

# 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:	<b>2025/44/90352/E</b>
Site Address:	adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY
Description:	Discharge of details reserved by conditions 6 (boundary treatments), 8 (intrusive site investigations and remedial works), 9 (declaration), 10 (Phase I Desk study Report), 11 (Phase II Intrusive Site Investigation Report), 12 (Remediation Strategy), 13 (Remediation Strategy), 14 (Verification Report) and 15 (Arboricultural Method Statement and Tree Protection Plan) of previous permission 2024/93464 for variation condition 2 (plans) on previous permission 2023/91483 for demolition of garage and erection of detached dwelling.
Recommending Officer:	Nina Sayers

#### **DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION**

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

Sarah Longbottom

***AUTHORISED OFFICER***

**Date: 28-Jul-2025**

## Officer Report

**Application reference:** 2025/90352

**Site address** – adj, 33a, Church Lane, Clayton West, Huddersfield, HD8 9LY

**Proposal** – Discharge of details reserved by conditions 6 (boundary treatments), 8 (intrusive site investigations and remedial works), 9 (declaration), 10 (Phase I Desk study Report), 11 (Phase II Intrusive Site Investigation Report), 12 (Remediation Strategy), 13 (Remediation Strategy), 14 (Verification Report) and 15 (Arboricultural Method Statement and Tree Protection Plan) of previous permission 2024/93464 for variation condition 2 (plans) on previous permission 2023/91483 for demolition of garage and erection of detached dwelling.

### Assessment

#### Condition 6 – Boundary Treatment

Condition 6 reads as follows:

*6. Notwithstanding the submitted plans and information, the dwelling hereby approved shall not be occupied until, full details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained. Reason: In the interests of visual amenity and to preserve the character of the historic environment in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 of the National Planning Policy Framework.*

In support of the discharge of condition 6, the applicant has submitted:

- A document titled “Boundary Treatment Plan”
- Proposed Boundary Layout ref: (100)04

The first page shows the location of a ‘new proposed hit and miss fencing’ to the northern, western and southern boundaries of the site. The fencing would be 1.8 m high to the north and west boundaries and 1.6m to the southern boundary. The existing stone wall would remain intact along the eastern boundary and part of the southern boundary.

Officers have concerns regarding the height of the proposed fence adjacent to the access with both the parking area for the approved dwelling and the existing access to 33a Church Lane. Officers asked the applicant to demonstrate visibility splays on the plans to demonstrate that this would not interfere with visibility however this has not been provided.

Similar details were submitted and refused under application 2024/93179. The officer report for this application stated “a 1.8m fence adjacent to a vehicular access would not be acceptable as it would raise concerns relating to visibility.”

Condition 6 can therefore not be discharged at this time.

### Condition 8 - Intrusive Site Investigations and Remedial Works

Condition 8 reads as follow:

*8. No development shall commence (excluding the demolition of existing structures and site clearance) until:*

*a) a scheme of intrusive investigations has been carried out on site 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, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.*

*The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.*

*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. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.*

In support of the discharge of condition 6, the applicant has submitted:

- Phase 2 Intrusive Site Investigation Report dated December 2024 – ref. G24327

Condition 8 was initially recommended by the Coal Authority, who have been consulted on the discharge of condition 8. Their comments are summarised below:

The report includes the findings of a rotary drilling campaign which are presented from the results of three boreholes (RH1-3) drilled to depths of 15 and 30m. The indication from the original Coal Mining Risk Assessment was that coal, the Clay Cross Soft Coal was expected at shallow depth and likely to be intercepted, however the report states that the;

*“inferred to sub-crop and dip below the site 90m north of the development. However, this seam was not encountered in the boreholes, nor were any voids or broken ground and might be considered therefore too deep to affect the surface at the study site.”*

The matters of Historical Coal Mining are discussed within Section 7.3 of the report, and the authors conclude that;

*“The rotary boreholes drilled at the site encountered no broken ground or voiding indicative of any shallow mining beneath the site. In addition, although coal fragments were noted within the mudstone at 21m no coal seams were encountered. Based on the ground conditions encountered in the rotary*

*boreholes, any potential mine-workings present are at depths below the 30.00m depth of the rotary drilling activity. If traditional shallow foundations are adopted, then it is considered the development will not be affected by mine workings due to the site having sufficient thickness of competent rock cover.”*

The risk posed from shallow coal mining was then dismissed on the following basis;

“Therefore, no evidence of mining is present within 30m of the site surface and an ample 25m of unbroken rock cover has been confirmed. When referencing the ten-times thickness rule of thumb ..., there appears to be an ample competent rock cover to the seam thickness ratio.”

