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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 04-Dec-2025

**Subject: Planning Application 2025/91279 (Amended Proposal) Variation condition 2 (plans) on previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens Land off, Kenmore Drive, Cleckheaton, BD19 3EJ**

#### APPLICANT

Ricky Boden, Robertson  
Construction

#### DATE VALID

20-May-2025

#### TARGET DATE

19-Aug-2025

#### EXTENSION EXPIRY DATE

09-Oct-2025

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[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected:** Cleckheaton

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

## **1.0 INTRODUCTION**

- 1.1 This Section 73 (S73) application seeks to vary the approved plans for an extra care housing development (reference 2020/91746). The application granted approval for the erection of 80 apartments with associated communal facilities and landscaped gardens. The amendments sought are to install four air source heat pumps within a new external enclosure, an external plant area and a sub-station. The proposed siting of the compounds and sub-station also necessitates a revision to the siting and size of the approved bin store.
- 1.2 At the meeting of 23/10/2025 the Strategic Planning Committee resolved that consideration of the application be deferred and that the Head of Planning and Development be requested to explore alternative options for siting the air source heat pumps, plant area, sub-station and bin store, including within the area designated for car parking, or additional mitigations.
- 1.3 Since the previous committee and deferral the applicant has proposed to re-locate the air source heat pumps, plant area, sub-station and bin store, west of the previous locations, encroaching into the car park. This removed four parking spaces however, at the loss of two trees, four new parking spaces have been proposed. These changes have been re-advertised.
- 1.4 The previous committee report's recommendation included securing a Section 106 (S106) Deed of Variation Agreement, to re-secure the planning obligations and contributions secured as part of the original permission (2020/91746). On review, it has been confirmed that the original S106 agreement included a clause (clause 2.14) that secured the original agreement's provisions for future S73 Variation of Condition applications (such as this), therefore negating the need for a S106 Deed of Variation. The above recommendation has therefore been updated accordingly.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is 1.68 hectares in size and lies to the north west of Cleckheaton town Centre. The surrounding area is predominately residential and the site is bordered by neighbouring residential properties to all boundaries, including a residential nursing home.

- 2.2 The site slopes from approximately 120mAOD in the south west corner, to approximately 103mAOD in the north east corner. Construction works are underway for the erection of an extra care residential development providing 80 apartments (1 and 2 bedroom) with central communal facilities and landscaped gardens, pursuant to planning application ref 2020/91746. The building has been substantially completed on site.
- 2.3 The whole of the site within the red line boundary comprises a housing allocation in the Kirklees Local Plan; ref HS101.

### 3.0 PROPOSAL

- 3.1 The original permission was for the erection of 80 extra care apartments with associated communal facilities and landscaped gardens. Works have commenced.
- 3.2 Under this Section 73 (S73) application, the applicant proposes the variation of the drawings approved under condition 2 of the planning permission ref 2020/91746 (dated 25 January 2022) which states:

*2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.*

**Reason:** *For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion, and to accord Policies LP1, LP2, LP7, LP11, LP20, LP21, LP22, LP24, LP27, LP28, LP30, LP38, LP52 and LP63 of the Kirklees Local Plan as well as Chapters 2, 5, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.*

The wording of the condition is not sought to be changed, although the associated plans table would be updated to amended plans.

- 3.3 The proposed amendments are to introduce air source heat pumps within an enclosure, an external plant area, a sub-station and revisions to the bin store location and size (relocated following the committee deferral at the meeting dated 23/10/2025). The amendments are as follows:

#### *Air Source Heat Pumps and Plant Room*

- 3.4 The proposal is for four air source heat pumps, and an adjoining plant room to be sited in the southern portion of the car parking area, between the retaining wall and the internal access road.
- 3.5 The air source heat pumps would be contained within a new enclosure. The enclosure would have a concrete base measuring 7.1 metres wide, 3.8 metres deep and the walls would be constructed of feathered edge timber boards, with a maximum height of 3 metres. The design incorporates maintenance access doors and a pergola style roof covering. A proposed plant room would adjoin the air source heat pump compound and measure 4.1 metres wide, 4.1 metres deep and a maximum of 3.2 metres in height. It would be of brick construction with a single ply flat roof with doors on the front (northern) elevation.

### *Sub-Station*

- 3.6 The proposed sub-station would also be sited in the southern portion of the existing car park, 1m east of the proposed air source heat pump compound and plant room, and between the retaining wall and internal access road.
- 3.7 The sub-station would be of brick construction with a hipped roof, and measure 4 metres in width and depth and 4.3 metres in height with doors on the front (northern) elevation.

### *Bin Store*

- 3.8 The proposed siting of the air source heat pumps, plant room and sub-station necessitates a revision to the siting and size of the approved bin store and cycle store. The revised bin store would be located in a similar position in the southern portion of the car parking area, however the size and capacity of the store has been reduced from 22 11ltr bins to 14 11ltr bins. It would be sited slightly forward of the retaining wall to the south-east of the drop off area. The position/orientation of the adjacent covered cycle store has been subsequently adjusted for the purposes of accommodating the new layout.
- 3.9 The capacity of the store has been reduced from 22 11ltr bins to 14 11ltr bins. The bin store would be of timber construction with a maximum height of 2.6 metres and would have a pergola style roof.

### *Impact on Car Parking*

- 3.10 The revised proposal results in the displacement of four car parking spaces as originally approved. Therefore, the car parking area has been redesigned to accommodate the four displaced spaces across the wider car park, to ensure no spaces will be lost. To achieve the retention of the previously approved number of car parking spaces, the proposal results in the loss of two previously approved proposed trees within the wider car parking area.

## **4.0 RELEVANT PLANNING HISTORY (including enforcement history)**

### **4.1 Application site**

2020/62/91746/E – Erection of extra care development comprising 80 apartments with associated communal facilities and landscaped gardens – Conditional Full permission.

2022/44/93722/E - Discharge of conditions 5 (Construction Management Plan), 8 (CEMP Biodiversity), 9 (BEMP), 10 (drainage), 11 (flood routing) and 13 (temporary drainage) of previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Discharge of conditions approved.

2023/44/90995/E - Discharge condition 18 (Phase II Intrusive Site Investigation Report) on previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Discharge of conditions approved.

2023/44/93605/E Discharge of condition 25 (PROW) of previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Discharge of conditions approved.

2023/44/93606/E Discharge of condition 6 (landscaping) of previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Discharge of Conditions Approved

2024/44/91104/E Discharge of condition 3 (materials) of previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Discharge of Conditions Approved.

2024/NMA/92159/E Non material amendment to previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens. Approved.

2025/NMA/90594/E Non material amendment to previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens - Refused

2025/44/91528/E Discharge of details reserved by conditions 16 (ventilation) on previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens - Pending a decision

2025/44/91529/E Discharge of details reserved by conditions 8 (CEMP), 10 (drainage strategy), 12 (drainage maintenance), 23 (evc), and 24 (external lighting,) on previous permission 2020/91746 for erection of extra care development providing 80 apartments with associated communal facilities and landscaped gardens – Pending a decision

#### 4.2 Surrounding area

Nonrelevant to the proposal.

