

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:	2024/44/93226/E
Site Address:	land at, St Luke's, Bierley Marsh, East Bierley, BD4 6PL
Description:	Discharge of details reserved by conditions 3 (Ecological Design Strategy), 4 (Condition Survey of Bierley Marsh), 6 (Construction Management Plan), 7,9 (Intrusive Investigation Phase2 SI), 14,15 (Boundary Treatment, Hard and Soft Landscape) on previous permission 2024/93227 (APP/Z4718/W/21/3289729) for erection of 5 dwellings
Recommending Officer:	Elenya Jackson

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

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.

Emma Thompson

AUTHORISED OFFICER

Date: 27-Jun-2025

Officer Report

land at, St Luke's, Bierley Marsh, East Bierley, BD4 6PL

Discharge of details reserved by conditions 3 (Ecological Design Strategy), 4 (Condition Survey of Bierley Marsh), 6 (Construction Management Plan), 7,9 (Intrusive Investigation Phase2 SI), 14,15 (Boundary Treatment, Hard and Soft Landscape) on previous permission 2020/94345 (APP/Z4718/W/21/3289729) for erection of 5 dwellings

Condition 3:

3) Prior to the commencement of development, an ecological design strategy addressing mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The ecological design strategy shall include the following:

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The ecological design strategy shall be implemented in accordance with the approved details and timetable and all features shall be retained thereafter.

Reason: This is a pre-commencement condition and is required in the interests of mitigating ecological harm and providing enhancement on site following the development and to accord with Local Development Framework policies LP30, and the National Planning Policy Framework

Condition 4

4) Prior to the commencement of development, a conditions survey of that part of Bierley Marsh within the application boundary as shown on plan 19.157.101 shall be submitted to and approved in writing by the Local Planning Authority. On completion of the development, a second condition survey of the same part of Bierley Marsh shall be carried out to identify defects attributable to the construction traffic associated with the development, the findings of which shall be submitted to and approved in writing by the Local Planning Authority. Any damage that is identified to have occurred between the period of the two surveys shall thereafter be remedied prior to any dwelling being first occupied.

Reason: This is a pre-commencement condition and is required in the interests of maintaining Bierley Marsh following the development and to accord with Local plan policies LP21, and the National Planning Policy Framework

Condition 6

6) Prior to the commencement of development, a Construction Management Plan shall be submitted to, and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason: In the interests of highway safety and in accordance with policy LP21 of the Kirklees Local Plan.

Condition 7

7) Prior to the commencement of development: a. a scheme of intrusive investigations shall be carried out to establish the risks posed to the development by past shallow coal mining activity; and b. any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the development hereby permitted. The results of the site investigation shall be made available to the local planning authority before any development takes place.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

Condition 9

9) Prior to the commencement of any groundworks, other than those required for a site investigation report, a Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

Condition 14

14) No above ground construction work shall be undertaken until details of the boundary treatment of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details and retained thereafter.

Reason: To ensure the proposal would have an acceptable visual appearance and to accord with Local plan policies LP24, and the National Planning Policy Framework.

Condition 15

15) No above ground construction work shall be undertaken until a hard and soft landscaping scheme indicating the type, height, species and location of all new trees and shrubs, and hard surfacing materials has been submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved scheme before the dwellings hereby permitted are first occupied. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

Reason: To ensure the proposal would have an acceptable visual appearance and provide ecological enhancement opportunities on site to accord with Local plan policies LP24, LP30 and LP33 and the National Planning Policy Framework.

Assessment

Condition 3:

3) Prior to the commencement of development, an ecological design strategy addressing mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The ecological design strategy shall include the following:

- a. Purpose and conservation objectives for the proposed works.
- b. Review of site potential and constraints.
- c. Detailed design(s) and/or working method(s) to achieve stated objectives.
- d. Extent and location/area of proposed works on appropriate scale maps and plans.
- e. Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g. Persons responsible for implementing the works.
- h. Details of initial aftercare and long-term maintenance.
- i. Details for monitoring and remedial measures.
- j. Details for disposal of any wastes arising from works.