On the basis of the reporting and the professional opinion of the report authors the Coal Authority’s Planning Team, in regard to mining instability matters, considers that the requirements of Condition 8 (which does not require the submission of information for approval) to have been satisfactorily addressed.

Therefore, the details within the submitted Phase II report are considered sufficient for the purposes of discharging condition 8. However, it should be noted that condition 8 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.

Therefore condition 8 cannot be discharged.

#### Condition 9 - Declaration

Condition 9 reads as follow:

*9. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity. 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.*

No signed statement or declaration has been submitted and therefore condition 9 cannot be discharged at this time.

#### Condition 10 – Phase I Desk Study Report

Condition 10 reads as follows:

*“10. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been 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. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate mitigation, should any be necessary, is implemented at the appropriate stage of the development.”*

In support of the discharge of condition 10, the applicant has submitted:

- Phase I Desk Study Site Investigation Report by Geoinvestigate (November 2024, ref: G24327)

Condition 10 was initially recommended by KC Environmental Health (EH), who have been consulted on the discharge of condition 10. Their comments are summarised below:

A review of historical maps identifies several potential contamination sources including nearby electric substations, infilled quarries, wells, a demolished building, and the Park Mill Colliery and tip. Unrecorded shallow coal workings are also considered a possibility. A site walkover conducted in November 2024 found the site to be open land with recent vegetation clearance and a thin concrete slab in the west, with no visible or olfactory signs of contamination. A conceptual site model (Table 3 of the report) outlines potential sources, pathways, and receptors, with a Phase 2 investigation recommended, including trial pits, boreholes, chemical sampling, and ground gas monitoring.

KC EH accept the Phase I Desk Study Site Investigation Report by Geoinvestigate (November 2024, G24327) and recommend that Condition 10 is discharged.

Condition 10 can therefore be discharged at this time.

#### Condition 11 – Phase II Report

Condition 11 reads as follows:

*“11. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 10 groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been 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. This is a pre-commencement condition to ensure that any risk from land contamination is identified at the outset and that appropriate*

*mitigation, should any be necessary, is implemented at the appropriate stage of the development.”*

In support of the discharge of condition 11, the applicant has submitted:

- Phase 2 Intrusive Site Investigation Report by Geoinvestigate (December 2024 ref. G24327)
- Gas Monitoring Addendum Report by Geoinvestigate (March 2025, G24327)

Condition 11 was initially recommended by KC Environmental Health (EH), who have been consulted on the discharge of condition 11. Their comments are summarised below:

Intrusive investigations comprised four boreholes (BH1–BH4), three rotary open hole boreholes (RH1–RH3), and two hand-excavated trial pits (TPA and TPB). Ground gas monitoring wells were installed in BH1, BH2, and BH4. Made ground, sampled at depths of 0.20m–0.50m, contained elevated arsenic and lead concentrations, necessitating remediation for soft landscaping.

Ground conditions varied across the site including sandy gravelly clay underlain BH1 and BH2, while sand and gravel were encountered in BH3 and BH4. No visual or olfactory evidence of contamination, including asbestos were observed. Ground gas monitoring revealed negligible flow rates, no methane, and a maximum carbon dioxide concentration of 2.7% v/v. Gas protection measures are not required for the proposed structures.

KC EH accept the Phase 2 Intrusive Site Investigation Report (December 2024, G24327) and Gas Monitoring Addendum Report (March 2025, G24327) both by Geoinvestigate and recommend that Condition 11 is discharged.

Condition 11 can therefore be discharged at this time.

#### Condition 12 – Remediation Strategy

The details submitted to discharge Condition 12 are still under review. A letter will be issued in due course.

#### Condition 13 – Remediation

Condition 13 reads as follows:

*13. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 12. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. 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 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 13 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise. Condition 13 must therefore remain.

#### Condition 14 – Verification Report

Condition 14 reads as follows:

*“14. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been 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”*

No verification report has been received in support of the application. Therefore, Condition 14 must remain until further notice.

#### Condition 15 – Arboricultural Impact Assessment

The details submitted to discharge Condition 15 are still under review. A letter will be issued in due course.