### 5.0 **HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

#### 5.1 During the course of the application officers have negotiated with the applicant to secure:

- A revised scheme to re-locate the air source heat pump compound, plant room and sub-station further away from neighbouring property.
- Secure a revised/updated landscaping scheme
- Further details on how the bin store collection will operate.
- Further explanation of the reasons for discounting alternative locations within the site.
- A rebuttal from the applicant's acoustic consultation on the objections raised by third parties.
- A rebuttal from the applicant in response to tree T19.

#### 5.2 *Post Committee Update*

Since the previous committee officers have negotiated with the applicant to secure the following amendment / further details:

- A revised scheme to re-locate the air source heat pump compound, plant room and sub-station within the car parking area.
- An updated Noise Report

## **6.0 PLANNING POLICY**

- 6.1 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 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019)

- 6.2 The site is unallocated in the Kirklees Local Plan. The following Local Plan policies are considered relevant to the proposal:

**LP1** – Presumption in favour of sustainable development  
**LP2** – Place Shaping  
**LP3** – Location of new development  
**LP4** – Providing Infrastructure  
**LP7** – Efficient and effective use of land and buildings  
**LP9** – Supporting skilled and flexible communities and workforce  
**LP11** – Housing Mix and Affordable Housing  
**LP20** – Sustainable Travel  
**LP21** – Highways and Access  
**LP22** – Parking  
**LP23** – Core Walking and Cycling Network  
**LP24** – Design  
**LP26** – Renewable and Low Carbon Energy  
**LP27** – Flood Risk  
**LP28** – Drainage  
**LP30** – Biodiversity and Geodiversity  
**LP32** – Landscape  
**LP33** – Trees  
**LP38** – Minerals Safeguarding  
**LP47** – Healthy, active and safe lifestyles  
**LP48** – Community facilities and services  
**LP51** – Protection and Improvement of Local Air Quality  
**LP53** – Contaminated and unstable land  
**LP52** – Protection and improvement of environmental quality  
**LP63** – New Open Space  
**LP65** – Housing Allocations

### Supplementary Planning Guidance / Documents

- 6.3 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council:

#### *Supplementary Planning Documents*

- Affordable Housing and Housing Mix SPD (2023)
- Highways Design Guide SPD (2019)

## *Guidance documents*

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

## National Planning Guidance

- 6.4 National Policies and Guidance National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), and the Planning Practice Guidance Suite (PPGS), together with Circulars, Ministerial Statements and associated technical guidance.
- 6.5 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. The following are the most relevant sections of the NPPF to the application

**Chapter 2** – Achieving sustainable development

**Chapter 4** – Decision-making

**Chapter 5** – Delivering a sufficient supply of homes

**Chapter 8** – Promoting healthy and safe communities

**Chapter 9** – Promoting sustainable transport

**Chapter 11** – Making effective use of land

**Chapter 12** – Achieving well-designed places

**Chapter 14** – Meeting the challenge of climate change, flooding and coastal change

**Chapter 15** – Conserving and enhancing the natural environment

**Chapter 16** – Conserving and enhancing the historic environment

## **7.0 PUBLIC/LOCAL RESPONSE**

**Note:** Paragraphs 7.7 and 7.8 relate to the re-advertisement period undertaken following the committee meeting dated 23/10/2025 and amended details received.

- 7.1 The application was initially advertised via site notices and a press notice with the final publicity expiring 10<sup>th</sup> July 2025.
- 7.2 As a result of the above publicity, four representations were received. Full comments are available to view on the Council's website, although in the interests of clarity one objection has been subsequently updated with a request that the previous comments be superseded. A summary of the concerns raised is as follows:
- The proposal represents a significant and harmful departure introducing multiple sources of mechanical noise, vibration and environmental nuisance directly adjacent to a single existing home.
  - Concern the introduction of major mechanical elements proposal bypasses the scrutiny they would have received had they been included in the original application.

- The shift from amenity space to industrial mechanical plant represents a fundamental change in character and intent.
- The developer previously attempted to introduce this infrastructure via a non-material amendment which was refused.
- The Noise Report acknowledges a +10Sb excess over background levels at NRS1 during nighttime hours and continues to apply penalties for tonal (+2dB\_ and intermittent (+3dB) noise characteristics. This brings the total predicted impact to +15dB placing it within the Significant Observed Adverse Effect Level (SOAEL) as defined by National Planning Policy. This level of noise is understood to cause severe disruption to sleep and quality of life, and national precedent confirms where SOAEL is breached, development must not proceed without clear and enforceable mitigation.
- Lack of detailed specifications and no evidence of acoustic properties of the wall or roof materials
- Flawed Operational assumptions; the modelling assumes continuous uniform operation on all four ASHP units and does not account for real-world operations.
- Concern mitigation measures are unforeseeable
- The acoustic kit specification does not constitute a detailed engineering specification.
- Planting does not have an acoustic function.
- The report fails to address the combined noise of the ASHP, substation and commercial kitchen extraction system.
- No vibration modelling has been provided.
- The report models a compound with masonry walls and acoustic roof, the drawings depict a timber enclosure.
- The site lies on a sloped and acoustically exposed topography.
- The effectiveness of anti-vibration pads for the sub-station cannot be confirmed without a study.
- The plans are inconsistent.
- Tree T19 was felled without permission and is still shown on the plans. This likely served as a visual and acoustic buffer.
- Concern there is no fire safety plan or ventilation strategy for the sub-station.
- Large refuse containers present a risk of attracting vermin.
- The construction phase has caused ongoing impacts.
- Reasonable alternatives have been rejected on flawed grounds and properties developer logistics over amenity protection.
- The developer has not liaised with residents.
- There is not long-term operation or maintenance strategy.
- Query how the developers did not know an air source heat pump and sub-station were needed at the time of the original application and whether sufficient scrutiny will be applied to the assessment.
- The substation and air source heat pumps will generate additional noise and vibrations and disrupt the lives of residents.
- There has been no consultation from the developer with residents and residents have limited time to object and may be unaware of the proposals.
- Object based on the noise this will generate for existing residents.
- Look forward to the scaffolding coming down to access the footpath from Kenmore Drive to Milton Terrace.
- Object to opening a public right of way on to Milton terrace due to dogs fouling the streets and people using the access late at night.

