Consultation Response from KC, Trees
2025/92161 Land adj, 17, Whitehall Road West, Birkenshaw, BD11 2LS
Discharge of details reserved by conditions 4-8 (intrusive investigations), 11 (Remediation Strategy and Verification Report), 12 (CEMP), 13 (noise), 14 (Arboricultural Method Statement), 15 (CMP), 16 (highway), 17 (visibility), 18 (Safety Audit), 19 (estate streets), 20 (waste collection), 21 (surface water attenuation), 24 (bin storage), 25 (bicycle storage), 26 (drainage), 28 (drainage), 29 (CEMP: Biodiversity),-30 (landscape), 34 (solar panel array), 35 (materials), 38 (boundary treatments) on previous permission 2024/92281 for erection of 23 dwellings
Date Responded: 13/08/2025 Responding Officer: Hazel Irving Responding Ref: 03/18

Kirklees COUNCIL

An arboricultural method statement dated October 2024, produced by Iain Tavendale *F.Arbor.A* has been submitted in relation to Condition 14.

Having reviewed previous Officer comments and reviewed online aerial imagery, it appears that trees were removed from the site between the years of 2023 and 2025, resulting in the degradation of the site. The trees most prominent on the frontage of Whitehall Road West, in the northeast and centre of the site do not appear on the tree constraints plan dated October 2024. Additionally, an L-shaped group of **12 lime trees protected under ref: TPO 03/18/g2 have been removed.**

It is noted that there is no record of the 12 lime trees protected by TPO 03/18/g2 within the most recent tree survey, AIA or AMS.

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:
• cutting down
• topping
• lopping
• uprooting
• wilful damage
• wilful destruction of trees

without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

From looking at the AIA dated October 2024 the development will impact the protected trees on the southern boundary (TPO 03/18/g1), as the proposed dwellings are sited in proximity, north of the trees. The protected trees would shade the houses, the gardens and potentially the solar panels if these are placed on the southern side of the rooves. There is inadequate space for the future residents to enjoy outside space in their rear gardens, which would be largely under tree canopy blocking the sunlight. This applies particularly to the two plots in the southwest corner of the proposed development where the footings skirt the edge of the canopy and RPA of T2. The gardens would be overshadowed by the valuable protected trees, which would consequently be threatened firstly by the proximity of the construction, and secondly by tree works by future residents. The proposals conflict with Local Plan Policies 33 and 24(i):

LP 33: "The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity value.
Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the wildlife Habitat Network and green Infrastructure networks. Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction."

LP 24: "Proposals should promote good design by ensuring:- i) the retention of valuable or important trees"

The CEMP ref: ER-8376-04, dated July 2025 also raises concerns as it has identified a high risk of "unnecessary damage to onsite retained trees and their associated root zones". This includes damage to trees protected by TPO 03/18/g1.

Clay soil is recorded in the Groundtech Consulting report s.3.3 dated October 2024. Trial pits and boreholes were used to investigate the soil within the site and the report states that *"Firm light brown silty Clay was encountered in all exploratory hole locations from depths of between 0.15m and 0.4m begl to a maximum depth of 2.95m begl.".*

Chapter 4.2 Building Near Trees, within the NHBC guidance 2025 states that sycamore is a moderate water demand species. Testing must carry out to determine the volume change potential of the soil in the southernmost area of the site near the protected trees. This information would help to inform the specification of suitable foundation depths in proximity to large mature trees to avoid the potential for future subsidence issues. We would also anticipate that, where there are dwellings in proximity to the protected trees TPO 03/18/g1, an adequate root barrier is specified and clearly identified on the proposed landscape plans.

The landscaping proposals must include twelve lime trees, which the Council will protect to replace the removed trees protected by TPO 03/18/g2. A number of these should be sited on the frontage (northern boundary) to improve the amenity of the street whilst avoiding shade cast onto the houses within the development. 'Streetwise' is a suitable *Tilia* sp. cultivar, developed for urban settings and does not cause the nuisance of honeydew in the summer, as it is virtually resistant to aphids.

For the reasons given above, KC trees make a holding objection to the proposals as they currently conflict with Kirklees Local Plan Policies 24(i) and 33. Currently, the measures laid out in the AMS will not adequately reduce the potential risks and future impacts to the protected trees in the southern portion of the site to ensure their safe long-term retention. Additionally, the landscape proposals must be amended to include twelve lime trees.

Conditions:

- Soil testing to calculate the required depths of foundations in clay soils within the influencing zone of mature trees
- If the clay is found to be shrinkable, root barriers to be installed where trees have a zone of influence in the clay soils around the proposed structures
- Plant twelve lime trees (*Tilia cordata* 'Streetwise')
- Update the landscaping plan to include twelve lime trees
- Update the AMS to reflect changes
- Arboricultural supervision
- Tree Protection Fencing checks