

**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:	2025/70/90297/W
Site Address:	Land adjacent, 20 Honey Head Lane/ Plots 1 – 34, off Bradshaw Road/Long Lane, Honley, Holmfirth, HD9 6RW
Description:	Variation condition 2 (plans) on previous permission 99/93218 for erection of 34 dwellings with garages
Recommending Officer:	Liz Chippendale

**DECISION – Section 73 Variation of Condition (with Section 106) –
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: 07-Apr-2026

Application: 2025/90297

Site: Land adjacent, 20 Honey Head Lane/ Plots 1 – 34, off Bradshaw Road/Long Lane, Honley, Holmfirth, HD9 6RW

Proposal: Variation condition 2 (plans) on previous permission 99/93218 for erection of 34 dwellings with garages

Site Description

The application site is a substantially built out residential development with access from Long Lane to the north east, pursuant to approved application 99/93218. The development is a mixture of detached and semi-detached stone built dwellings with parking to the frontage.

The area subject to this application is currently undeveloped land which is fenced off and overgrown. The site faces onto Honey Head Lane. To the east, south and west are stone built two storey dwellings with a commercial property to the north. The site slopes down gradually towards the north.

Description of Proposal

A variation is sought to condition 2 (plans) of planning permission ref. 99/93218, which currently reads:

2. The development hereby permitted shall be carried out in complete accordance with the approved plans and specifications expect as may be required by other conditions

***Reason:** So as to ensure the satisfactory appearance of the development on completion*

No alteration is sought to the wording of the condition. Amendments are sought to the approved plans table, specifically the plans comprising plots 31-34 (i.e., those not constructed).

The applicant has provided the following statement:

There is a level of ambiguity on the approved application (REF: 99/93218) plans, which show an approved block plan, which shows a block a four units, whereas the elevations show only a front elevation which appear to show a single pair of semi-detached homes with detached garage block. We assume that these were indicative elevations but, for the avoidance of doubt, believe a variation application will help provide clarity of exactly what we are proposing to build.

The proposed four units are terraced in design with the two end plots set forward slightly with pitched roof and projecting gable features. The terrace is designed over two storeys with a bedroom within the roof space. Plots 32-33 have rooflights positioned centrally and canopy projection over the front door.

Two off street parking spaces are proposed in a linear form to the front of the dwellings directly accessed via honey Head Lane. This is as originally approved.

Private gardens are proposed to the rear with paved/patio area directly adjacent to the rear elevation, leading to a lawn. Access to the rear of the two end plots is via a path to the side elevations, with access to the middle plots accessed via a path from the north west.

Relevant Planning History

Application Site

2023/92748	Erection of 3 dwellings – Withdrawn
99/93218	Erection of 34 no. dwellings with garages – Section 106 full permission
99/90060 Withdrawn	Outline application for residential development -
93/00448	Outline application for residential development – Refused

History of Negotiations

Officers did not enter into negotiations with the applicant regarding the submitted plans, as the details at the time of submission were considered to be acceptable. However, officers and their representatives have engaged with the applicant team to secure a Section 106 agreement.

Representations

Final publicity date expired: 04/04/2025

The application has been advertised as a major development via site notices and within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.

No representations were received in response to the representation period.

Local Ward Councillors

The site is within Newsome Ward. All ward Councillors have been notified of this application. The following comments were received:

Cllr Charles Greaves:

As long as the 4 homes are affordable units I am happy with the proposal. Please make sure that the application quotes the correct address now that both estates have been built so that people know where it is. The address listed is from 25 years ago.

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 27th February 2019).

The site is unallocated within the Kirklees Local Plan.

The following policies are deemed most relevant to this application:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP43 – Waste management hierarchy
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space

Supplementary Planning Documents (SPD)

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

Kirklees council 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
- Kirklees Interim Housing Position Statement to Boost Supply (2023)

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 strategic Housing - The S106 agreement for the previous planning permission on this development allocated 4 units to be sold as 'low cost' affordable housing. Strategic Housing have been asked to advice on the preferred tenure type for these 4 units. Due to the shortage of social rented properties across the district, Strategic Housing's preference is for social rented units over affordable rented units.

Holme Valley Parish Council – No comment

Assessment

This application is made under S73 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, S73 enables the varying of a condition's wording. The effect of a granted S73 application is the issuing of a fresh planning permission. Therefore, all previously imposed conditions should be retained if

they remain relevant. Conversely, the time limit for development to commence cannot be extended through S73.

The starting point for a S73 application is the previously granted planning permission, which must carry significant material weight. The original planning permission was approved under application 99/93218 for:

Erection of 34 dwellings with garages

Consideration must first be given to whether any material changes in circumstances have taken place. This includes the policy and local context. The previous application was determined 07/08/2000.

In terms of policy, the original application 99/93218 was assessed against the Unitary Development Plan (UDP), which has since been superseded by the Local Plan (LP) in 2019. Nevertheless, the principle of development the site for residential use remains acceptable. Due regard will be given to policy changes between the UDP and LP, if relevant, elsewhere within this report.

