

**KIRKLEES METROPOLITAN COUNCIL  
INVESTMENT & REGENERATION SERVICE**

**DEVELOPMENT MANAGEMENT**

**Town and Country Planning Act 1990 (as amended)**

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR  
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	<b>2025/44/91717/E</b>
Site Address:	adj, 212, Commonsides, Hanging Heaton, Batley, WF17 6EB
Description:	Discharge of details reserved by conditions 9, 10, 11, 12, 14, 15 on previous permission 2024/90696 for erection of 4 dwellings and associated access and retaining structures
Recommending Officer:	Edward Cheseldine

**DECISION – Discharge of Conditions – Split Decision**

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

Kirsty Nicholls

***AUTHORISED OFFICER***

**Date: 06-Oct-2025**

## **Officer Report**

2025/91717 - adj, 212, Commonsides, Hanging Heaton, Batley, WF17 6EB

### **Proposal Description**

The application is seeking a discharge of details reserved by conditions 9, 10, 11, 12, 14, 15 on previous permission 2024/90696 for erection of 4 dwellings and associated access and retaining structures.

#### **Condition 9**

*9. Before any enabling or construction work commences, a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including any commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall: a) determine the existing noise climate; b) predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time) and other habitable rooms of the development and c) detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required). The dwelling(s) shall not be occupied until all works specified in the approved report have been carried out in full to the dwelling(s) to which they relate and shall be thereafter retained.*

**Reason:** *To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.*

#### **Assessment**

The following has been submitted by the applicant:

- Noise Impact Assessment authored by Peak Acoustics dated 17 June 2025 Ref 1505256.

The site is adjacent to a working garage. The report demonstrates the future occupiers of the development will not be negatively impacted by noise from the existing commercial premises.

Noise surveys were undertaken at the site from the 9th to the 10th of June 2025 from a single monitoring position as shown in figure 1 and a summary of the results is shown in table 1 of the report. Comment is made that the primary noise affecting the site is road traffic with secondary noise from the workshop.

The report was assessed by KC Environmental Health. They made the following comments.

*In order to meet with the internal requirements of BS8233, glazing and ventilation is specified as per table 4. The report states that the external amenity area meets the 'desirable' guideline level for 44% of the daytime period and the 'acceptable' guideline for 56% of the daytime period. It caveats these figures by stating that gardens will benefit from additional shielding of noise from building facades and potentially from boundary fences and this is accepted.*

*The findings of the report are accepted.*

KC Environmental Health recommended condition 9 can be discharged, so long as the internal requirements of BS8233 as met by installing glazing and ventilation as specified as per table 4 and thereafter retained.

#### Condition 10 & 11

*10. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.*

*11. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (12) groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.*

**Reason:** *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.*

#### Assessment

The following has been submitted by the applicant:

- Phase I Report authored by JNP (April 2009, NC7212/COM/ST)
- Phase I Desk Study Report by RB Geotechnical, dated April 2025, ref: RBG457

- Phase 2 intrusive investigation by Patrick Parsons Consulting Engineers, (Former Thornhill Motors Ground Investigation)
- Coal Mining Report authored by RB Geotechnical (April May 2025, RBG457)

Phase 1 Report authored by JNP, ref: NC7212/COM/ST has been discounted due to its age, due to the potential changes that may have occurred to the site since its publication.

KC Environmental Health assessed the other reports in relation to land contamination. They agreed upon the following comments:

*The phase I report provides an up to date assessment of the current site conditions and has used historic information from existing reports to produce a preliminary conceptual site model in Section 10.5.*

*The report goes on to present information from a Phase 2 intrusive investigation by Patrick Parsons Consulting Engineers, (Former Thornhill Motors Ground Investigation), to support the production of an informed conceptual site model, concluding in section 11 that a moderate/low risk exists due to the presence of contaminated Made Ground encountered during the intrusive investigation. Remedial measures will be required.*

*A Coal Mining Report authored by RB Geotechnical (April May 2025, RBG457) has been submitted in support of the application. Intact coal seams were found at depth and RB Geotechnical concluded that the risk of possible unrecorded mine workings beneath the site that could affect the proposed development is deemed to be Low. No further soil or ground remedial measures are deemed necessary in relation to past mining activity.*

They confirmed they had no objection to the to the discharge of conditions 10 & 11 based on the submitted information.