## Amended Plans Publicity

- 7.3 Amended Plans were initially received which reduced the dimensions of the air source heat pump compound and re-sited it further away from neighbouring property. A reduction in scale of development would not necessitate further publicity, however amended plan neighbour letters were sent to all interested parties who made comments on the original proposal. The amended plans publicity expired 28<sup>th</sup> August 2025.
- 7.4 As a result of the above amended plans publicity one representation was received. For clarity the objector requested that the representation be considered as an update to their previous representation. Full comments are available to view on the Council's website and a summary of the concerns raised is as follows:
- The new submissions reinforce many of the original concerns and contradicts national and local planning policy and fails to demonstrate that harm to residential property will be avoided.
  - The drawings do not bind the precise enclosure height, internal linings, door/roof construction, plant models or internal clearances on which the acoustic results depend, so compliance is not enforceable.
  - Concern about flawed operational assumptions
  - There is no robust cumulative model of ASHPs + substation + kitchen extraction/other plan.
  - There is a failure to assess vibration.
  - There is no procedure for servicing, and door opening is an unmanaged acoustic vulnerability
  - The updated report offers no justification for adopting a design that brings the ASHPs closer to neighbouring property.
  - The way the neighbouring property has been constructed allows for transmitting low-frequency vibration.
  - Nova Rev 003 does not explicitly assess low-frequency content from the ASHP units.
  - The worst case for the receiver points is not represented.
  - The model does not assess peak scenarios.
  - A condition that says "Build as per the report" is enforceable.
  - The scheme leans heavily on screening/acoustic fencing without evidencing real-world maintained performance.
  - Sub-station - there is no vibration/low frequency study and a secured specification, performance remains speculative.
  - Tree T19 was felled removing a visual/acoustic buffer
  - The revised proposals increase the visual prominence.
  - The screen/fencing do not mitigate visual dominance, rather they create an overbearing presence to the neighbouring garden and bedroom. The proposal results in an unacceptable loss of amenity.
  - Lack of a fire strategy for the external plant.
  - Concern about façade reflections and low-frequency build up.
  - The neighbouring property operates a professional music and media studio and maintains non-standard working and sleeping patterns.
  - The placement of all disruptive and potentially hazardous systems in a single cluster adjacent to one existing home is unreasonable and the compound impact has not been meaningfully assessed.
  - None of this critical infrastructure was accounted for in the original approved plans, the justifications for rejecting alternative sites rely heavily

on assumptions, rather than clear planning grounds or proven environmental constraints.

- There is no guarantee that any mitigation measures, visual or acoustic will perform as intended when operational.

#### Further Amended Plans Publicity

7.5 A rebuttal written by the applicant to the original objections was received which includes input from their noise consultant, Nova Acoustics. As a result, neighbour letters were sent to all interested parties who made comments on the original proposal. The amended plans publicity expired 2nd October 2025.

7.6 As a result of the above amended plans publicity one further representation was received. Full comments are available to view on the Council's website and a summary of the concerns raised is as follows:

- The rebuttal does not address the fundamental deficiencies already identified, nor does it provide necessary evidence to make the proposal policy compliant.
- The applicant's acoustic consultant continues to reply solely on manufacturer data, asserting that the substation and ASHP array will have a negligible combined impact. No on-site survey data has been produced to validate the claimed background level of 42 Db LA90 nor has any measurement been taken to characterise the exceptionally low ambient sound environment of Kenmore Drive.
- The rebuttal admits that data below 50 Hz are unavailable. This confirms the absence of low-frequency analysis, despite this being essential where tonal components and structure-borne transmission are likely.
- The claim on an internal level of 24 dB assumes both a partially open window and a uniform frequency spectrum. This is not credible given the reflective geometry and proximity of the equipment compound.
- The revised statements do not constitute a complaint BS 4142 assessment, nor do they satisfy NPPF 185(b) which requires that new development be demonstrated through evidence to be appropriate for its location.
- The rebuttal dismisses the possibility of vibration transmission, claiming it is "speculative". However, no vibration modelling, data, or attenuation specification has been provided. Given the known pile-supported slab foundation and subfloor cavity beneath adjacent dwellings, this absence of evidence is unacceptable. It also ignores the Environmental Health Service's own caveat in response to WK202516971, which stated that the lack of vibration assessment left an evidence gap. Under LP52 and NPPF185 (a) the applicant bears the burden of demonstrating that the development will not cause material harm to health or amenity. That test has not been met.
- No final cumulative noise model including the substation, ASHPs and kitchen extract has been provided. The Council should not determine the application until that combined data is publicly available and independently reviewed.
- The developer rejects Mitigation Option 1 (relocation) based on "maintenance and access" grounds, rather than acoustic or planning considerations. These are operational conveniences, not constraints that can override residential amenity.

- The statement that a fully roofed compound would likely a 4m structure confirms the design is over-constrained and acoustically comprised.
- There is no Arboricultural evidence regarding the removal of Tree T19 and this constitutes a brief of the approved landscaping condition.
- The rebuttal asserts that no batteries or inverters are present, yet simultaneously notes that the mechanical and electrical drawings “will need revising”. Until those drawings are issued and verified the Council cannot rely on these assurances.

**Note:** Following publication of the Committee Report, one additional representation was received by way of a Visual Evidence Pack – Noise Impact and Infrastructure Placement Summary (October 2025) which was included in the Planning Update. It stated that the purpose of the document is to: ‘...provide a visual summary of the site layout and acoustic impacts affecting the existing dwelling (NSR1). It illustrates the proximity and concentration of new service infrastructure, the change in reflective building geometry since baseline monitoring, and the potential application and resonance effects expected to arise at the property.

**Officers Response** K.C. Environmental Health reviewed the document and confirmed that it does not materially change the assessments they have made previously and offer no further comment. Officers have assessed the impacts of the proposal on amenity in the published Committee Report and have no further commentary to add in respect of the submitted photographs and annotated plans.

#### Post Committee Amended Plans Publicity

- 7.7 Following the committee meeting dated 23/10/2025, where the application was deferred for further consideration on potential alternative locations, further amended plans have been received with a revised location for the siting of the air source heat pumps, plant area, sub-station and bin store. The revised plans have been re-advertised and neighbour letters sent to all third parties who border the site. The amended plans publicity expires 28<sup>th</sup> November 2025, which is noted to be after the publication date of this report but prior to the intended committee meeting of 04/12/2025. Any representations that are received after the publishing of this report shall be included within the committee update.
- 7.8 At the time of writing, because of the amended plans publicity, one representation has been received to-date. In respect of the representation received full comments are available to view on the Council’s website and a summary of the concerns raised is as follows.
- Welcome the revised layout which provides significantly greater separation between plant and neighbouring property.
  - The acoustic implications require a new assessment and preventative measures. The development includes 4 industrial ASHP units operating in COP Priority Mode, an 800 kVA substation, external plant area, continuous 24/7 operation, hard reflective surfaces and sensitive receptors. The development must meet condition 17 requirements BS4142 (industrial sound assessment), Local Plan Policies LP24 & LP52, NPSE (LOAEL/SOAEL framework) and West Yorkshire Noise & Vibration Guidance.

