

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:	2025/44/90964/E
Site Address:	Land Off, Westgate, Cleckheaton, BD19 5DR
Description:	Discharge of details reserved by Condition 16. (details of new retaining walls) of permission 2021/93567 for Demolition of existing commercial buildings and erection of 180 dwellings with associated works
Recommending Officer:	Farzana Tabasum

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.

Nicholas Hirst

AUTHORISED OFFICER

Date: 18-May-2026

Application: 2025/90964

Site: Land off, Westgate, Cleckheaton, BD19 5DR

Proposals: Discharge of details reserved by Condition 16. (details of new retaining walls) of permission 2021/93567 for Demolition of existing commercial buildings and erection of 180 dwellings with associated works

Assessment

Condition 16 (phasing plan)

16. No groundworks or material operations, specifically those defined in section 56(4)(a), (b), (c), and (d) of the Town & Country Planning Act 1990 (as amended), shall commence until the design and construction details of any proposed retaining walls and/or temporary retaining features has been submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The details shall include a timetable for implementation. Thereafter the development shall be completed in accordance with the approved details and thereafter retained.

Reason: *To ensure that any retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure that details of highway retaining structures are agreed at an appropriate stage of the development process.*

The condition requires the submission and approval of full design and construction details of retaining walls (including temporary works), comprising a design statement, ground investigations, method statements, structural calculations, safety measures and an implementation timetable.

The applicant has submitted a suite of technical information including the Approval in Principle (AIP), associated addendum and Design and Check Certificates for the retaining structures. These documents have been subject to review and formal approval through the Highway Authority's Technical Approval process.

Submitted Details:

The applicant has submitted the following details/documents pursuant to condition 16:

- **Document titled:** 'Approval In Principle for Design Of Private Mass Concrete Retaining Walls in a New Residential Development off Westgate, Cleckheaton': Ref. K61200 A & B Rev. P4
 - Including appendices and attached plans.
- **Document titled:** 'Approval In Principle for Design Of Private Gillcon Lock+Load Retaining Walls in a New Residential Development off Westgate, Cleckheaton': Ref. K61200C, D Rev. P6
 - Including appendices and attached plans.
- **Document titled:** Certificate For the Design and Check of Highway Structures: Ref. K61200C & D
- **Document titled:** Certificate For the Design and Check of Highway Structures: Ref. K61200 A & B
- **Document titled:** Highways Authority Technical Approval In Principle Addendum: Design of Private Mass Concrete Retaining Walls in a New Residential Development off Westgate, Cleckheaton: Ref. K61200 A&B rev. P1

Per the given 'reason' for the condition, the purpose of the condition is '*To ensure that any retaining structures do not compromise the stability of the highway in the interests of highway safety*'. The condition does not relate to the appearance or other factors, such as the height, of the wall, as it focuses upon the structural aspects of the design. The height and appearance of the submitted details adhere to those approved at application stage.

During the course of the application, the submitted details have been subject to ongoing assessment, review, and feedback by the Council's Highway Structures Officer, with revisions made where necessary to address technical matters. This process has ensured that the retaining walls are designed and will be constructed in a manner that does not compromise the stability of the highway. The final approved AIP documents represent the culmination of this process and provide assurance that the requirements of the condition have been met in the interests of highway safety.

In their email dated 14/04/2026 the Council's Structures Officer has confirmed that, based on the final plans (listed above):

"The technical approvals for the designs of the 2no retaining walls are complete, and I recommend that condition 16 is discharged."

This is a key material consideration and confirms technical compliance. On this basis, and having regard to the signed AIP and certification, officers are satisfied that the submitted details are sufficient and include:

- A comprehensive design statement

- Appropriate ground investigations informing the design assumptions
- Method statements for both temporary and permanent works, including bulk excavations
- Structural calculations and independent design checks
- Associated safety measures to ensure the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access

The technical approval process undertaken by the Structures team provides robust assurance that the retaining structures have been designed in accordance with the relevant standards and is considered will not compromise highway safety or land stability.

Whilst a standalone timetable document is not explicitly provided, the AIP and construction methodology:

- Set out the sequence of works
- Confirm construction stages and delivery approach

Given the level of technical approval and certification, officers are satisfied that an appropriate implementation framework is established.