#### Condition 16 – Turning Splays

Condition 16 reads as follows:

*“16. Prior to development of the superstructure hereby approved, a swept path analysis must be submitted to, and approved by, the Local Planning Authority. The swept path analysis must demonstrate that all turning manoeuvres into and of the site with a large family car can be made in a safe and efficient manner. Reason: To ensure adequate parking provision is provided in the interest of highway safety and to accord with LP21 and LP22 of the Kirklees Local Plan.”*

In support of the discharge of condition 16, the applicant has submitted:

- ‘Swept Path Analysis – Holmfield, Clayton West’

The submitted information shows turning splays for a 5.079m vehicle entering and exiting both parking spaces from the east and west. KC Highways have been informally consulted on the submitted plans and have no objections to the proposed turning splays.

The details are therefore sufficient for the discharge of condition 16. Condition 16 can therefore be discharged.

### **Decision Notice Text**

Conditions 10, 11 and 16 can be discharged.  
Conditions 6, 8, 9, 13 and 14 cannot be discharged.  
Conditions 12 and 15 are still under review.

#### Condition 6 – Boundary Treatment

In support of the discharge of condition 6, the applicant has submitted:

- A document titled “Boundary Treatment Plan”
- Proposed Boundary Layout ref: (100)04

The first page shows the location of a ‘new proposed hit and miss fencing’ to the northern, western and southern boundaries of the site. The fencing would be 1.8m on the north and west boundaries and 1.6m to the southern boundary. The existing stone wall would remain intact along the eastern boundary and part of the southern boundary.

Officers have concerns regarding the height of the proposed fence adjacent to the access with both the parking for the approved dwelling and the existing access to 33a Church Lane. Officers asked the applicant to demonstrate visibility splays on the plans to demonstrate that this would not interfere with visibility however this has not been provided.

Similar details were submitted and refused under application 2024/93179. The officers report for this application stated, “a 1.8m fence adjacent to a vehicular access would not be acceptable as it would raise concerns relating to visibility.”

Condition 6 can therefore not be discharged at this time.

#### Condition 8 - Intrusive Site Investigations and Remedial Works

In support of the discharge of condition 6, the applicant has submitted:

- Phase 2 Intrusive Site Investigation Report dated December 2024 – ref. G24327

The details within the submitted Phase II report are considered sufficient for the purposes of discharging condition 8. However, it should be noted that condition 8 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise.

Therefore condition 8 cannot be discharged.

#### Condition 9 - Declaration

No signed statement or declaration has been submitted and therefore condition 9 cannot be discharged at this time.

#### Condition 10 – Phase I Desk Study Report

In support of the discharge of condition 10, the applicant has submitted:

- Phase I Desk Study Site Investigation Report by Geoinvestigate (November 2024, ref: G24327)

Condition 10 was initially recommended by KC Environmental Health (EH), who have been consulted on the discharge of condition 10. Their comments are summarised below:

A review of historical maps identifies several potential contamination sources including nearby electric substations, infilled quarries, wells, a demolished building, and the Park Mill Colliery and tip. Unrecorded shallow coal workings are also considered a possibility. A site walkover conducted in November 2024 found the site to be open land with recent vegetation clearance and a thin concrete slab in the west, with no visible or olfactory signs of contamination. A conceptual site model (Table 3 of the report) outlines potential sources, pathways, and receptors, with a Phase 2 investigation recommended, including trial pits, boreholes, chemical sampling, and ground gas monitoring.

KC EH accept the Phase I Desk Study Site Investigation Report by Geoinvestigate (November 2024, G24327) and recommend that Condition 10 is discharged.

Condition 10 can therefore be discharged at this time.

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- Phase 2 Intrusive Site Investigation Report by Geoinvestigate (December 2024 ref. G24327)
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KC EH accept the Phase 2 Intrusive Site Investigation Report (December 2024, G24327) and Gas Monitoring Addendum Report (March 2025, G24327) both by Geoinvestigate and recommend that Condition 11 is discharged.

Condition 11 can therefore be discharged at this time.

#### Condition 12 – Remediation Strategy

The details submitted to discharge Condition 12 are still under review. A letter will be issued in due course.

#### Condition 13 – Remediation

Condition 13 is a prescriptive planning condition that cannot, and need not, be discharged. It sets a required standard that must be adhered to. It does not require that any details be provided, to demonstrate compliance or otherwise. Condition 13 must therefore remain.

#### Condition 14 – Verification Report

No verification report has been received in support of the application. Therefore, Condition 14 must remain until further notice.

#### Condition 15 – Arboricultural Impact Assessment

The details submitted to discharge Condition 15 are still under review. A letter will be issued in due course.

#### Condition 16 – Turning Splays

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