- Require a new BS4142 assessment for the revised layout. The relocation alters source–receiver distance, screening effects, terrain levels, ground absorption, propagation paths, reflections, and height relationships. Both Nova reports use the old layout, wrong primary residential receptor, incorrect distances, model outdated screening conditions, assess wrong site geometry, do not examine relocated positions, use an inappropriate receptor (NSR1) and not model the adjacent property.
- Require Acoustic Mitigation to ensure compliance with Condition 17. Specifications conditioned to include ASHP Enclosure minimum height 2.6 m, fully close-boarded minimum mass 12–15 kg/m<sup>2</sup>, internal acoustic absorption lining (min. Class C absorber), acoustic performance certificate from manufacturer, no changes to dimensions without BS4142 modelling, ASHP Attenuation, full Ambient Acoustics CAHV-R450YA-HPB bolt-on acoustic kits, operated in COP Priority Mode for worst-case assessment.
- Substation- include acoustic housing providing certified attenuation, no ventilation openings facing south, full manufacturer's performance documentation.
- External Plant Area - any future plant to be included in cumulative calculations and no additional plant without a new BS4142 analysis.
- BS4142 compliance testing must occur before occupation. All plant operating concurrently at full load, COP Priority Mode for ASHPs, all acoustic penalties applied, measurements taken at neighbouring property. Commissioning tests must include low frequency spectral data, testing completed by an independent qualified acoustician and results approved prior to first occupation. No re-location safeguard.
- A condition prohibiting future movement of ASHPs, substation or external plant without a full new BS4142 assessment and re-consultation.
- In both Nova assessments the ASHPs, external plant area and substation were modelled in their former position. None of the acoustic modelling reflects the new layout.
- Nova uses NSR1(B) (care home third floor, 45m away), not 4 Coach House Paddocks (nearest dwelling)
- Distances, barrier heights, source elevations, receptor elevations, and reflective/absorptive surfaces are substantially different.
- The new Noise Report reduces ASHP sound power by ~13 dB.
- The new Noise Report assumes 2.8m enclosure, acoustic absorption. no gaps, bolt-on kits which do not appear on the new drawing.
- Old report: +12 dB above background (SOAEL) New report: –9 dB below background (NOAEL) This 21 dB swing arises from modelling assumptions and revised input parameters, not new measurements.
- Nova's baseline sound measurements were taken in November 2024, when the southern annexe was not constructed and only the ground floor frame of the main body of the development existed. The completed building has introduced a full-height, hard reflective façade directly opposite. BS4142 requires assessments to reflect existing acoustic environment and the November 2024 measurements cannot represent on site conditions or reflective characteristics of the finished structure. The baseline data is outdated.
- Condition 17 – Noise (Revised) The combined rating level (L<sub>Ar</sub>,T<sub>r</sub>) from all fixed mechanical plant including ASHPs, substation, external plant and any associated equipment shall not exceed the representative background sound level (L<sub>A90,T</sub>) at any noise-sensitive property at any time, as determined in accordance with BS4142:2014+A1:2019. Compliance shall be demonstrated by a pre-occupation acoustic commissioning test

conducted with all plant operating concurrently at full capacity and in COP Priority Mode (where applicable), with all acoustic penalties applied. Results shall be submitted to and approved in writing by the Local Planning Authority prior to occupation.

- **Condition 21** – Acoustic Mitigation (Revised) All acoustic mitigation measures specified in the approved BS4142 assessment, including the ASHP acoustic enclosure (minimum 2.6m height, close-boarded, acoustically lined), bolt-on acoustic kits, and certified acoustic substation housing, shall be installed in full prior to operation of the plant. Details of all materials, thicknesses, and acoustic performance shall be submitted to and approved in writing by the Local Planning Authority prior to installation.
- **Condition 22** – Maintenance (Revised) All acoustic mitigation measures shall be retained, maintained and kept in effective working order for the lifetime of the development. No plant shall be serviced, replaced, altered or upgraded in a way that changes its acoustic performance without prior written approval of the LPA.
- **New Condition** – The ASHP enclosure, substation and external plant area shall not be relocated closer to the southern boundary or any residential receptor without a new BS4142 assessment, detailed mitigation scheme, and written approval from the LPA following consultation with Environmental Health.

## 8.0 CONSULTATION RESPONSES

### K.C Waste Collection Authority – No objections

**K.C Environmental Health** – Comments on the updated Noise Report which accompanies the revised scheme, received 12/11/2025, are awaited and will be reported to Members in the update.

The following are the full comments previously received from K.C. Environmental Health, from their consultation responses dated 11/06/2025 and 02/10/2025.

The comments dated 11/06/2025 are the initial comments from K.C Environmental Health, based on the original submission. The 02/10/2025 are re-consultation comments, following receipt of a detailed noise and vibration-based objection from a local resident, plus a rebuttal from the applicant.

#### Comments received 11/06/2025

*The applicant has submitted a Noise Impact Assessment authored by Nova Acoustics dated 28 March 2025 Ref NP-011418-2 Rev003. It makes reference to condition 17 which states –*

*17. The combined noise from any fixed mechanical services and external plant and equipment at the development shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS4142:2014+A1:2019.*

**Reason:** *To ensure the proposed development does not cause harmful noise pollution within any noise sensitive location or near the site, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.*

*Para 1.2 states the proposal is for the installation of 4no. ASHP units (model ref: CAHVR450YA-HPB) within an external ground level plant compound to south of the new residential block along with a Minera 800kVA substation to be installed to serve the residential site. Due to the units being for residential use, it is assumed they could run 24-hours a day, seven days a week. The ASHP units will be installed within a plant compound, however, any designs are speculative at this stage. Figure 1 shows the proposed development and the two layout options and a design is shown for the masonry substation. The report identifies the nearest noise sensitive receptors (NSRs) as a two-storey detached dwelling off Vine Ave approximately 15m from the centre of the proposed ASHP compound (NSR1), a two-story detached dwelling approximately 55m east of the proposed AHSP compound (NSR2) and an end-terrace dwelling approximately 73m west of the compound (NSR3).*

*Noise monitoring was conducted between the 22nd and the 25th of November 2024 from a single monitoring position as shown in figure 2. The dominant sources were distant road traffic noise emissions from the M62 along with sporadic road traffic noise emissions from the local road network. Figures 3 and 4 show the daytime and night time background noise levels and comment is made that due to a closure of the motorway during part of the monitoring period, the sound levels fell to unusually low levels. The report cross references the data from the previously submitted report in 2020 and it was found that the background sound climate has remained largely the same and with the equivalent background sound levels. This is accepted.*

*A BS4142 Noise Impact Assessment has been conducted on a worst case scenario basis with a small correction due to the sound pressure levels spectrum provided by the ASHP manufacturer not equating to the stated global A-weighted level. After applying corrections for tonality and intermittency, table 3 shows a +12dB exceedance equating to a significant adverse impact at NSR1 at night time. As such mitigation is required.*

*Section 4 recommends the mitigation measures giving three options as shown in para 4.1. All three options result in a specific sound level of 35dBA to 37dBA. However the 'worst-case' BS4142 noise impact assessment for option 2 is shown in table 5 which results in no exceedance equating to a low impact to NSR1.*