The ecological design strategy shall be implemented in accordance with the approved details and timetable and all features shall be retained thereafter.

Reason: This is a pre-commencement condition and is required in the interests of mitigating ecological harm and providing enhancement on site following the development and to accord with Local Development Framework policies LP30, and the National Planning Policy Framework

The following has been submitted:

- Ecological design strategy FE476/EDS01

The submitted details have been reviewed by KC Ecology and are considered acceptable for the purpose of discharging the condition. The approved scheme shall be implemented and retained. The condition therefore remains in perpetuity.

Condition 4

4) Prior to the commencement of development, a conditions survey of that part of Bierley Marsh within the application boundary as shown on plan 19.157.101 shall be submitted to and approved in writing by the Local Planning Authority. On completion of the development, a second condition survey of the same part of Bierley Marsh shall be carried out to identify defects attributable to the construction traffic associated with the development, the findings of which shall be submitted to and approved in writing by the Local Planning Authority. Any damage that is identified to have occurred between the period of the two surveys shall thereafter be remedied prior to any dwelling being first occupied.

Reason: This is a pre-commencement condition and is required in the interests of maintaining Bierley Marsh following the development and to accord with Local plan policies LP21, and the National Planning Policy Framework

The following details have been provided:

- Pre-condition survey rev:A
- Bierley Marsh Site clearance MCB/24/018/0201

The details have been reviewed by KC Highways and considered acceptable for the initial assessment under this condition. However, this condition cannot be fully discharged at this time as a further survey and any remediation works are required following the completion of works.

Condition 6

6) Prior to the commencement of development, a Construction Management Plan shall be submitted to, and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason: In the interests of highway safety and in accordance with policy LP21 of the Kirklees Local Plan.

The following has been submitted:

- Construction management plan October 2024 revised 29.05.2025.

The document has been reviewed by KC Highways. Adjustments were made during the construction management plan to include wheel wash details and delivery times were incorporated into the revised document received 29th May

2025. The revised details have been considered acceptable by KC Highways and the reference document is the amended details.

Condition 7

7) Prior to the commencement of development: a. a scheme of intrusive investigations shall be carried out to establish the risks posed to the development by past shallow coal mining activity; and b. any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the development hereby permitted. The results of the site investigation shall be made available to the local planning authority before any development takes place.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

The following has been submitted:

- Supplementary sampling letter ODL/01/I4/WW
- Ground gas assessment ODL/01/L3/JP
- Stage 2 Geo-Environmental Report ODL/01r1
- Contamination Remediation Statement

The Mining Remediation Authority has been consulted on the above documents and has commented that subject to the suggested watching brief being implemented on site, that the details are acceptable for the purpose of condition 7.

Condition 9

9) Prior to the commencement of any groundworks, other than those required for a site investigation report, a Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

The following has been submitted:

- Supplementary sampling letter ODL/01/I4/WW
- Ground gas assessment ODL/01/L3/JP
- Stage 2 Geo-Environmental Report ODL/01r1
- Contamination Remediation Statement

KC Environmental Health have been consulted on the above application. Clarification was requested relating to the testing and re-use of materials on site.

The revised details of this are being reviewed by KC Environmental Health and a follow up response will be issued on or before 9th July 2025.

Condition 14

14) No above ground construction work shall be undertaken until details of the boundary treatment of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details and retained thereafter.

Reason: To ensure the proposal would have an acceptable visual appearance and to accord with Local plan policies LP24, and the National Planning Policy Framework.

The following has been submitted:

- Hard Landscape Specifications and boundary treatments MR24-089/102

The plans outline that to the south of the site the existing 0.5m tall brick wall will be retained, the north will retain the 1.2m high stone boundary fence and the east will retain the 2.1m high timber fence.

These details are considered acceptable for the purpose of discharging condition 14. The development shall be carried out in accordance with the approved details.

