

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:	2024/44/93431/W
Site Address:	Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW
Description:	Discharge of details reserved by conditions 22 (BEMP), 25 (boundary treatment), 30 (retaining wall materials), 32 (external lighting), 34 (waste collection) and 35 (cycle storage) of previous permission 2022/93154 for erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank)
Recommending Officer:	Katie Chew

DECISION – Discharge of Condition – Refuse

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

Nicholas Hirst

AUTHORISED OFFICER

Date: 15-Apr-2025

Officer Report:

Application: 2024/93431

Application Site: Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW.

Proposal: Discharge of details reserved by conditions 22 (BEMP), 25 (boundary treatment), 30 (retaining wall materials), 32 (external lighting), 34 (waste collection), and 35 (cycle storage) of previous permission 2022/93154 for erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank).

Assessment

Condition 22: BEMP

22. Prior to above ground works commencing, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The BEMP shall detail the delivery of the Biodiversity Enhancements, as detailed within paragraph 4.33 of the Ecological Appraisal and also demonstrate how a minimum of 7.18 habitat units and 2.29 hedgerow units are to be achieved postdevelopment and include details of the following:

- a. Description and evaluation of features to be managed and enhanced;*
- b. Extent and location/area of proposed enhancement works on appropriate scale maps and plans;*
- c. Ecological trends and constraints on site that might influence management;*
- d. Aims and Objectives of management;*
- e. Appropriate management Actions for achieving Aims and Objectives;*
- f. An annual work programme (to cover an initial 5-year period capable of being rolled forward over a period of 30 years);*
- g. Details of the management body or organisation responsible for implementation of the BEMP;*
- h. Ongoing monitoring programme and remedial measures; and*
- i. The BEMP will be reviewed and updated every 5 years and implemented for a minimum of 30 years*

The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved BEMP.

Thereafter the development shall be implemented in accordance with the approved details and be so retained thereafter.

Reason: *In order to ensure the development provides ecological enhancement and creation measures sufficient to provide a biodiversity net gain in accordance with Policy LP30 of the Kirklees Local Plan and the National Planning Policy Framework’.*

Condition 22 requires the submission of a Biodiversity Enhancement Management Plan (BEMP), but these details have not been included within the received document and therefore an assessment of the condition cannot be undertaken. For this reason, it is recommended that Condition 22 is not discharged at this time and that it remains until further notice.

Condition 25: Boundary Treatment and Condition 30: Retaining Wall Materials

25. Prior [to] above ground works commencing, notwithstanding the submitted plans, a comprehensive boundary treatment plan shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include typical elevations for all boundary treatments proposed. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: *To ensure an appropriate appearance and design, in the interest of visual and residential amenity, in accordance with Policy LP24.*

30. Prior to their use, details of all the external facing materials for the proposed retaining walls shall be submitted to and approved in writing by the Local Planning Authority. Notwithstanding the submitted plans, gabion walls shall not be utilised within 10.0m of Penistone Road (A629) (including the road’s footway). The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

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

In support of Conditions 25 and 30 the following documents have been submitted:

- 2.0m Acoustic Timber Fence, Drawing No. NH/SD/S120/A/02
- 2m Stone Masonry Wall Detail, Drawing No. NH/SD/S120/A/02
- 450mm Timber Knee Rail, Drawing No. NH/SD/S120/B/01
- 1.8m Feather Edge Fence Detail, Drawing No. NH/SD/S120/B/06
- Proposed Boundary Treatments, Drawing No. Z078-003 Rev F, received 25/03/2025.
- External Works, Drawing No. 0013 – EXTWKS Rev J, received 25/03/2025.
- GeoWall with Feather Edge Fence, Drawing No. NH/SD/PL/101, received 25/03/2025.
- GeoWall with Railings (Metal/Timber), Drawing No. NH/SD/PL/102, received 25/03/2025.