*Consideration has been given to low frequency emissions from the electrical substation and table 4 shows no exceedances at NSR1.*

*The findings of the submitted report are accepted based upon the implementation of one of the three options as described in para 4.1. Any change to these may result in the requirements of the condition being breached. Recommended Conditions This is a compliance condition and must be retained for the duration of the development*

#### Comments Received 02/10/2025

*An objection has been received raising a number of specific concerns with the submitted Noise Impact Assessment authored by Nova Acoustics dated 28 March 2025 Ref NP-011418-2 Rev003 along with other matters not within our remit. In response, the applicant has provided a rebuttal and we only make reference to those within our remit.*

*Apex Acoustics have reviewed the objector's letter and addressed the respective points numbered I to VII in their response dated 11 September 2025. The author caveats the Noise Impact Assessment's findings as a 'worst case' scenario ensuring it errs on the side of protecting residential amenity.*

*We accept Nova's reasoning and justification in line with accepted guidance and best practice and recommend the Planning Officer accept and condition the offer to return and conduct a further BS4142 assessment in order to ensure all assumptions are validated and any further refinements can be made (if deemed necessary). This would be in line with condition number 17 of the 2020/91746 permission which is repeated below for reference.*

*17. The combined noise from any fixed mechanical services and external plant and equipment at the development shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS4142:2014+A1:2019.*

**Reason:** *To ensure the proposed development does not cause harmful noise pollution within any noise sensitive location or near the site, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.*

*In our comments dated 11 June 2025, we referred to the three options for mitigation and we stated any one of those would be acceptable. The submitted document states option 2 has been chosen and we recommend the Planning Officer secure this via condition. Option 2 is repeated below for reference -*

*Retain the proposed ASHP compound location  
Fit the Ambient Acoustics 'CAHV-R450YA-HPB Bolt-On Acoustic Kit' to all ASHP units  
Increase the height of the compound walls to 2.6m.*

## **9.0 MAIN ISSUES**

- Principle of development
- Residential amenity
- Visual amenity
- Waste Collection
- Other Matters
- Planning obligations
- Representations

## **10.0 APPRAISAL**

- 10.1 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 a S73. When considering a S73 application, the previously granted planning permission (2020/91746), which must carry significant material weight. This will be considered, where necessary, throughout this assessment.

- 10.2 However, consideration must first be given to whether any material changes in circumstances have taken place. This includes the policy and local context. In terms of local context, there have been no changes in the environment (including built and natural) which would impact on the assessment of the application. In light of the above, consideration must be given to the specific changes proposed and their interaction with adopted planning policy. In terms of policy, the original application 2020/91746 was assessed against the Local Plan (2019), which remains the development plan and therefore the assessment criteria will be consistent. It should be noted that, at the time of writing, the council is unable to demonstrate a 5-year housing land supply, which is a material change in circumstances. However, given the nature of the amendments now proposed, the housing land supply in Kirklees is not considered to be a key consideration of relevance to this Section 73 assessment. Beyond this, the NPPF has had several revisions since the original application was assessed, however none of the changes are considered directly pertinent to the current proposal.
- 10.3 In this instance, the principle of residential development on this site has already been established by planning application 2020/91746, to which this application relates. More specifically, the number of apartments would not change. Therefore, the proposal remains an effective and efficient use of the housing allocation, as required by Local Plan policies LP7 and LP11.

### **Assessment of variation to condition 2 (plans table)**

#### **Impact on Residential Amenity**

- 10.4 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”.*

#### ***Noise, Vibration and Disturbance Issues***

- 10.5 As reported in the previous committee report, officers note significant concern had been raised in the representations received regarding the impact arising from potential noise and vibration impacts of the proposed air source heat pumps and sub-station on neighbouring properties. Officers note the specific concerns raised by the owners/occupiers of neighbouring property 4 Coach House Paddocks, Vine Avenue, which is sited adjacent to the southern boundary of the application site. The concerns include that the proposal represents a significant and harmful departure from the original permission, through introducing mechanical noise, vibration and environmental nuisance. Concerns have also been raised regarding the robustness of the submitted noise report in respect of its conclusions. All the concerns raised are summarised in the representations section above whilst a full copy of the comments is available to view on the Council's website.

- 10.6 The proposal is for the installation of 4no. ASHP units within an external ground level plant compound along with a Minera 800kVA substation to be installed to serve the residential site. Due to the units being for residential use, it is assumed they could run 24-hours a day, seven days a week. The ASHP units would be installed within a plant compound.
- 10.7 In support of the scheme previously presented to the Strategic Planning Committee, a Noise Impact Assessment was submitted and assessed by K.C Environmental Health. The report references condition 17 of the original planning permission (2020/91746) which is a compliance condition regarding noise from mechanical services and external plant). The wording of condition 17, as originally imposed, is included below, for reference:

*17. The combined noise from any fixed mechanical services and external plant and equipment at the development shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS4142:2014+A1:2019.*

**Reason:** *To ensure the proposed development does not cause harmful noise pollution within any noise sensitive location or near the site, in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and chapters 12 and 15 of the National Planning Policy Framework.*

- 10.8 K.C Environmental Health noted a BS4142 Noise Impact Assessment has been conducted on a worst case scenario basis with a small correction due to the sound pressure levels spectrum provided by the ASHP manufacturer not equating to the stated global A-weighted level. After applying corrections for tonality and intermittency, table 3 shows a +12dB exceedance equating to a significant adverse impact at NSR1 at night time. As such mitigation is required and with three options identified. K.C Environmental Health note all three options result in a specific sound level of 35dBA to 37dBA. However, the 'worst-case' BS4142 noise impact assessment for option 2 is shown in table 5 which results in no exceedance equating to a low impact to NSR1. Consideration has been given to low frequency emissions from the electrical substation and table 4 shows no exceedances at 4 Coachhouse Paddocks, Vine Avenue. K.C Environmental health note the findings of the submitted report are accepted based upon the implementation of one of the three options as described in para 4.1.
- 10.9 In accordance with the supportive conclusions above, officers recommended the application be approved, as per the previous committee report published 15/10/2025. At the Strategic Planning Committee meeting held 23/10/2025, the committee resolved that consideration of the application be deferred and that the Head of Planning and Development be requested to explore alternative options for siting the air source heat pumps, plant area, sub-station and bin store, including within the area designated for car parking, or additional mitigations. This was due to concerns over the proposal's impact upon the adjacent property, 4 Coach House Paddocks, Vine Avenue.
- 10.10 The applicant has considered and acknowledges the concerns raised by committee. In response, the location of the air source heat pumps, plant area, sub-station has been revised, and are now proposed to be sited in the southern portion of the area designated for car parking (west of the previously proposed location). The dimensions of the air source heat pump compound

and Plant Compound have been amended, and the revised scheme is accompanied by an amended Noise Report and Landscaping Scheme. The new Noise Report concludes

