Response: No changes are sought to parcel 2, adjacent to Sutton Avenue, under this Section 73 application.

Conclusion

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

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the

development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Report Dated: 10/03/2026

Application Number: 2024/92776

Decision Authorisation: Delegated powers

Officer Recommendation: Approve variation of conditions

Conditions and Reasons

Note: Parcel definition

For the avoidance of doubt, any reference to 'Parcel' or 'Parcels' in the conditions on this permission shall refer to the Parcels of the development as defined on plan 23-5666-51 Rev. D.

1. DELETED – Development has commenced.

2. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications except as may be required by other conditions attached to this permission which in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion and to accord with Policies LP1, LP4, LP21, LP22, LP24, LP28, LP30, LP31 and LP53 of the Kirklees Local Plan.

3. The development shall be constructed of the facing and roofing materials specified on the following drawings, unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition:

- Parcel 1 – 23:5666:30 Rev. C
- Parcel 2 – P09:4267:51 Rev 0 (approved under Discharge of Condition application 2015/92373).
- Parcel 3 – 23:5666:31 Rev. C

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

4. The development and the works comprising the landscaping scheme for each Parcel of the development shall be carried out in accordance with the following approved details and phasing for that Parcel, unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition:

- Parcel 1 – 23:5666:101 Rev. B
- Parcel 2 – P09 4267 122 (approved under Discharge of Condition application 2015/92373).
- Parcel 3 – 23:5666:103 Rev. B

The approved landscaping shall be carried out during the first planting, seeding or management season following commencement of development, or as otherwise may be agreed in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition, and shall be maintained for a period of five years from the completion of planting works. If within that period any tree, hedge or shrub shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent for any variation.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and biodiversity and to accord with Policies LP24 and LP30 of the Kirklees Local Plan and the guidance in Chapter 15 of the National Planning Policy Framework.

5. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government: and Environment Agency's "Guidance on the permeable surfacing of front gardens (parking areas) published 13/05/2009 (ISBN 9781409804864) as amended or superseded, unless otherwise agreed in writing by the Local Planning Authority, and thereafter retained throughout the lifetime of the development.

Reason: To ensure the effective management of surface water in the interests of flood prevention and to accord with the guidance contained in Chapter 14 of the National Planning Policy Framework.

6. No dwelling within any phase shall be occupied under that phase's on-site surface water attenuation have been implemented in accordance with the following plans approved under Discharge of Condition application 2016/92098:

- Plan ref. 906/03/SK4 Rev. D
- Plan ref. 906/SK6 Rev. C
- Plan ref. 906/SK8 Rev. D

unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition.

Reason: In the interests of the satisfactory surface water attenuation and drainage of the site and to accord with Policies LP4 and LP28 of the Kirklees Local Plan and the guidance contained in Chapter 14 of the National Planning Policy Framework.

7. No building or other obstruction shall be located over or within 4m either side of the centre line of the sewers which cross the site.

Reason: In the interests of the satisfactory drainage of the site and future maintenance and to accord with Policies LP4 and LP28 of the Kirklees Local Plan and the guidance contained in Chapter 14 of the National Planning Policy Framework.

8. The site shall be developed with separate systems of drainage for foul and surface water on and off the site.

Reason: In the interests of the satisfactory drainage of the site and to accord with Policies LP4 and LP28 of the Kirklees Local Plan and the guidance contained in Chapter 14 of the National Planning Policy Framework.

9. No dwelling within any phase shall be occupied under that phase's outfall for surface water has been implemented in accordance with the following plans approved under Discharge of Condition application 2016/92795:

- Plan ref. 906/03/SK4 Rev. D
- Plan ref. 906/SK6 Rev. C
- Plan ref. 906/SK8 Rev. D

unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition

Reason: In the interests of the satisfactory surface water attenuation and drainage of the site and to accord with Policies LP4 and LP28 of the Kirklees Local Plan and the guidance contained in Chapter 14 of the National Planning Policy Framework.

