

**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:	2025/44/91268/W
Site Address:	Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW
Description:	Discharge of details reserved by conditions 17 (Retaining walls adjacent to highways), 25 (Boundary Treatments), 30 (Retaining Wall Materials) on 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 – 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: 09-Oct-2025

Officer Report

Application: 2025/91268

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

Proposal: Discharge of details reserved by Conditions 17. (Retaining walls adjacent to highways) 25. (Boundary Treatments) 30. (Retaining Wall Materials) of 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 17: Retaining Walls adjacent to Highways

17. Prior to development commencing, a scheme detailing the location and cross-sectional information, together with the proposed design and construction details for all new retaining walls / building retaining walls adjacent to the existing / proposed adoptable highways including any modifications to the existing retaining wall on the Penistone Road (A629), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved development shall be undertaken in accordance with the approved details.

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.*

In support of Condition 17 the following documents have been submitted:

- Private Burr Wall Details, Drawing No. 2079/22/1000 Rev A, received 08/05/2025.
- Design and Check Certificate, received 08/05/2025.
- Approval in Principle for Design of Proposed Private Masonry Faced Mass Concrete Burr Wall supporting Unadopted Highway off A629 Penistone Road, Fenay Bridge, dated 18/03/2025, Rev 01, received 08/05/2025.
- Section 38 Legal Plan, Drawing No. 22/491/S38/001 Rev C, received 11/06/2025.

This condition has been reviewed by KC Highway Structures who have provided the following response in their consultation dated 23/06/2025:

Further to a review of the draft s38... if the northern section of Road 7 is to remain unadopted, then it would appear that there are no further

retaining walls at this site which would be liable to a formal technical approval. In view of this, condition 17 (structures) can be partially discharged pending the submission of a satisfactory "Construction Compliance Certificate" together with "As built" drawings upon the construction of burr wall supporting Road 5.

Officers support this assessment and recommend that the details be approved. However, as the condition has ongoing requirements it cannot be fully discharged at this time. A note setting out the ongoing requirements is recommended to be included on the decision notice.

Condition 25: Boundary Treatments 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 Plan.*

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

- GeoWall with Feather Edge Fence, Drawing No. NH/SD/PL/101 Rev A, received 08/05/2025.
- GeoWall with Railings (Metal/Timber), Drawing No. NH/SD/PL/102 Rev A, received 08/05/2025.
- MACWALL with Metal Railings, Drawing No. NH/SD/PL/103 Rev A, received 08/05/2025.
- Macwall with Timber Fence, Drawing No. NH/SD/PL/104 Rev A, received 08/05/2025.
- Timber Clad sheet piling 1.8m Fence, Drawing No. NH/SD/PL/105 Rev B, received 10/07/2025.
- Natural Stone retaining wall & railings, Drawing No. NH/SD/PL/106, received 08/05/2025.

- 2m Natural Stone Masonry Wall Detail, Drawing No. NH/SD/S120/A/02, rev B, received 10/07/2025.
- 1.8m Art. Stone Masonry Wall Detail, Drawing No. NH/SD/S120/A/02.01, received 10/07/2025.
- 2.0m Acoustic Timber Fence, Drawing No. NH/SD/S120/A/30, received 08/05/2025.
- 450mm Timber Knee Rail, Drawing No. NH/SD/S120/B/01, received 08/05/2025.
- 1.5m Metal Railing Detail Standard, Drawing No. NH/SD/S120/B-02, received 08/05/2025.
- 1.8m Feather Edge Fence Detail, Drawing No. NH/SD/S120/B/06, received 08/05/2025.
- Sheet pile timber cladding detail, Drawing No. SHT-S-DAWG-A001, received 08/05/2025.
- Proposed Boundary Treatments, Drawing No. Z078-003 Rev H, received 02/10/2025.
- Sheet Pile Retaining Wall, Drawing No. 24219-PS-XX-XX-DR-Y-0001 Rev D, received 08/05/2025.
- External Works, Drawing No. 0013-EXTWKS Rev J, received 08/05/2025.
- Macwall Spec Sheet, received 08/05/2025.
- GeoWall Spec Sheet, received 08/05/2025.
- Source for Natural Stone for boundary/retaining walls, received 08/05/2025.
- Justification email from applicant's agent, dated 10/07/2025.

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 the dwellings located within the estate.

1.5m metal guard railings are shown around the public open space located to the south of the site, adjacent to no. 9 Woodsome Drive, as this is deemed to be acceptable as 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.

Of note, condition 37 is relevant and says:

37. Prior to the occupation of plots 36 – 42, further to the details approved pursuant to condition 25, the approved boundary treatment to all of the southern landscaped area as identified by green chequers between plots 42 and 43 on plan ref. Z078-002 Rev. P shall be fully installed. Thereafter the southern landscaped area's boundary treatment so installed shall be retained.

A note of the above is recommended to be included on the decision notice.