*The proposed development has been assessed in detail against the requirements of BS4142 and the relevant planning criteria. The assessment has been undertaken on a conservative 'worst-case' basis, assuming all plant items are operating simultaneously.*

*The cumulative rating level from the proposed plant is predicted to fall considerably below the prevailing background sound level at the nearest noise sensitive receptors. In accordance with BS4142, this outcome aligns with 'low impact, dependant on context' and meets the requirement of condition 17 of the approved planning application. Further context has been discussed in the body of the report.*

*The noise impacts are thought to align with the threshold for a 'No Observed Effect Level ('NOEL') in accordance with the NPPF and NPSE.*

*The proposals are thought to be consistent with the low carbon and net zero policies of the NPPF, and the mitigation scheme is deemed robust, yet balanced, to ensure the policies can be met. It should be recognised that a degree of noise impact can be acceptable to allow for sustainable benefits.*

*Action Plan:*

- o Ensure all plant items are mounted with appropriate anti-vibration supports in accordance with manufacturer recommendations.*
- o Maintain all acoustic treatment and mitigation measures for the lifetime of the development.*
- o Should any specification or location of plant change from those assessed a review of the noise impact may be required to confirm compliance. The findings of this report will require written approval from the Local Authority prior to work commencing.*

- 10.11 K.C Environmental Health have been consulted on the revised Noise Report, however, due to the limited timeframe, they have been unable to produce their final comments, which shall be reported in the update.

Consideration of the representation received 19/11/2025

- 10.12 As noted in paragraphs 7.7 and 7.8, as of the time of writing, one representation has been received in response to the latest proposed location of the Air Source Heat Pump Enclosure (ASHP), External Plan Area, and Substation, following the committee deferral. The following is officers' consideration of the comments received.

- Welcome the revised layout which provides significantly greater separation between plant and neighbouring property.*

**Officer Response:** These comments are noted.

- *The acoustic implications require a new assessment and preventative measures. The development includes 4 industrial ASHP units operating in COP Priority Mode, an 800 kVA substation, external plant area, continuous 24/7 operation, hard reflective surfaces and sensitive receptors. The development must meet condition 17 requirements BS4142 (industrial sound assessment), Local Plan Policies LP24 & LP52, NPSE (LOAEL/SOAEL framework) and West Yorkshire Noise & Vibration Guidance.*

**Officer Response:** Officers note a new Noise Report has been provided which accompanies the revised plans, and K.C Environmental Health have been consulted for their comments which will be reported to Members in the update.

- *Require a new BS4142 assessment for the revised layout. The relocation alters source–receiver distance, screening effects, terrain levels, ground absorption, propagation paths, reflections, and height relationships. Both Nova reports use the old layout, wrong primary residential receptor, incorrect distances, model outdated screening conditions, assess wrong site geometry, do not examine relocated positions, use an inappropriate receptor (NSR1) and not model the adjacent property.*

**Officer Response:** K.C Environmental Health have been consulted for the comments to inform a decision as to whether a new report is necessary, or whether it can be accepted for the purposes of decision making.

- *Require Acoustic Mitigation to ensure compliance with Condition 17. Specifications conditioned to include ASHP Enclosure minimum height 2.6 m, fully close-boarded minimum mass 12–15 kg/m<sup>2</sup>, internal acoustic absorption lining (min. Class C absorber), acoustic performance certificate from manufacturer, no changes to dimensions without BS4142 modelling, ASHP Attenuation, full Ambient Acoustics CAHV-R450YA-HPB bolt-on acoustic kits, operated in COP Priority Mode for worst-case assessment.*

**Officer Response:** Condition 17 is a separate compliance condition, recommended to be retained as originally imposed. The previously proposed new / additional condition to secure the proposed mitigation set out in the Noise Report can be revised, albeit it with different wording to that suggested above to ensure it secures the mitigation detail within the Noise Report. K.C Environmental Health have been consulted for their comments to inform a decision as to whether any further details are required for approval, or whether a compliance condition is appropriate.

- *Substation- include acoustic housing providing certified attenuation, no ventilation openings facing south, full manufacturer's performance documentation.*

**Officer Response:** As above, an additional condition to secure mitigation is proposed by officers however, as drafted and recommended by officers, these do not include the exact wording written above. This is discussed in more detail below.

- *External Plant Area - any future plant to be included in cumulative calculations and no additional plant without a new BS4142 analysis.*

**Officer Response:** The application is assessed on the details submitted, and condition 2 adequately controls that the development be then carried out in accordance with the approved details.

- *BS4142 compliance testing must occur before occupation. All plant operating concurrently at full load, COP Priority Mode for ASHPs, all acoustic penalties applied, measurements taken at neighbouring property. Commissioning tests must include low frequency spectral data, testing completed by an independent qualified acoustician and results approved prior to first occupation. No re-location safeguard.*

**Officer Response:** An additional condition is proposed to secure compliance testing (see below).

- *In both Nova assessments the ASHPs, external plant area and substation were modelled in their former position. None of the acoustic modelling reflects the new layout.*

**Officer Response:** Officers note the comments relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *Nova uses NSR1(B) (care home third floor, 45m away), not 4 Coach House Paddocks (nearest dwelling)*

**Officer Response:** Officers note the comments relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *Distances, barrier heights, source elevations, receptor elevations, and reflective/absorptive surfaces are substantially different.*

**Officer Response:** Officers note the comments relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *The new Noise Report reduces ASHP sound power by ~13 dB.*

**Officer Response:** Officers note this technical comment relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *The new Noise Report assumes 2.8m enclosure, acoustic absorption. no gaps, bolt-on kits which do not appear on the new drawing.*

**Officer Response:** An additional condition to secure mitigation set out in the Noise Report is proposed by officers.

- *Old report: +12 dB above background (SOAEL) New report: –9 dB below background (NOAEL) This 21 dB swing arises from modelling assumptions and revised input parameters, not new measurements.*

**Officer Response:** Officers note this technical comment relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *Nova’s baseline sound measurements were taken in November 2024, when the southern annexe was not constructed and only the ground floor frame of the main body of the development existed. The completed building has introduced a full-height, hard reflective façade directly opposite. BS4142 requires assessments to reflect existing acoustic environment and the November 2024 measurements cannot represent on site conditions or reflective characteristics of the finished structure. The baseline data is outdated.*

**Officer Response:** Officers note this technical comment relating to the robustness of the revised Noise Report. K.C Environmental Health have been consulted for their comments, which will be reported to Members in the update.