10. Surface water from the vehicle parking and hard standing areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage shall not be passed through any interceptor.

Reason: In the interests of the satisfactory drainage of the site and to accord with Policies LP4 and LP28 of the Kirklees Local Plan and the guidance contained in Chapter 14 of the National Planning Policy Framework.

11. No dwelling here approved shall have its finished floor level be lower than those identified on the following plans, as approved under Discharge of Condition application ref. 2016/92098:

- Plan ref. 906/03/SK5
- Plan ref. 906/03/SK7
- Plan ref. 906/03/SK9

unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition

Reason: To ensure the dwellings remain safe in the event of a 1 in 100 year flood level with an allowance for climate change, in accordance with the guidance contained in Chapter 14 of the National Planning Policy Framework.

12. No part of the development on any Parcel of the development shall be first occupied until a Landscape Management Plan for that Parcel, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, outside of domestic curtilages, has been submitted to and approved in writing by the Local Planning Authority.

The Landscape Management Plan for each Parcel of the development shall include the following:

- Details of the extent and types of any new planting;

- Details of any new habitats created within the site;
- Details of maintenance regimes for existing and any new habitats proposed on the site; and
- Details of treatments of site boundaries.

The Landscape Management Plan for each Parcel of the development shall be carried out in accordance with the details thereby approved, and any subsequent variation shall be submitted to and approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition.

Reason: To accord with Policy LP31 of the Kirklees Local Plan and the guidance contained in Chapter 15 of the National Planning Policy Framework.

13. DELETED – Discharged via Discharge of Condition application 2016/92795.

14. The development hereby approved shall be implemented in accordance with the Remediation Strategy set out within the following documents approved under Discharge of Condition application 2016/92795:

- Phase 1/ 2 report with the Remediation as Appendix H – MWD/01r1; and
- Gas Monitoring report MWD/01/EGH 12/10/2016.

In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered (either in the Preliminary Risk Assessment or the Phase 2 Intrusive Site Investigation Report) is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified 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 the site is fit to receive new development in accordance with Policy LP53 of the Kirklees Local Plan.

15. Following completion of any measures identified in the approved 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 measures has been approved in writing by the Local Planning Authority.

Reason: To ensure the site is fit to receive new development in accordance with Policy LP53 of the Kirklees Local Plan.

16a. No dwelling within Parcel 1 or Parcel 3 of the development shall be occupied until any noise attenuation measures identified as being required for that dwelling have been implemented and completed in accordance with the Noise Impact Assessment: Proposed Residential Development – Land at Crossley Lane, Dalton, Huddersfield (Parcels 1, 3 and 4), reference: NIA-11498-24-11789-v2 Crossley Lane, Dalton (Parcels 1, 3, 4), produced by Environmental Noise Solutions Limited and dated 05/08/2024.

The approved noise attenuation measures shall thereafter be retained.

There shall be no changes to the approved noise attenuation measures unless details of revised noise attenuation measures have first been submitted to and approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition.

Reason: To protect the residential amenities of future occupiers in accordance with Policy LP52 of the Kirklees Local Plan.

16b. No dwelling within Parcel 2 of the development shall be occupied until any noise attenuation measures identified as being required for that dwelling have been implemented in accordance with Chapter 5 of the Noise Report produced by Hepworths Acoustics (Ref No: 10643.01/1v1).

The approved noise attenuation measures shall thereafter be retained.

There shall be no changes to the approved noise attenuation measures unless details of revised noise attenuation measures have first been submitted to and approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition.

Reason: To protect the residential amenities of future occupiers in accordance with Policy LP52 of the Kirklees Local Plan.

17. No dwelling within any phase shall be occupied under that phase's allocated off-site highway improvement works, as identified by plan ref. PRGN-937-HGH-DR-CH-0001 rev. G, have been completed. Unless otherwise approved in writing by the Local Planning Authority by means of an application for the approval of details reserved by condition, the off-site highway works shall be in accordance with the following plans:

- PRGN-937-HGH-DR-CH-0001 rev. F
- PRGN-937-HGH-DR-CH-0002 rev. E
- PRGN-937-HGH-DR-CH-0003 rev. F
- PRGN-937-HGH-DR-CH-0004 rev. E
- PRGN-937-HGH-DR-CH-0005 rev. F
- PRGN-937-HGH-DR-CH-0006 rev. F

Reason: In the interests of the free and safe use of the highway, and to accord with Policy LP21 of the Kirklees Local Plan.