Condition 15

15) No above ground construction work shall be undertaken until a hard and soft landscaping scheme indicating the type, height, species and location of all new trees and shrubs, and hard surfacing materials has been submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved scheme before the dwellings hereby permitted are first occupied. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.

Reason: To ensure the proposal would have an acceptable visual appearance and provide ecological enhancement opportunities on site to accord with Local plan policies LP24, LP30 and LP33 and the National Planning Policy Framework.

The following has been submitted:

- Hard Landscape Specifications and boundary treatments MR24-089/102
- Soft Landscape Specifications MR24-089/101

Officers have reviewed the details of the soft landscaping. This confirms that native hedgerows and trees will be planted on site.

The plans demonstrate that four trees are to be removed on site. The principal of this has been agreed via the approval of the planning application; however, there are three larger trees to be planted on site and 7 smaller trees to offset harm caused.

The landscaping works approved shall be carried out in accordance with the scheme before the dwellings hereby permitted are first occupied. Should any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, these will require replacement with others of similar size and species. Subject to this stipulation the details are considered acceptable for the purpose of discharging condition 15.

NOTE: neighbour comments have been provided during the course of this application. However, as the application is for the discharge of conditions, not a planning application, these comments cannot be taken into consideration.

Decision notice text

Condition 3:

The following has been submitted:

- Ecological design strategy FE476/EDS01

The submitted details have been reviewed by KC Ecology and are considered acceptable for the purpose of discharging the condition. The approved scheme shall be implemented and retained. The condition therefore remains in perpetuity.

Condition 4

The following details have been provided:

- Pre-condition survey rev:A
- Bierley Marsh Site clearance MCB/24/018/0201 REV:B

The details have been reviewed by KC Highways and have been considered acceptable.

The details have been reviewed by KC Highways and considered acceptable for the initial assessment under this condition. However, this condition cannot be fully discharged at this time as a further survey and any remediation works are required following the completion of works.

Condition 6

The following has been submitted:

- Construction management plan October 2024 revised 29.05.2025.

The document has been reviewed by KC Highways. Adjustments were made during the construction management plan to include wheel wash details and delivery times were incorporated into the revised document received 29th May 2025. The revised details have been considered acceptable by KC Highways and the reference document is the amended details.

Condition 7

The following has been submitted:

- Supplementary sampling letter ODL/01/I4/WW
- Ground gas assessment ODL/01/L3/JP
- Stage 2 Geo-Environmental Report ODL/01r1
- Contamination Remediation Statement

The Mining Remediation Authority has been consulted on the above documents and has commented that subject to the suggested watching brief being implemented on site, that the details are acceptable for the purpose of condition 7.

Condition 9

The following has been submitted:

- Supplementary sampling letter ODL/01/I4/WW
- Ground gas assessment ODL/01/L3/JP
- Stage 2 Geo-Environmental Report ODL/01r1
- Contamination Remediation Statement

KC Environmental Health have been consulted on the above application. Clarification was requested relating to the testing and re-use of materials on site.

The revised details are being reviewed by KC Environmental Health and a follow up response will be issued on or before 9th July 2025.

Condition 14

The following has been submitted:

- Hard Landscape Specifications and boundary treatments MR24-089/102

The plans outline that to the south of the site the existing 0.5m tall brick wall will be retained, the north will retain the 1.2m high stone boundary fence and the east will retain the 2.1m high timber fence.

These details are considered acceptable for the purpose of discharging condition 14. The development shall be carried out in accordance with the approved details.

Condition 15

The following has been submitted:

- Hard Landscape Specifications and boundary treatments MR24-089/102
- Soft Landscape Specifications MR24-089/101

The landscaping works approved shall be carried out in accordance with the scheme before the dwellings hereby permitted are first occupied. Should any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, these will require replacement with others of similar size and species. Subject to this stipulation the details are considered acceptable for the purpose of discharging condition 15.

NOTE: Neighbour comments have been provided during this application. However, as the application is for the discharge of conditions, not a planning application, these comments cannot be taken into consideration.