- *Condition 17 – Noise (Revised) The combined rating level (L<sub>A</sub>,T<sub>r</sub>) from all fixed mechanical plant including ASHPs, substation, external plant and any associated equipment shall not exceed the representative background sound level (L<sub>A</sub>90,T) at any noise-sensitive property at any time, as determined in accordance with BS4142:2014+A1:2019. Compliance shall be demonstrated by a pre-occupation acoustic commissioning test conducted with all plant operating concurrently at full capacity and in COP Priority Mode (where applicable), with all acoustic penalties applied. Results shall be submitted to and approved in writing by the Local Planning Authority prior to occupation.*
- *Condition 21 – Acoustic Mitigation (Revised) All acoustic mitigation measures specified in the approved BS4142 assessment, including the ASHP acoustic enclosure (minimum 2.6m height, close-boarded, acoustically lined), bolt-on acoustic kits, and certified acoustic substation housing, shall be installed in full prior to operation of the plant. Details of all materials, thicknesses, and acoustic performance shall be submitted to and approved in writing by the Local Planning Authority prior to installation.*

**Officer Response:** Officers concur with the principle of the above, but not the exact wording / approach requested within the representation. Conditions must be drafted giving due regard to the six tests set out within the National Planning Policy Framework. To ensure these tests are met, officers recommend the following:

Condition 17 retained as originally imposed (see paragraph 10.7 and section 12 of this report).

The following new conditions are recommended to be imposed:

26. The hereby approved Air Source Heat Pump Enclosure (ASHP), External Plan Area, and Substation, as shown on plan ref. CLK-BBA-XX-XX-DR-A-91-0001 Rev. C07 shall be constructed in accordance with the specification and mitigation measures contained in the Noise Impact Assessment referenced NP-013449 revision 02. The Air Source Heat Pump Enclosure (ASHP), External Plan Area, and Substation shall thereafter operate and be maintained in accordance with the

**Reason:** In the interest of mitigating potential noise pollution, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan.

27. Prior to first occupation of the hereby approved development, but after the works required by condition 26 having been undertaken, a Noise Impact and Mitigation Validation Report, to be undertaken in accordance with BS4142, shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall demonstrate whether that the mitigation measures implemented via condition 26 have been successful. In the scenario where they have not, a further noise mitigation strategy shall be detailed for approval. Thereafter, if required, the approved further noise mitigation shall be implemented prior to the approved development being brought into use.

**Reason:** In the interest of mitigating potential noise pollution, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan.

Officers are satisfied that condition 17 and the two new conditions detailed above would provide comprehensive reassurance and security, to ensure no material harm would be caused via noise or vibration pollution, while complying with the six tests for conditions.

- *Condition 22 – Maintenance (Revised) All acoustic mitigation measures shall be retained, maintained and kept in effective working order for the lifetime of the development. No plant shall be serviced, replaced, altered or upgraded in a way that changes its acoustic performance without prior written approval of the LPA.*

**Officer Response:** Recommended conditions 2 and 17 already control noise and that the development be carried out, and thereafter retained, in accordance with the approved details. This includes maintaining to an appropriate standard. Therefore, a further condition repeating this requirement would not meet the test of necessity.

- *New Condition – The ASHP enclosure, substation and external plant area shall not be relocated closer to the southern boundary or any residential receptor without a new BS4142 assessment, detailed mitigation scheme, and written approval from the LPA following consultation with Environmental Health.*

**Officer Response:** Such a condition is not considered reasonable or necessary, as the relocation would be subject to planning control (i.e., requiring its own planning application or another S73).

## *Other Impacts*

- 10.13 In respect of other impacts on residential amenity, a sectional drawing was previously requested to show the relationship of the compound and plant area to the neighbouring property, 4 Coach House Paddocks. This has since been superseded by the revised location of the plant. The air source heat pump compound, plant area, sub-station and bin store will sit below ground level of the neighbouring property, and the retaining wall with planting above will ensure there would be no impact arising from being overbearing or loss of outlook. By virtue of the layout, topography, and above condition, it is considered there would be no detrimental overbearing impact on the neighbouring property from the proposed compounds, taking into account the difference in land levels, and the proposals would not lead to a detrimental loss of outlook for the occupiers of this neighbouring property.

### Impact on visual amenity

- 10.14 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*

- 10.15 Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by ensuring: “a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

- 10.16 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that:

*“New residential development proposals will be expected to respect and enhance the local character of the area by:*

*Taking cues from the character of the built and natural environment within the locality.*

*Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*

*Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

The changes proposed are outlined and considered below:

### *Air Source Heat Pumps and Plant Room*

- 10.17 The air source heat pumps would be contained within a new enclosure. The proposed design includes walls constructed of feathered edge timber boards with a pergola style roof covering. The design is lightweight and functional and is not considered there would be undue detrimental harm to visual amenity.

The proposed plant room would adjoin the timber structure and would be of brick construction with a single ply flat roof. This is a heavier design, yet functional for the purpose it will serve, and it is not considered there would be any undue harm to visual amenity.

#### *Sub-Station*

- 10.18 The proposed sub-station would be sited to the south of the extra care residential building adjacent to the car parking area. It would be of brick construction with a hipped roof, this is a heavier design, yet functional for the purpose it will serve, and it is not considered there would be any undue harm to visual amenity.

#### *Bin Store*

- 10.19 The bin store would be of timber construction with a pergola style roof. Again, the design is lightweight and functional and is not considered there would be any undue harm to visual amenity.
- 10.20 In conclusion, it is considered the proposed ASHP compound, plant room, sub-station and bin store would not have a detrimental impact on visual amenity and would accord with Policy LP24 of the Kirklees Local Plan.

#### Highway and Landscape Matters

- 10.21 The revised proposal results in the displacement of four car parking spaces, and the car parking area has been redesigned to accommodate the four displaced spaces across the wider car park, to ensure no spaces will be lost. Accordingly, there would be no impact on highway safety. To achieve the retention of the previously approved number of car parking spaces, the proposal results in the loss of two previously approved proposed trees within the wider car parking area. The amended Landscaping Scheme has provided one replacement tree, and on balance in the interests of ensuring an acceptable impact on neighbouring property and to retain the approved number of car parking spaces, the loss of one proposed tree is on balance considered to be acceptable.

#### Waste Collection Matters

- 10.22 The proposed siting of the compounds and sub-station necessitates a revision to the siting and size of the approved bin store. The bin store would be located further to the west adjacent to the area of off-street parking. The capacity of the store has been reduced from 22 1ltr bins to 14 1ltr bins. An area of internal bin storage is also shown on the internal layout. The Waste Collection Authority have considered the proposed revisions and raises no objection to the reduction in number of bins to be provided, subject to bins from the internal store being pulled for collection by staff at the facility.

#### Other matters

- 10.23 The variation is not considered to impact upon any other material planning considerations such as landscaping, ecology, public rights of way, crime and safety, land contamination etc. which remain as previously assessed within the parent application (ref 2020/91746).