The NPPF has been subject to revision(s) since the previous assessment, however, none of the changes are deemed relevant to the current proposal.

Regarding the local context, the remaining plots approved on the development site have been constructed and occupied for some time.

Considering the above, consideration must principally be given to the specific changes proposed and their interaction with adopted planning policy.

Implications of varying condition 2

Unit size mix

The proposal seeks to amend the house types for plots 31 to 34.

To amend the house types would result in the number of bedrooms increased from four 2-beds to four 3-beds. Given the longstanding planning history of the site and the fact that the original application was determined before the council's Affordable Housing and Housing Mix SPD was published, officers do not consider it necessary or reasonable to assess this scheme against the SPD and the change in size raises no concerns.

Impact on visual amenity

In terms of urban design, officers are satisfied that the change in house type would not have any material impact upon the visual amenity of the wider site or the appearance of the four dwellings affected by this Section 73 application. The main difference would be that the dwellings would be 2-storey in height, but with living accommodation in the roof space (previously being 2-storey with no habitable roof space). There is a slight height difference of 1m between the proposed units and the existing plot to the east, however, due to

the slight difference in site level it is not considered to impact visual the cohesion of the plots into the setting.

In terms of external works, the front of the dwellings would be dominated by hard surfacing to provide parking for eight vehicles (two per house). Green space would be negligible. While far from ideal to modern practise, this directly mimics the approved layout and, given the site's size and constraints, it is not considered feasible to fit the approved four dwellings (2bed, or otherwise) on the site without such parking provision (without providing less parking than is expected). While far from ideal, this would not however, cause substantial harm to the character and appearance of the wider area and given the weight that must be attached to the original permission, is deemed to be acceptable. The gardens to the rear are to be defined by 1.8m close boarded timber fencing: this is typical for the area and residential development, and not opposed.

Due to the ambiguity of the originally proposed plans it unclear what the approved house types were which are shown as a semi-detached. Regardless, assessing the plans as submitted, the proposed dwellings would be suitably attractive and fitting to the area.

There are no details submitted for materials. As such, a condition would be added to secure matching materials to those existing dwellings already built out under the original permission, which is a natural stone. This is to ensure a suitably high quality and consistent appearance.

Impact on residential amenity

Paragraph 135 of the National Planning Policy Framework states that Local Planning Authorities should seek to achieve a high standard of amenity for existing and future users.

Kirklees Local Plan policy LP24 states that proposals should provide a high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.

The location of the proposed dwellings is largely as originally approved and would therefore not have a materially different relationship with the adjacent properties compared to that originally considered and approved. There are no proposed windows with the side elevations of the end plots, therefore, there is no concern of overlooking to 2 Honey Head Lane to the east or 32 or 34 Honey Head Lane to the west. The front elevations of the new dwellings would face the fronts of numbers 35 and 37 at circa 18m, with the public realm / highway intervening. This is considered acceptable and is not materially different to that previously approved.

While the Housebuilders Design Guide post-dates the original permission, the proposal does not contract any of its expected separation distances.

To the north of the site is an industrial site with no facing windows. There is an existing relationship between residential dwellings on the site and the industrial units. A condition is attached to the original permission for the submission of a noise assessment for plots 31-34 and for any mitigation measures to be installed prior to the occupation of the site. As these dwellings have not yet been constructed, it is likely that this detail has not yet been approved. As such, the condition will be repeated.

The proposed change in house type would also ensure that suitable outdoor amenity space would be retained for plots and that the dwellings would accord with the Nationally Designated Space Standards.

For these reasons, the development is considered acceptable from a residential amenity perspective, in accordance with policy LP24 of the Kirklees Local Plan, the aims of the Housebuilders Design Guide SPD and Chapter 12 of the NPPF.

Impact on highways

The road layout and amount/location of vehicle parking would not be materially affected by the variation between the approved and proposed.

The amended design adds a bedroom to the roof space, creating four 3-bedroom units (previously 2-bedroom). The proposal retains the approved 2 no. off-street vehicle parking for each dwelling which is considered to be acceptable.

In conclusion, the proposed amendments are considered acceptable and in compliance with Local Plan Policies 20 and 21.

Other matters

No other material planning considerations that were assessed as part of the original proposal are considered to be materially affected by the proposed change in housetype.

Previous conditions and obligations

Conditions

As this is an application under S73 of TCPA 1990 it will in effect be a new permission. The Planning Practice Guidance confirms that for the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.

The approved development has been constructed and occupied for a number of years. Aerial photographs evidence that the construction of development commenced sometime before 2000. There are no records of the discharge of

conditions as the application pre-dates the introduction of the formal discharge of condition application process (introduced in 2008).

The original conditions attached to permission 99/93218 will be removed, retained or amended as required as listed below:

1. Development to be begun within 5 years of the date of permission

Condition will be removed as development is now completed and occupied.

1. Development to be built in complete accordance with plans

Condition will be retained with the original wording although the plans table will be amended, in accordance with this S73.

2. Development to have separate foul and surface water drainage

Condition will be retained.

3. Submission of surface water drainage details

Condition will be removed as the development is constructed and occupied.