### Condition 12

*12. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (13) further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.*

**Reason:** *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.*

## Assessment

The following has been submitted by the applicant:

- Remediation strategy by RB Geotechnical, dated April 2025

The remediation strategy was assessed by KC Environmental Health.

*Due to elevated levels of PAH's found during the intrusive investigation a strategy to remove this contamination has been put forward comprising excavation of soils in proposed soft landscaped areas to maximum depth of 600mm and replacement with minimum 300mm of clean imported sub-soil and 300mm of clean imported Topsoil.*

*The report clarifies the action that must be taken if unexpected contamination is discovered during construction and how excavated soils will be quarantined prior to removal from site. Details of verification of removal and import of clean cover are provided.*

They recommended condition 12 can be discharged so long as the details within the remediation strategy are implemented, caveating it by, where a site is affected by contamination, the responsibility for securing a safe development rests with the developer and/or landowner.

## Condition 14

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

**Reason:** *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.*

## Assessment

A verification report, confirming the approved remediation strategy has not been provided as the details are confirmed within the discharge of condition 12. Therefore condition 14 must remain.

### Condition 15

*15. No development shall commence until; a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.*

**Reason:** *To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.*

### Assessment

The following has been submitted by the applicant:

- Phase I Report authored by JNP (April 2009, NC7212/COM/ST)
- Coal Mining Report authored by RB Geotechnical (April May 2025, RBG457)

The reports identified coal seams within the boreholes which were intact, recommending that remedial measures were not necessary.

The Coal Mining Report and Phase I report was reviewed by The Mining Remediation Authority. They confirmed the details within the report are acceptable and recommended condition 15 to be discharged.

### **Decision Notice Text**

### Condition 9

The following has been submitted by the applicant:

- Noise Impact Assessment authored by Peak Acoustics dated 17 June 2025 Ref 1505256.

Condition 9 is deemed discharged, so long as the internal requirements of BS8233 are met by installing glazing and ventilation as specified within table 4 and thereafter retained.

#### Condition 10 & 11

The following has been submitted by the applicant:

- Phase I Report authored by JNP (April 2009, NC7212/COM/ST)
- Phase I Desk Study Report by RB Geotechnical, dated April 2025, ref: RBG457
- Phase 2 intrusive investigation by Patrick Parsons Consulting Engineers, (Former Thornhill Motors Ground Investigation)
- Coal Mining Report authored by RB Geotechnical (April May 2025, RBG457)

Following the consultation response from KC Environmental Health, the details within the reports are acceptable, at this stage the conditions can be discharged.

#### Condition 12

The following has been submitted by the applicant:

- Remediation strategy by RB Geotechnical, dated April 2025

Following the consultation response from KC Environmental Health, condition 12 can be discharged so long as the details within the remediation strategy are implemented.

Where a site is affected by contamination, the responsibility for securing a safe development rests with the developer and/or landowner.

#### Condition 14

A verification report, confirming the approved remediation strategy has not been provided as the details are confirmed within this application. Therefore condition 14 must remain. Further information can be submitted within 6 weeks of the date of this letter to be considered. However, if 6 weeks have lapsed, a new application and subsequent fee will be required.

#### Condition 15

The following has been submitted by the applicant:

- Phase I Report authored by JNP (April 2009, NC7212/COM/ST)
- Coal Mining Report authored by RB Geotechnical (April May 2025, RBG457)

Following the consultation response from The Mining Remediation Authority, condition 15 is deemed discharged.