Condition 16 was worded as a pre-commencement condition, requiring approval prior to any groundworks. It is acknowledged that development has commenced on site prior to formal discharge of this condition, however:

- The submitted details demonstrate that the retaining structures have been designed in accordance with the required technical standards
- The Structures officer has confirmed acceptability and recommended discharge
- There is no evidence of harm arising to highway safety or land stability

On this basis, whilst there has been a technical breach of the timing requirement, there is considered no conflict with determining this application to normalise the situation.

Representations

In accordance with regulation Discharge of Condition applications are not subject to publicity. Nevertheless, they are available to view online and comment upon. Twenty representations have been received during the application, the comments of which are summarised below.

Material Planning considerations to this DOC application

The below queries largely relate to the suitability of the wall from a structural and technical perspective. Therefore, given the specialist nature of the matter,

the below representations have been shared with K.C. Structures, who have informed the below responses.

- *Adequacy of structural design*

Response: The adequacy of the structural design is ultimately the responsibility of the developer. However, the Highway Structures Technical Approval process undertaken by the Highway Authority is designed to help ensure that new structures are fit for purpose and safe to use.

The retaining wall has been subject to a formal design and checking process undertaken by suitably qualified and experienced Chartered Engineers. The submitted documentation demonstrates that the wall has been designed in accordance with relevant UK standards and codes of practice.

On this basis, the Highway Authority is satisfied that the structural form and design approach are appropriate for the function and location of the wall, subject to construction in accordance with the approved details.

- *Wall has been categorised as “Consequence Class CC2”*

Response: The consequence class for the retaining wall has been determined in accordance with BS EN 1990:2002+A1:2005, Annex B, and the UK National Annex. A classification of Consequence Class CC2 is appropriate given the nature of the structure and the foreseeable consequences of failure.

- *Suitability of materials (including concrete specification), noting ground conditions and sulphates.*

Response: As far as can be ascertained from the technical approval process, materials have been specified with reference to site-specific ground investigation results, identified sulphate exposure, and relevant British and European Standards.

The submitted information demonstrates that the proposed materials are suitable for the anticipated ground conditions and design life of the structure. Verification of material compliance during construction remains the responsibility of the developer and contractor.

- *Nature of made ground and quarry infill*

Response: As far as can be ascertained through the Highway Structures Technical Approval process, the design has accounted for these conditions through appropriate selection of parameters, foundation assumptions and overall form of construction.

Responsibility for confirming ground conditions encountered during construction and responding to any variability remains with the developer.

- *Potential for instability, settlement or lateral movement*

Response: As far as can be determined through the technical approval process, these matters have been appropriately considered within the design, and no unacceptable risk to the public highway has been identified, subject to construction in accordance with the approved details.

- *Potential effects on neighbouring foundations*

Response: The technical approval process considers potential effects on the public highway and any structures forming part of it.

The retaining wall does not support adopted highway infrastructure, and properties located beyond the highway boundary are not within the remit of highway technical approval. Any risks to third-party land or structures are a matter for the developer to assess and manage separately.

- *Risks arising from excavation, loading and construction*

Response: The planning condition requires method statements and safety measures to be submitted to the Local Planning Authority. The Highway Structures Technical Approval process does not extend to detailed construction management or temporary works design within the site.

Risks arising from excavation, loading and construction are managed through the developer's and contractor's duties under health and safety legislation, including the Construction (Design and Management) Regulations.

- *Whether sufficient design, calculations and technical justification have been provided*

Response: The adequacy of the structural design, including the detail and accuracy of calculations, remains the responsibility of the promoter.

The Highway Structures Technical Approval process confirms, as far as reasonably practicable, that the design principles are appropriate, justified, and consistent with the agreed Approval in Principle.

- *Whether the AIP process has been satisfactorily completed*

Response: An Approval in Principle has been prepared, reviewed and accepted in accordance with the Highway Authority's technical approval procedures.

On this basis, the Authority is satisfied that the AIP process has been satisfactorily completed.

- *Measures to safeguard highways, adjoining land and areas of public access during construction*

Response: Measures to safeguard the public highway and public access during construction are secured through separate regulatory controls, including highway licences, traffic management arrangements and health and safety legislation. No extraordinary risks to the highway were identified through the technical approval process.

Concerns have been raised by residents in relation to the structural safety of the retaining walls, ground conditions, and the potential impact on nearby properties.

Condition 16 specifically requires the submission and approval of detailed design and construction information for the retaining structures to ensure that they are constructed so as not to compromise the stability of the highway and surrounding land. The details submitted pursuant to this condition have been subject to detailed technical review by the Council's Highways Structures Team.