In addition to the above, a MAC Wall and 1.1m metal railings are proposed to the east of the public open space located to the south of the site. Visually this is acceptable, and although Officers had some concerns in respect of the boundary treatment proposed around the RPA of tree T21, the applicant's agent has confirmed that the external works have been updated in line with the Arboricultural Method Statement submitted under Condition 15 of application 2024/93220, of which the Council's Trees Officer has confirmed that this approach is acceptable.

Notwithstanding the above, Officers note that the retaining wall located adjacent to Plot 43, identified as 'Mac Wall and 1100mm metal railings' on submitted drawing 'Proposed Boundary Treatments' drawing no. Z078-003 Rev H, is not in accordance with conditions 2 or 3 of permission 2022/93154. Given that this condition (condition 30) relates only to the materials of the retaining walls, subject to the details of the materials being acceptable, it may still be approved without prejudice to the requirements of either condition 2 or 3, which remains in force (i.e., the applicant could not implement the plans shown, in so far as they relate to the modified retaining wall's location). However, a note is recommended to be included on the decision notice explicitly advising the applicant of this discrepancy and that they are advised that a Section 73 application would need to be submitted to the Council to apply for this change.

Mac Walls in a buff split face textured finish and Geo Walls in an Oakwood textured wood finish are proposed throughout the estate. Product brochures for these materials, alongside photographs of the products have been provided and are deemed to be acceptable in this location. Whilst officers did initially raise concerns in regard to the proposed Oakwood colouring of the geo-wall, which would in some cases be utilised alongside timber fencing panels and may appear as a monotonous block of walling of a single colour. From looking at the submitted details, it appears that the colour of the Oakwood geo-wall is somewhat unique and therefore it is unlikely that fencing panels which are identical in texture and colour would be erected, thus reducing officers' concerns on the monotonous visual appearance of the structures. The above boundary treatments are therefore considered acceptable.

Mac Walling with timber fencing/metal railings are also proposed around the LEAP; this is deemed to be acceptable. Whilst it is noted that the retaining structures around the LEAP vary in height from 0.9m – 3.3m, and this was previously approved as having a retaining structure of circa 1.5m. The applicant's agent has confirmed via email on the 10/07/2025 that the height of the retaining wall along the LEAP frontage has increased to reduce the ground levels of the lower plateau, which was necessary to deliver a level platform for the play equipment proposed. This is deemed to be reasonable and acceptable.

In addition to the above, Drawing No. NH/SD/S120/A/02.01 has been submitted in relation to the 1.8 artificial stone wall. The materials are to include Forticrete Artstone in Premier Regency buff pitched. The location of this boundary treatment and materials are considered to be sympathetic to both the

surrounding area and approved development, and therefore are deemed to be acceptable.

The boundary treatment plan also references a natural stone wall, 2m natural stone wall and natural stone wall with railings, shown within drawings NH/SD/PL/106 & NH/SD/S120/A/02 Rev B. These boundary treatments are to run along the western boundary of the site, adjacent to Penistone Road. The natural stone is to be sourced from AD Calvert's Witton Fell and is to comprise of sandstone 140mm coursed lightly pitched. This is the same as the natural stone secured on plots facing Penistone Road and approved via the discharge of condition application 2024/92428 (condition 28). The quarry is located to the west of Ellingstring and is helpfully identified within the 'Source for Natural Stone for boundary/retaining walls' document, received 08/05/2025. Railings are to comprise of 1.1m high metal railings in a black powder coated finish. Given the above, Officers consider these materials and their locations to 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 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. However, the applicant's agent has stated via email that these revisions are required due to the existing site levels of the site now being fully understood. Due to the existing topography on site, the height differences between adjacent plots have been influenced by road design levels and Part M – disabled access requirements. Thus, resulting in the need for retaining walls on plot boundaries to create level building platforms and usable garden spaces. These retaining walls help to transform the steep gradients of the site to flat terraces, making the plots more functional and maximising usable amenity space. Maintaining the height of the fencing on top of the retaining walls at 1.8m, whilst increasing the total height of the boundary will offer privacy to adjacent plots at lower level. The above details are considered to be acceptable on this occasion.

To the rear of plots 5 to 16 Sheet piling and 1800mm timber fence is proposed. The sheet piling is to be clad with Vertical feather edge Timber panels, above these panels is to be a 1.8-2.2m high hit and miss timber fence. Whilst this will in effect result in a the visual appearance of a fence upon a fence, and therefore has the potential to be overly dominant and monotonous, as these boundary treatments are to result in varied fence designs, this will help break up the visual façade of the boundary treatments, and therefore the proposed timber clad sheet piling and fence are considered to be acceptable on this occasion.

Finally, to the front of plots 5-16 a GeoWall and 1.1m metal railings are now proposed. This does differ to the original consent however, the applicant's agent has confirmed that the retaining solution was altered to sheet piling (to the rear) as a result of further site investigation into the existing ground conditions. Plot levels were then raised in order to minimise the impact on the

rear gardens and to create a larger level/gently sloping amenity/play space. With the raising of the floor levels, retaining walls were introduced on the front aspect along with fall protection (railings). The road levels remain unchanged due to drainage constraints. This element of the scheme is deemed to be acceptable.