18. The areas to be used by vehicles including parking, loading and unloading areas shall be surfaced and drained before the development is brought into use.

Reason: In the interests of the free and safe use of the highway and to accord with Policies LP21 and LP22 of the Kirklees Local Plan.

Off-site Highway Works – Informative

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Local Highway Authority is required.

You are required to consult the Local Highway Authority Design Engineer (Kirklees Street Scene: 01484 221000) at the earliest opportunity in the development process to obtain approval of the design details, agree the mechanism for delivery, and obtain the necessary permissions / permits to enable the delivery of the works.

This process will involve entering into a Section 278 agreement of the Highways Act 1980 or other appropriate agreement to enable delivery of the works. The applicant is advised to make early contact with the Local Highway Authority Design Engineer, to ensure that the delivery of the works does not delay occupation of the development.

Interference with the highway without such permission is an offence which could lead to prosecution.

Section 38 Agreement - Informative

The applicant should be aware that the internal street layout will need to be built to adoptable standards if offered for adoption under Section 38 of the Highways Act 1980. The applicant is advised to make early contact with the Highways Section 38 team at Highways.Section38@kirklees.gov.uk to initiate the Section 38 process, technical approval and agreement. Further information is available on the council's website at: Highways Guidance Note - Section 38 Agreements for Highway Adoptions (kirklees.gov.uk).

Any future applications for adoption under Section 37 must demonstrate to the satisfaction of the Highway Authority that all of the roads applied for under Section 37 have been constructed to an adoptable standard in accordance with Highways Guidance Note - Section 38 Agreements for Highway Adoptions (kirklees.gov.uk)

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Plans approved under Section 73 Application reference 2024/92776			
Proposed Site / Block Layout	23 5666 01	Rev. H	20/01/2026
Proposed Site / Block	23-5666-03	Rev. D	20/01/2026

Plan Type	Reference	Version	Date Received
Layout			
Plan General	23-5666-04		13/03/2025
Plan General	23-5666-05	Rev. A	14/10/2025
Plan General	23-5666-06		13/03/2025
Proposed Site Sections	23-5666-07	Rev. B	03/10/2025
Proposed Site / Block Layout	23-5666-10	Rev. D	20/01/2026
Proposed Site / Block Layout	23-5666-11	Rev. D	24/02/2026
Proposed Site / Block Layout	23-5666-51	Rev. D	03/10/2025
Proposed Site / Block Layout	23-5666-30	Rev. C	20/01/2026
Proposed Site / Block Layout	23-5666-31	Rev. C	20/01/2026
Proposed Landscaping Layout	25-5666-103	Rev. C	06/03/2026
Proposed Landscaping Layout	25-5666-101	Rev. C	06/03/2026
Grouped Plans and Elevations	23-5666-5021		03/10/2025
Grouped Plans and Elevations	23-5666-5022		03/10/2025
Grouped Plans and Elevations	23-5666-5024		03/10/2025
Grouped Plans and Elevations	23-5666-5044		03/10/2025
Grouped Plans and Elevations	23-5666-5045		03/10/2025
Grouped Plans and Elevations	23-5666-5059		03/10/2025
Plan General	23-5666-5000	Rev. A	13/03/2025
Plan General	23-5666-5002	Rev. B	13/03/2025
Plan General	23-5666-5003	Rev. B	13/03/2025
Plan General	23-5666-5004	Rev. A	13/03/2025
Plan General	23-5666-5006	Rev. B	13/03/2025
Plan General	23-5666-5012	Rev. A	13/03/2025
Plan General	23-5666-5014	Rev. A	13/03/2025
Plan General	23-5666-5018	Rev. B	13/03/2025
Plan General	23-5666-5023	Rev. A	13/03/2025
Plan General	23-5666-5028	Rev. B	13/03/2025
Plan General	23-5666-5030	Rev. A	13/03/2025
Plan General	23-5666-5032	Rev. A	13/03/2025
Plan General	23-5666-5035	Rev. C	13/03/2025
Plan General	23-5666-5038	Rev. C	13/03/2025
Plan General	23-5666-5039	Rev. A	13/03/2025
Plan General	23-5666-5034	Rev. B	13/03/2025
Plan General	23-5666-5040	Rev. B	13/03/2025