### Previous conditions and obligations

- 10.24 As this is an application under Section 73 of Town and Country Planning Act 1990 (TCPA 1990), an approval would in effect result in the issuing of a new permission. 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. Application 2020/91746 was granted with 25 conditions. The following is an assessment of the previously imposed conditions:
- 10.25 Condition 1 (time limit) is to be removed, as the development has commenced, and therefore it no longer serves a purpose.
- 10.26 Condition 2 has sought to be amended, which is recommended to be approved. While the condition wording would stay the same, the plans table would be updated to reflect the change.
- 10.27 All other conditions are to be retained, as they continue to serve a purpose. While some of these has been discharged via a separate Discharge of Condition applications (see section 4.0 for planning history), in the interest of consistency and expediency the conditions are to be repeated as originally imposed alongside a note relating to the previously submitted information, via DOC application, remaining relevant.
- 10.28 As noted in paragraph 10.12 two new conditions have been recommended.
- 10.29 The previously secured planning obligations are still required. The previous committee report's recommendation included securing a Section 106 (S106) Deed of Variation Agreement, to re-secure the planning obligations and contributions secured as part of the original permission (2020/91746). On review, it has been confirmed that the original S106 agreement included a clause (clause 2.14) that secured the original agreement's provisions for future S73 Variation of Condition applications (such as this), therefore negating the need for a S106 Deed of Variation.

### **Representations**

- 10.30 At the time of writing a single response has been received to the latest period of publicity, which follows the re-advertisement of the amended location of the proposed equipment after the committee deferral decision at the meeting dated 23/10/2025. This representation has been considered comprehensively in paragraph 10.12.
- 10.31 Given that the current publicity period does not expire until after the date this report is to be published, any comments received after this report is published will be noted and considered, as required, within the committee date.
- 10.32 As a result of the original publicity periods, five representations have been received. In so far as the comments raised have not been addressed above:
- Concern the proposal bypasses the scrutiny of the original application.

**Officer Comment:** The application would constitute a new planning permission and is subject to the same scrutiny as the original application.

- Planting does not have an acoustic function.

**Officer Comment:** The planting would serve as a visual screen to the proposed development and is not intended to have an acoustic function. K.C Environmental Health's review of the Noise Report has confirmed the proposal is acceptable subject to mitigation outlined in the report.

- Tree T19 was felled without permission and is still shown on the plans. This likely served as a visual and acoustic buffer.

**Officer Comment:** Whilst the loss of a tree is undesirable, no trees on the site are subject to a Tree Preservation Order (TPO). The updated landscaping scheme shows an additional tree to mitigate for the loss of T19.

- Concern there is no fire safety plan or ventilation strategy for the sub-station.

**Officer Comment:** This matter is covered by separate legislation.

- Large refuse containers present a risk of attracting vermin.

**Officer Comment:** This matter is pest control and covered by separate legislation.

- The construction phase has caused ongoing impacts.

**Officer Comment:** This is noted but it is not a reason to refuse the application. A Construction Management Plan was secured on the original application and a condition will be imposed for compliance.

- There is no long-term operation or maintenance strategy.

**Officer Comment:** This will be the responsibility of the developer who has considered this in the alternative locations assessment and details are not required to make the application acceptable.

- There has been no consultation from the developer with residents and residents have limited time to object and may be unaware of the proposals.

**Officer Comment:** This is noted, however officers have undertaken statutory publicity comprising of site notices and a press notice.

- Look forward to the scaffolding coming down to access the footpath from Kenmore Drive to Milton Terrace.

**Officer Comment:** This is noted.

- Object to opening a public right of way on to Milton terrace due to dogs fouling the streets and people using the access late at night.

**Officer Comment:** This is noted, however dog fouling incidents on adjacent streets is not a material planning consideration. In respect of access to the public routes through the northern part of the site, this application does not impact on the approved Public Rights of Way or Crime Prevention matters considered as part of the original application.

## **11.0 CONCLUSION**

- 11.1 This application does not provide an opportunity to revise or reconsider the original grant of planning permission. This application only relates to the consideration of the variation of condition 2 as indicated. The proposed changes are considered acceptable in respect of residential amenity and visual amenity, as well as the operation of waste collection from the site.
- 11.2 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval subject to conditions.
- 11.3 As this is a Section 73 application, all conditions on the original planning permission will be repeated as required. Condition 1 (time limit) is to be removed and Condition 2 has sought to be amended, which is recommended to be approved. All other conditions are to be retained, as they continue to serve a purpose.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

### Conditions from previous application

1. Omit. Condition to be marked [deleted] to avoid affecting subsequent condition numbering, for ease of review.
2. Development shall be carried out in complete accordance with the plans and specifications schedule. With updated plans table to reflect recommended approval.
3. Details of all facing and roofing materials
4. The proposed car park shall be laid out surfaced, marked out into bays and drained.
5. Construction Management Plan (CMP).
6. Detailed Scheme of hard and soft landscaping.
7. Replacement Landscaping within five years.
8. Construction Environmental Management Plan (CEMP: Biodiversity).
9. Biodiversity Enhancement & Management Plan (BEMP)
10. Details of foul, surface water and land drainage.
11. Details of Assessment of the effects of 1 in 100- year storm events

12. Details of the operation, maintenance and management of the surface water drainage infrastructure
13. Details of scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip)
14. Site to be developed with separate systems of drainage for foul and surface water on and off site.
15. All works that form part of the sound attenuation scheme shall be completed and retained thereafter.
16. Details of a Ventilation Scheme
17. The combined noise from any fixed mechanical services and external plant and equipment at the development shall be effectively controlled so that the combined rating level of noise from all such equipment does not exceed the background sound level at any time. "Rating level" and "background sound level" are as defined in BS 4142:2014+A1:2019.
18. Phase II Intrusive Site Investigation Report
19. Remediation Strategy
20. Revised Remediation Strategy
21. Validation Report
22. Reporting of unexpected contamination
23. Electric Vehicle Charging Points
24. External Lighting
25. Design and construction specifications of the proposed Public Rights of Way (PROW)

New/additional Conditions

26. The hereby approved Air Source Heat Pump Enclosure (ASHP), External Plan Area, and Substation, as shown on plan ref. CLK-BBA-XX-XX-DR-A-91-0001 Rev. C07 shall be constructed in accordance with the specification and mitigation measures contained in the Noise Impact Assessment referenced NP-013449 revision 02. The Air Source Heat Pump Enclosure (ASHP), External Plan Area, and Substation shall thereafter operate and be maintained in accordance with the

**Reason:** In the interest of mitigating potential noise pollution, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan.

27. Prior to first occupation of the hereby approved development, but after the works required by condition 26 having been undertaken, a Noise Impact and Mitigation Validation Report, to be undertaken in accordance with BS4142, shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall demonstrate whether that the mitigation measures implemented via condition 26 have been successful. In the scenario where they have not, a

further noise mitigation strategy shall be detailed for approval. Thereafter, if required, the approved further noise mitigation shall be implemented prior to the approved development being brought into use.

**Reason:** In the interest of mitigating potential noise pollution, in accordance with Policies LP24 and LP52 of the Kirklees Local Plan.

## **Background Papers**

Application and history files.

Application file:

[Planning application details | Kirklees Council](#)

Original Planning Application File (2020/91746):

[Planning application details | Kirklees Council](#)

Certificate of Ownership

Certificate A signed.