4. The buildings shall be constructed of natural stone and laid in regular course rubble walling

Condition will be retained.

5. Submission of landscaping scheme

This condition will be removed as the original landscaping scheme has been implemented.

6. Planting, seeding and tree management to be carried out during first planting season following commencement of the development.

This condition will be removed as it is in reference to the submitted landscape scheme.

7. Submission of details of the contractors parking and plant/equipment storage

This condition will be removed considering the scale of the site this is not deemed to be required.

8. Any boundary wall, fence, hedge or planting will be behind the visibility splay line as shown on approved plan

This condition is not required as it relates to the entrance to the site.

9. Nothing shall be permitted to be planted or erected within a strip of land 2.0m deep measured from the carriageway edge

This condition will be retained.

10. Permitted development rights removed for the conversion of garages to living space for plots 13-16, 18-22, 24 and 26-30.

This condition will be retained as this is required for the lifetime of the development.

11. The drives to the properties shall be a minimum of 3.2m in front of the building

This condition shall be removed as the development is built and occupied, and the provisions are not considered applicable to the relevant plots.

12. Submission of details to protect the residential amenity from noise of plots 31-34.

This condition will be retained for the submission of a noise impact assessment. As the plots were not constructed, officers would need to be certain that this assessment has taken place and mitigation measures implemented where necessary.

13. Submission of a sample of roofing tile

This condition will be reworded to state that the roofing material shall match the roofing material of the completed adjacent properties.

Planning Obligations

If approved, this application would result in a new stand-alone planning permission being issued. As contributions have already been dealt with under the original application, a Deed of Variation would be required to tie this approval to the original Section 106 agreement (dated 07/08/2000 in connection with application 99/90297). There have been subsequent Deed of Variations dated 28/08/2006, 12/01/2007, 11/06/2008, 29/07/2009, 02/02/2010 and 11/08/2011.

For information, the previously-agreed obligations and contributions were:

- 1) Play equipment – A sum of £10,793.00
- 1) On site open space in accordance with drawing no. 1537.01
- 2) On space maintenance costs – A Sum of £4,290
- 3) Affordable housing – Four 'low cost' affordable units

As all obligations were secured prior to the submission of this application, the only obligation listed within the Deed of Variation dated 26/03/2026 are the four 'low cost' affordable homes which are the subject of this application. In

modern terminology, these units have been secured as “First Homes”, which is considered the most similar and suitable form of affordable unit to the original permission.

Representations

No representations were received.

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

Date: 26/03/2026

Application Number: 2025/90297

Decision Authorisation: Delegated Powers

Officer Recommendation: Approve

Conditions and Reasons

1. Removed - The 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 condition.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

3. Development to have separate foul and surface water drainage

Reason: To ensure the proper drainage of the site and to accord with Policy LP24 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

4. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

5. The buildings shall be constructed of natural stone and laid in regular course rubble walling

Reason: In the interest of visual amenity and to ensure that the development harmonises with its surroundings and to accord with the aims of Policy LP24 of the Kirklees Local Plan.

6. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

7. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

8. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

9. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

10. Nothing shall be permitted to be planted or erected within a strip of land 2.0m deep measured from the carriageway edge of the new estate road along the full frontage of the site which exceeds 1m in height above the level of the adjoining highway.

Reason: In the interests of the free and safe use of the highway in accordance with LP21 of the Kirklees Local Plan.

11. Notwithstanding the provisions of the Town and County Planning (General Permitted development) Order, 1995, permitted development rights are

withdrawn for the conversion of the integral garages on plots 13-16, 18-22, 24 and 26-30.

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

12. Removed - The development is constructed and occupied; therefore, this condition is no longer required.

13. Having regard to LP53, a written scheme shall be submitted and approved for the protection of the future occupiers of plots 31-34 in the development from noise from:

- (a) The industrial unit on the northern boundary of the site, near Lombardy Close.

The measures to provide protection as agreed shall be completed before plots 31-34 are first occupied.

Reason: To protect the future occupiers from noise nuisance in accordance with Policy LP52 of the Kirklees Local Plan.

14. The roofing materials shall match those used on adjacent dwellings in terms of type, colour, texture and scale.

Reason: So as to ensure that the development harmonises with its surroundings and to accord with the aims of Policy LP24 of the Kirklees Local Plan.

NOTE - The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE - No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours Saturdays

With no construction related noise audible beyond the site boundary on Sundays or Bank/Public Holidays.

NOTE - Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the

Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

Plan Type	Plan Reference	Version	Date Received
Planning Layout	99/226/Ole	1/11/99	24.02.2025
Proposed site plan	(20)002	A	24.02.2025
Proposed General Arrangement	(20)001	A	24.02.2025
Site Sections	(35)001	A	24.02.2025
Existing site plan	(EX)003	A	24.02.2025
Planning constraints plan	(EX) 002	A	24.02.2025
Location Plan	(EX)001	A	24.02.2025
Planning statement dated 18.02.2025	-	-	24.02.2025

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.

Officers considered that the details as originally submitted were acceptable.