

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:	2025/44/90096/E
Site Address:	Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU
Description:	Discharge of details reserved by condition 19 (PROW) of previous Reserved Matters approval 2022/91047 for a development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access)
Recommending Officer:	Victor Grayson

DECISION – Discharge 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.

Nick Hirst

AUTHORISED OFFICER

Date: 25-Sep-2025

Officer Report

Discharge of details reserved by condition 19 (PROW) of previous Reserved Matters approval 2022/91047 for a development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access)

Decisions to date

2018/20382 – EIA Screening Opinion issued 27/09/2018, confirming EIA not required for development of the site to provide up to 123 residential units.

2019/90527 – Outline permission granted 09/12/2019 for erection of up to 127 dwellings, with details of access.

2022/91047 – Reserved Matters approved 30/06/2023 for a development of 91 dwellings.

2024/92939 – Non-material amendment approved 31/01/2025 for relocation of electricity substation.

Various Discharge of Conditions applications (relating to outline and Reserved Matters conditions) have been determined or are yet to be determined.

Consultation

KC PROW

05/06/2025 – Amendments needed. Timber stakes would not be long-lasting. Steps should be anchored using rebar drilled through the sleepers. Wooden handrails do not last and can cause splinters – painted keyclamp handrails would be the best option. Also query how path through the public open spaces would be dealt with in terms of dedication and adoption.

25/09/2025 – Proposed steps and handrail are now acceptable.

Condition 19 (PROW)

Condition 19 reads as follows:

19. Prior to the first occupation of the development hereby permitted, construction details and ongoing management and maintenance plan of the new Public Right of Way through the site (including details of steps and handrails) shall have first been submitted to and approved by the Local Planning Authority. Construction of the Public Right of Way shall be done in full accordance with the approved details prior to occupancy of half of the approved dwellings and retained and maintained as such thereafter for the lifetime of the development.

Reason: To ensure satisfactory provision of a Public Right of Way, in accordance with Policies LP23 and LP24 of the adopted Kirklees Local Plan.

The applicant has submitted the following pursuant to condition 19:

- Private General Arrangement Phase 1 (drawing 09.21011-ACE-00-ZZ-DR-C-3400 rev P3);
- Typical PROW Steps (drawing 4035-20-AWSM-XX-XX-DR-A-3060 rev P2);
- Management Company Conveyance Plan (drawing 4035.20.390 rev P6); and
- Landscape Management Plan (Greenbelt, January 2025)

The submitted information relates only to the development's phase 1, which includes 77 dwellings.

Public footpath SPE/13/50 runs along part of the site's northwestern edge, until it meets SPE/14/20. It then continues along the site's northwestern edge (as SPE/14/10), through the farmyard of Blue Hills Farm, then turning south, cutting across the westernmost extent of the application site, and continuing southeastwards (along the farm's access track) until it meets Whitehall Road West (the A58).

A new footpath connection (referred to as a new public right of way) was proposed and approved under Reserved Matters application 2022/91047. This is to connect to SPE/14/10 at the north of the site, pass through the development's northernmost public open space, run down the central estate road, pass through another public open space at the western edge of the development, and re-join SPE/14/10. A Phasing and Highway Adoption Plan (drawing 4035.20.099 rev G) submitted under Reserved Matters application 2022/91047 indicated that adoption would be sought for the development's estate roads, including the parts of the road that the new public right of way would run along (indeed, the council's Section 38 Highway Adoption Team have since confirmed that Technical Approval has been granted for the internal highway works design). The Section 106 agreement dated 29/06/2023 included Management Company provisions relating to the on-site public open space, and included the Phasing and Highway Adoption Plan (drawing 4035.20.099 rev G) as Plan 2.

Condition 19 requires construction details of the new public right of way through the site (including details of steps and handrails). The officer's report for Reserved Matters application 2022/91047 noted that this new public right of way would be surfaced with a sandstone aggregate and would have to include steps due to the site's topography. Under this Discharge of Conditions application, drawing 09.21011-ACE-00-ZZ-DR-C-3400 rev P3 includes a "Typical PROW Buildup Cross Section" where a 100mm deep compacted stone (aggregate) surface (above a geotextile layer and contained with timber boards) with a 1 in 35 crossfall is illustrated. Drawing 4035-20-AWSM-XX-XX-DR-A-3060 rev P2 includes details of the steps and handrail proposed along the new

public right of way – these details address the earlier comments (dated 05/06/2025) of KC PROW and are considered acceptable. The new public right of way would be appropriately constructed and accessible (as far as can reasonably be achieved, given the site's topography).

Condition 19 also requires an ongoing management and maintenance plan of the new public right of way through the site. The submitted drawing 4035.20.390 rev P6 confirms that, where the new public right of way passes through the development's public open spaces (at the north end and western edge of the site), it would be maintained by the Management Company. The Submitted Landscape Management Plan states:

Pathways & PROW will be inspected throughout the year to ensure and safe and in good condition. Moss and weed treatment will take place once per year to ensure pathways & PROW are kept clear. Maintenance will be undertaken when necessary.

It is again noted that the Section 106 agreement dated 29/06/2023 included Management Company provisions relating to the on-site public open space. Considered together, the management and maintenance arrangements submitted under this Discharge of Conditions application, and the provisions previously secured in the Section 106 agreement, are acceptable in relation to the new public right of way. For the part of the new public right of way that would run along the development's estate road, the council (as Local Highway Authority) would be responsible for management and maintenance.

Given the above assessment, it is recommended that the details be approved, and that the applicant be reminded of the ongoing requirement of condition 19, which states:

Construction of the Public Right of Way shall be done in full accordance with the approved details prior to occupancy of half of the approved dwellings and retained and maintained as such thereafter for the lifetime of the development.

As the submitted information relates only to phase 1 of the development, only a partial approval pursuant to condition 19 can be issued at this stage.

Recommendation

Approve details pursuant to condition 19, with explanatory advice.

Report Dated: 25/09/2025

Recommended Decision Notice Text

Condition 19 (PROW)

You have submitted the following documents pursuant to condition 19:

- Private General Arrangement Phase 1 (drawing 09.21011-ACE-00-ZZ-DR-C-3400 rev P3);
- Typical PROW Steps (drawing 4035-20-AWSM-XX-XX-DR-A-3060 rev P2);
- Management Company Conveyance Plan (drawing 4035.20.390 rev P6); and
- Landscape Management Plan (Greenbelt, January 2025)

Details set out in the above-listed documents are acceptable for the purpose of condition 19 and are hereby approved.

For the avoidance of doubt, it is noted that this approval relates only to phase 1 of the development, and that a further submission would be needed in the future in relation to phase 2.

Please also be reminded of the further requirement of condition 19, which states:

Construction of the Public Right of Way shall be done in full accordance with the approved details prior to occupancy of half of the approved dwellings and retained and maintained as such thereafter for the lifetime of the development.