As referenced above, during the application, the submitted information has been amended on a number of occasions in response to technical queries from K.C. Highways Structures, resulting in a final set of AIP documents which have been formally signed off. This process included consideration of structural design, materials, ground conditions, stability and safety factors, and provides independent verification that the retaining walls are designed in accordance with the relevant standards.

On this basis, officers are satisfied that the submitted details adequately address matters relating to structural integrity, ground conditions and the protection of adjacent land, including nearby residential properties. The technical approval confirms that the retaining structures will not compromise highway safety or land stability. Accordingly, whilst the concerns raised are noted, officers are satisfied that the requirements of condition 16 have been met.

Non-Material considerations to this DOC application

- Appearance, scale and visual impact of the retaining wall and fence
- Impact on the character of the area
- Loss of light, overshadowing and outlook
- Loss of privacy
- General impact on living conditions, including from noise, dust, and contamination.
- Relationship to neighbouring dwellings in amenity terms
- Concerns regarding dominance and overbearing impact
- Construction noise, dust (including silica) and disturbance

- Requests for additional environmental assessments
- Vapour migration, asbestos exposure and wider contamination concerns
- Allegations regarding works commencing prior to approval
- Concerns regarding transparency of the planning process
- Requests to halt development
- Concerns regarding lack of consultation with residents
- Party Wall Act issues
- Property value impacts
- References to the Highways Act outside the scope of structural approval

Response: Whilst the above concerns are noted, they do not fall within the scope of this discharge of condition application.

Condition 16 relates specifically to the submission and approval of detailed design and construction specification / information for retaining structures, in order to ensure their structural integrity and to safeguard highway stability (per the condition 'reason'). Matters relating to the appearance, scale, visual impact and wider residential amenity of the development, including the retaining wall(s), were considered as part of the assessment of the original planning application and are not for reconsideration under this discharge of condition application. Officers are limited to considerations that fall within the scope of the condition.

Similarly, issues relating to construction impacts, environmental health matters, land contamination, and civil or legal matters (including Party Wall Act considerations) are controlled through separate regulatory regimes or other planning conditions and are not directly addressed through the discharge of condition 16. As such, these matters cannot materially factor into the determination of this application, given its specific focus.

Councillor comments

The following is also a summary of the comments received from Cllr Pinnock:

- Requesting for an update during the course of the application
- A request for a committee decision, given the level of public concern
- Querying the height of retaining walls (particularly those facing existing properties on Quarry Road)

Response: An update was provided along with highlighting that the height of the retaining walls along Quarry Road boundary were previously approved on the planning application.

Cllr Pinnock was also advised that, in accordance with the council's scheme of delegation, the Chair of the Strategic Planning Committee has considered the request for a committee decision and, after review, had decided not to accept the request.

Whilst Condition 16 relates primarily to structural design and highway safety, consideration has been given separately to the visual impact of the retaining walls, including those to be overlooked by existing properties on Quarry Road to the east, under a separate discharge of condition (29) application ref: 2025/92254

Conclusion

In summary, the submitted information, including:

- Approved AIP and addendum
- Structural design and certification
- Construction methodology
- Safety and highway protection measures

demonstrates that the proposed retaining walls have been:

- Properly designed
- Approved by the Structures team

The requirements of condition 16 have therefore been fully satisfied and recommended for approval subject to the respective ongoing requirement of this condition, specifically with regards to the development being completed in accordance with these approved details and thereafter retained.

Recommendation: Approve details.

Report Date: 15/05/2026

Recommended Decision text

Condition 16 (Retaining Wall Specification)

You have submitted the following documents pursuant to condition 16:

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 - Including appendices and attached plans.
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I can confirm that the submitted details are acceptable for the purposes of condition 16 and are hereby approved, to ensure that the retaining structures are constructed so as not to compromise the stability of the highway in the interests of highway safety.

The submitted details have been subject to review by the Council's Highway Structures Team, with amendments made on a number of occasions during the course of the application. This has ensured that the design and construction of the retaining walls are acceptable in technical terms, with the final Approval in Principle (AIP) documents reflecting the agreed position.

For the avoidance of doubt, the details approved under this condition relate to the structural design and construction of the retaining walls only. This discharge does not approve the external facing materials or finishes of the retaining walls, which are considered separately under the relevant application.

Please note that condition 16 includes an ongoing requirement that the development shall be carried out in accordance with the approved details and thereafter retained.