Given the above assessment, the submitted details are deemed to be acceptable for the initial requirements of Conditions 25 & 30. However, Conditions 25 & 30 do have the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

Condition 25:

Thereafter the development shall be undertaken in accordance with the approved details.

Condition 30:

The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

Recommendation: Approve details.

Report Dated: 02/10/2025.

Recommended Decision Notice Text

Condition 17: Retaining Walls adjacent to Highways

Pursuant to Condition 17, you have submitted:

- Private Burr Wall Details, Drawing No. 2079/22/1000 Rev A, received 08/05/2025.
- Design and Check Certificate, received 08/05/2025.
- Approval in Principle for Design of Proposed Private Masonry Faced Mass Concrete Burr Wall supporting Unadopted Highway off A629 Penistone Road, Fenay Bridge, dated 18/03/2025, Rev 01, received 08/05/2025.
- Section 38 Legal Plan, Drawing No. 22/491/S38/001 Rev C, received 11/06/2025.

The submitted details are deemed to be acceptable for the initial requirements of Condition 17. However, Condition 17 does have the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

Thereafter the approved development shall be undertaken in accordance with the approved details.

Notwithstanding the above, you are reminded that a Construction Compliance Certificate” together with “As built” drawings upon the construction of burr wall supporting Road 5 are required to be submitted to KC Structures prior to works commencing on site.

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

Pursuant to Conditions 25 & 30, you have submitted:

- GeoWall with Feather Edge Fence, Drawing No. NH/SD/PL/101 Rev A, received 08/05/2025.
- GeoWall with Railings (Metal/Timber), Drawing No. NH/SD/PL/102 Rev A, received 08/05/2025.
- MACWALL with Metal Railings, Drawing No. NH/SD/PL/103 Rev A, received 08/05/2025.
- Macwall with Timber Fence, Drawing No. NH/SD/PL/104 Rev A, received 08/05/2025.
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- Natural Stone retaining wall & railings, Drawing No. NH/SD/PL/106, received 08/05/2025.
- 2m Natural Stone Masonry Wall Detail, Drawing No. NH/SD/S120/A/02, rev B, received 10/07/2025.
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- 2.0m Acoustic Timber Fence, Drawing No. NH/SD/S120/A/30, received 08/05/2025.
- 450mm Timber Knee Rail, Drawing No. NH/SD/S120/B/01, received 08/05/2025.
- 1.5m Metal Railing Detail Standard, Drawing No. NH/SD/S120/B-02, received 08/05/2025.
- 1.8m Feather Edge Fence Detail, Drawing No. NH/SD/S120/B/06, received 08/05/2025.
- Sheet pile timber cladding detail, Drawing No. SHT-S-DAWG-A001, received 08/05/2025.
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- GeoWall Spec Sheet, received 08/05/2025.
- Source for Natural Stone for boundary/retaining walls, received 08/05/2025.
- Justification email from applicant’s agent, dated 10/07/2025.

The submitted details are deemed to be acceptable for the initial requirements of Conditions 25 & 30 (and only the requirements of these conditions). However, Conditions 25 & 30 do have the following ongoing requirement which must be adhered to, to ensure ongoing compliance:

Condition 25:

Thereafter the development shall be undertaken in accordance with the approved details.

Condition 30:

The development shall be completed using the approved materials, prior to the hereby approved building being brought into use.

In addition to the above, also of relevance to the details provided is condition 37, which states:

37. Prior to the occupation of plots 36 – 42, further to the details approved pursuant to condition 25, the approved boundary treatment to all of the southern landscaped area as identified by green chequers between plots 42 and 43 on plan ref. Z078-002 Rev. P shall be fully installed. Thereafter the southern landscaped area's boundary treatment so installed shall be retained.

NOTE: It is noted that a retaining wall located adjacent to Plot 43, identified as 'Mac Wall and 1100mm metal railings' on submitted drawing 'Proposed Boundary Treatments' drawing no. Z078-003 Rev G, is not in accordance with the details submitted as part of application 2022/93154. In addition to condition 2 (approved plans), you are reminded that condition 3 of 2022/93154 reads:

3. The hereby approved development's groundworks, retaining works, and dwelling Finished Floor Levels shall be undertaken in accordance with the level details shown upon plan ref. 22/491/EXT/001 Rev. B.

Reason: *For the avoidance of doubt as to what is being permitted and in the interest of visual and residential amenity, in accordance with LP24 of the Kirklees Local Plan.*

Implementing the retaining wall as shown on the submitted plans (notwithstanding the approval of the details, in so far as they relate to conditions 25 and 30, via this Discharge of Condition submission) would be in breach of conditions 2 and 3 of 2022/93154

Without prejudice to any future assessment, a Section 73 application would be required for this change for this change to be assessed. Nonetheless, Condition 30 of this discharge of conditions application (2025/91268) relates solely to the materiality of the retaining walls and therefore can be discharged.