Plan Type	Reference	Version	Date Received
Plan General	23-5666-5041	Rev. B	13/03/2025
Plan General	23-5666-5042	Rev. B	13/03/2025
Plan General	23-5666-5049	Rev. B	13/03/2025
Highway Plans	0001	Rev. F	20/01/2026
Highway Plans	0002	Rev. E	20/01/2026
Highway Plans	0003	Rev. F	20/01/2026
Highway Plans	0004	Rev. E	20/01/2026
Highway Plans	0005	Rev. F	20/01/2026
Highway Plans	0006	Rev. F	20/01/2026
Highways Plans	0007	Rev. B	14/10/2025
Highway Plans	0008	Rev. G	20/01/2026
Highway Plans	0009	Rev. A	20/01/2026
Highway Plans	0010	Rev. B	20/01/2026
Highways Plans	0011		14/10/2025
Highway Plans	0012	Rev. A	20/01/2026
Highway Plans	0013	Rev. B	20/01/2026
Plan General	YOSD-2021-EXT-002	Rev. C1	13/03/2025
Plans approved under Full Planning Application reference 2011/91152			
Location Plan	PO9:4267:01	E	July 2012
Design & Access Statement	April 2011		April 2011
Proposed Planning Layout Parcel A	P09:4267:02	H	20/02/2012
Traffic Calming Measures	5706-001	B	Feb 2012
Proposed layout All Parcels	P09:4267:05	F	Feb 2012
Proposed Planning Layout Parcel C	P09:4267:04	F	Feb 2012
Proposed Planning Layout Parcel B	P09Proposed Planning La:4267:03	F	Feb 2012
Landscape Corridors	P09:4267:111	G	Feb 2012
House Type N	P09:4267:20	O	Feb 2012
Noise Report	Hepworth Acoustics (RepNo 10643.01/1v1		July 2010
Transport Assessment Sanderson Associates	5706/DJC/SAM/001/03		April 2011
Ecological Assessment Brooks Associates	BE-R-0794-01		05/05/2011
Flood Risk Assessment Michael Lambert Associates			April 2011
Interim Travel Plan Sanderson Associates	5706/JGM/002/04		April 2011
FRA Sequential test	John R Paley Assoc		April 2011
FRA Exceptions Test	John R Paley Assoc	Jan 2010	April 2011

Plan Type	Reference	Version	Date Received
Planning Obligations Statement	John R Paley Assoc	April 2011	April 2011
<u>Landscape Masterplan</u>			
Parcel A Parcel B Parcel C	101 102 103	A	Feb 2012 Feb 2012 Feb 2012
<u>House Types.</u>			
House Types C2 House Type C3 House Type C4 House Type F House Type G House Type J House Type P House Type X	P09:4267: P09:4267: 11 P09:4267: 12 P09:4267:13 P09:4267:14&15 P09:4267:16 P09:4267:17&18 P09:4267:19		April 2011 April 2011 April 2011 April 2011 April 2011 April 2011 April 2011 April 2011
<u>Garages</u>			
Single garage Twin Garage	P09:4267:30&32 P09:4267:32-34		April 2011 April 2011
<u>Boundary Treatments</u>			
1.8m wall/ fence 1.8m fence 1.2m fence 1.2m railing	P09:4267:06 P09:4267:07 P09:4267:08 P09:4267:10		April 2011 April 2011 April 2011 April 2011

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.