- GeoWall with Metal Railings (MAC Wall with metal railings), Drawing No. NH/SD/PL/102, received 25/03/2025.
- GeoWall with Metal Railings (MAC Wall with timber fence), Drawing No. NH/SD/PL/104, received 25/03/2025.
- Timber Clad sheet piling 1.8m Fence, Drawing No. NH/SD/PL/105, received 25/03/2025.
- Double Tier detail Plots 45 to 68, received 04/12/2024.
- Sheet Piling Retaining Wall with Feathered Edge Cladding, Drawing No. SK02
- L Shape Concrete Retaining Wall with Feathered Edge Cladding, Drawing No. SK03
- Stone Masonry Retaining Wall, Drawing No. SK04
- Sheet Pile Timber Cladding Detail, Drawing No. SHT-S-DWG-A001
- Sheet Pile Retaining Wall, Drawing No. 24219-PS-XX-XX-DR-Y-0001, Rev D

Boundary treatments such as the proposed 450mm timber knee rail and 2m acoustic timber fence are considered to be located in suitable areas within the site, be of an appropriate size and of a sympathetic material. The 1.8m feather edge fencing is also deemed as being an appropriate boundary treatment to dwellings located within the estate.

However, it is noted that the originally proposed 1.1m & 1.5m metal guard rail/fencing around the public open space located to the south of the site, adjacent to no. 9 Woodsome Drive has now been removed within the revised boundary treatment plan. This 1.5m high metal fencing was required to ensure that this area of open space is not accessible by the public to prevent use of the area in such proximity to no. 9 resulting in harmful impacts. Without this element Officers cannot support the discharge of this condition. A GeoWall and 1.8m fence is also now proposed within this open space and is not deemed to be acceptable. The proposals should be revised in line with the above.

Furthermore, Mac Walls and Geo Walls are proposed throughout the estate, whilst these materials may be acceptable and are identified as being in a buff split face textured finish (Mac Wall), and Oakwood textured wood finish (Geo Wall), no photographs or sample panels have been provided and therefore there is insufficient information submitted to allow Officers to form an opinion on whether these materials would be acceptable at this location. Officers have investigated independently, and on the assumption, they have found the correct materials, have concerns over the Oakwood colouring of the geo-wall (although, for the avoidance of doubt, no specific details have been provided by the applicant). This, plus the fencing, would combine for a monotonous block of walling of a single colour. Subject to suitable details, an alternative colour of the geo-wall, to provide a visual break, could potentially be workable (albeit without prejudice to a detailed assessment should details be provided).

Mac Walling with timber fencing/metal railings are also proposed around the LEAP, this would not be deemed acceptable and should be in a high-quality natural stone.

In addition to the above, Drawing No. NH/SD/S120/A/02 has been submitted in relation to the 2m stone acoustic wall. Whilst the locations of these boundary treatments are considered to be acceptable, the details submitted are limited, noting that they are to be construction from coursed stone with a buff paviour to the top of the wall. These details do not confirm if the stone is to be natural/artificial, where it is to be quarried/purchased from, and no samples/photos are provided. The boundary treatment plan also references natural stone walls and natural stone walls with railings. No details are provided in respect of these elements and therefore Officers cannot provide comment on whether these features would be acceptable.

It is noted that within previously approved application 2022/93154 it was outlined that boundary treatments to dwellings were to comprise of either 1.8m timber fencing or 2.0m acoustic fencing where needed. The boundary treatments submitted within this application in some cases will result in boundary treatments between dwellings (at to the eastern boundary of the site) of around 2.4m (Geo Wall and timber fence), 3.3m in height (Mac Wall with timber fence), and 3.8m (timber clad sheet piling), this seems excessive and may appear overbearing and would result in unnecessary overshadowing of neighbouring properties amenity spaces. The retaining structures around the LEAP also vary in height from 0.9m – 3.3m, this was previously approved as having a retaining structure of circa 1.5m. No justification/clarification has been provided as to why boundary treatments of this scale need to be provided. Further details are therefore required to be submitted.

To the rear of plots 5 to 16 Sheet piling and 1800mm timber fence is proposed. The sheet piling has Vertical feather edge Timber panels fixed to it. This, in effect, results in a fence upon a fence, and like the Geowall considered above has the potential to be overly dominant and monotonous if the same colour. Conversely, subject to suitable colour variation between the true fence and sheet piling 'cladding', it could be supported. No such detail of colours have been received to assess however and, given the various concerns raised, have not been sought at this time.

Finally, to the front of plots 5-16 a GeoWall and 1.1m metal railings are now proposed. Whilst this may be acceptable no details have been provided to explain why this is now required.

In summary, some of the boundary/retaining treatments proposed within the site are deemed to be acceptable however, Officers require further details in respect of samples/photos of materials and where they are to come from, an explanation in respect of the height of some of the boundary/retaining treatments, and revisions to the scheme to be more in line with the conclusions drawn by Officers in the originally approved permission. A final, informed decision therefore cannot be made on the proposals without the additional details/clarification discussed above being submitted, and revised plans

showing the required boundary and retaining wall treatments as approved under application 2022/93154 being provided. Conditions 25 and 30 are therefore not discharged.

Condition 32: External Lighting

32. Prior to the installation of any external lighting (excluding that within the highway), a 'lighting design strategy' giving due regard to amenity, biodiversity, and security, shall be submitted to and approved in writing by the local planning authority. The strategy shall include, but not be limited to:

- a. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and*
- b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.*

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: *To avoid indirect impacts to bats and other local species in the interest of ecological mitigation, while ensuring appropriate crime mitigation without prejudicing the amenity of residents, to comply with Policies LP24 and LP30 of the Kirklees Local Plan.*

In support of Condition 32 the following document has been submitted:

- Brackenheath Datasheet – Wall Lights, Ref. DS 0301 V1.0 – BB NPD 0074 04/2021

The above datasheet shows a range of modern lighting which is typical to housing estates. The applicant's agent has also confirmed via email on the 25/03/2025, that the lights are to be installed to the front of the dwellinghouses, adjacent to the front door.

Whilst the above details are noted, the applicant has not sought to submit a 'lighting design strategy', as per the condition. No details have been provided to:

- a. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and*
- b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical*

specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

The above details are not considered to be acceptable to meet the requirements of the condition, and therefore Condition 32 cannot be discharged at this time.

Condition 34: Waste Collection

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

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

In support of Condition 34 the following documents have been submitted:

- Application forms, received 04/12/2024

The application forms state that temporary waste collection for plots during the construction phase will be taken from outside each respective plot.

The submitted details have been reviewed by KC Waste Strategy, received 24/12/2024. KC Waste Strategy note:

- *The Waste Collection Authority will not enter active construction sites with a Refuse Collection Vehicle (RCV). The rationale is to avoid damage to RCV's due to inadequate roadways, potential impact between RCV's or collection crew with contractors' plant/ delivery vehicles and remove the necessity for collection staff to undertake mandatory health and safety induction by the site manager.*

- *The WCA would appreciate the opportunity to meet on site with the site manager to discuss and confirm requirements in relation to access and waste collection points once residents start to occupy properties.*
- *For future phases, if an RCV is entering a site to service properties or a temporary waste store, then there must be demarcation such that a turning head is fenced off from the active construction site. Long reversing manoeuvres by RCV's is a recognised safety risk for both collection staff and members of the public and must be avoided.*

The WCA encourages developers to bulk purchase 240ltrs directly from the WCA that they can then distribute to residents when they take possession of their new homes.

Based on the above, KC Waste Strategy advise that the submitted details not be accepted until an onsite meeting has taken place at commencement of construction to establish on-site arrangements. The applicant was made aware of this requirement via email on 07/01/2025, of which no on-site meeting has yet taken place. As the application has now been with the Council for 12 weeks since that email, it is considered reasonable to progress to determination without the above having taken place.

Without the above details being confirmed, Officers are unable to discharge Condition 34 at this time, and therefore Condition 34 must remain.

Condition 35: Cycle Storage

35. Prior to the occupation of the hereby approved dwellings, details of secure and covered cycle storage for the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved cycle parking facilities for that dwelling have been provided. The cycle storage facilities shall thereafter be retained.

Reason: *To encourage travel by means other than the private car in accordance with Policy LP21 of the Kirklees Local Pla'.*

In support of Condition 35 the following document has been submitted:

- 6x 4 Cycle Store Image
- Typical Shed Arrangement – Drawing No. NH/SD/S200/B/01, received 25/03/2025.

The above documents outline that 6' x 4' Albany T604 sheds are to be installed within the site and consist of overlap softwood cladding on 50x22mm Sawn Framing. The sheds are to be sat on 450 x 450 x 50mm slabs.

Whilst the above details are considered to be acceptable in scale and design and would provide suitable covered cycle storage for the dwellings. No details

have been shown on plan in respect of which plots within the site are to benefit from these sheds, and where they are to be located within individual curtilages. It is noted that properties with garages would not require the provision of such outbuilding.

Without the above details being confirmed, Officers are unable to discharge Condition 35 at this time, as the submitted details do not meet all of the requirements of the condition, and therefore Condition 35 must remain.

Recommendation: Refuse.

Report Dated: 08/04/2025

Decision Notice Text

Condition 22: BEMP

No Biodiversity Enhancement and Management Plan (BEMP) has been provided. Therefore Condition 22 must remain.

Conditions 25: Boundary Treatment & 30: Retaining Wall Materials

Pursuant to Conditions 25 & 30, you have submitted the following documents:

- 2.0m Acoustic Timber Fence, Drawing No. NH/SD/S120/A/02
- 2m Stone Masonry Wall Detail, Drawing No. NH/SD/S120/A/02
- 450mm Timber Knee Rail, Drawing No. NH/SD/S120/B/01
- 1.8m Feather Edge Fence Detail, Drawing No. NH/SD/S120/B/06
- Proposed Boundary Treatments, Drawing No. Z078-003 Rev F, received 25/03/2025.
- External Works, Drawing No. 0013 – EXTWKS Rev J, received 25/03/2025.
- GeoWall with Feather Edge Fence, Drawing No. NH/SD/PL/101, received 25/03/2025.
- GeoWall with Railings (Metal/Timber), Drawing No. NH/SD/PL/102, received 25/03/2025.
- GeoWall with Metal Railings (MAC Wall with metal railings), Drawing No. NH/SD/PL/102, received 25/03/2025.
- GeoWall with Metal Railings (MAC Wall with timber fence), Drawing No. NH/SD/PL/104, received 25/03/2025.
- Timber Clad sheet piling 1.8m Fence, Drawing No. NH/SD/PL/105, received 25/03/2025.
- Double Tier detail Plots 45 to 68, received 04/12/2024.
- Sheet Piling Retaining Wall with Feathered Edge Cladding, Drawing No. SK02

- L Shape Concrete Retaining Wall with Feathered Edge Cladding, Drawing No. SK03
- Stone Masonry Retaining Wall, Drawing No. SK04
- Sheet Pile Timber Cladding Detail, Drawing No. SHT-S-DWG-A001
- Sheet Pile Retaining Wall, Drawing No. 24219-PS-XX-XX-DR-Y-0001, Rev D

The submitted information is not considered to be sufficient to discharge Conditions 25 & 30. This is due to a lack of detail being provided to address certain elements of this condition and concerns over some of the information proposed, as discussed in more detail within the Officer Report.

Conditions 25 & 30 are therefore not discharged and must remain.

Condition 32: External Lighting

Pursuant to Condition 32, you have submitted the following documents:

- Brackenheath Datasheet – Wall Lights, Ref. DS 0301 V1.0 – BB NPD 0074 04/2021

The above submitted information does not meet all of the requirements of Condition 32, and therefore Condition 32 cannot be discharged at this time.

Condition 34: Waste Collection

Pursuant to Condition 34, you have submitted the following documents:

- Application forms, received 04/12/2024.

The above submitted information does not meet all of the requirements of Condition 34. No specific details are provided on the management of waste collection points, and how RCV's would access and collect waste once residents start to occupy the properties. Of note, Council waste collection crews are unable to enter a construction site and/or an unadopted road. For future phases if an RCV is entering the site to service properties or a temporary waste store, demarcation such as a turning head (fenced off from the active construction site) should be provided.

The Council's waste operations planning coordinator would welcome a meeting to discuss these matters and any ongoing issues, and can be contacted at:

Carol.Oakden@kirklees.gov.uk

For the avoidance of doubt, the details submitted pursuant to Condition 34 are not hereby discharged.

Condition 35: Cycle Storage

Pursuant to Condition 35, you have submitted the following documents:

- 6x 4 Cycle Store Image
- Typical Shed Arrangement – Drawing No. NH/SD/S200/B/01, received 25/03/2025.

The above submitted information does not meet all of the requirements of Condition 35, and therefore Condition 35 cannot be discharged at this time.