

Sent: 10 November 2025 08:25
To: DC Admin; Louise Bearcroft; Martin Stephenson
Subject: Revised Comments on Application 2025/44/92737/E

For the Attention of Louise Bearcroft and Martin Stephenson in relation to Application 2025/44/92737/E:

Discharge of details reserved by conditions 10 (Phase II Intrusive Site Investigation Report), 11 (Remediation Strategy), 14(a) (coal mining activity), 16, 17, 18, 19, 20 (drainage), 21 (CEMP), 23 (estate roads), 24 (acoustic barrier) on previous permission 2023/92079 for outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls.

Please see below my revised responses in relation to Conditions 16, 17, 18, 19, 20 and 21 below. These supersede the comments submitted on 09/11/25. Can you please ensure that these comments are considered by Kirklees Council and uploaded to against the appropriate application on your planning website?

Martin – As the majority of my responses relate to the site's proposed drainage scheme, I have copied this to you. Specifically, can I draw your attention to my response to Condition 17? As it stands, I do not feel that you have been provided with the full, complete and correct relevant information with regard to the Flood Exceedance and the potential for impacting neighbouring properties on Summerdale. I request that you read through my response and reconsider your decision in light of the additional information provided.

In relation to the evidence provided by the developer for the discharge of Condition 16: Foul and Surface water Drainage

I consider that the proposed scheme of combining the foul and surface drainage on site should not be accepted. A combined system means that a flood event breaching the capacity of the site attenuation (or a simple blockage/ failure of the drainage connection leading out onto Moor Lane) would result in the discharge of water containing foul sewage across neighbouring properties downgradient of the site. As the attenuation tank and drainage connection is located at/close to the subject site's downgradient boundary, then it is off-site properties rather than the subject site's properties that face increased risk. There is a common law duty that the developer must not increase the flood risk of neighbouring properties therefore the proposed scheme is not acceptable.

The proposed scheme of a combined system also presents a single point of failure risk regarding directing the site's drainage through one 150mm drainage pipe off site. In addition, combining the surface water and foul drainage presents additional risks in relation to the inspection and maintenance of the attenuation tanks due to increased potential of exposure of maintenance staff to contaminants (pathogens, etc.) associated with foul drainage.

The above risks could be mitigated to some extent by having separate foul and surface water drainage at the site. It is not considered that such an approach would be economically prohibitive.

Whilst the Kirklees Council Lead Local Flood Authority (LLFA) Responding officer indicates in their response (05/11/2025, Responding Ref 1, Responding Officer: Martin Stephenson) general acceptance of the proposed connection, they also indicate that it would be 'subject to Yorkshire Water approval'. Yorkshire Water's consultation response (Ref A/02700 dated 31/10/2025) states their objection to the proposed surface drainage scheme for the site indicating that surface water from the site must be routed to the separate surface water sewer on Moor Lane. By definition this means that all foul and surface water drainage from the site must be kept separate throughout the site (i.e. there must be no combined drainage on site).

On the basis of the above it is clear that this Condition cannot currently be discharged.

In relation to the evidence provided by the developer for the discharge of Condition 17 Exceedance Flood Routing

Plan PV2511-APP-92-XX-DR-C-2501-P01 submitted for this Condition is both incorrect and insufficient in relation to discharging this condition. The plan indicates that the flood exceedance route 'heads toward soft landscaping at rear garden of 19 Moor Lane'. This is incorrect; the majority of the development site's eastern boundary is with 21 Summerdale and the arrow on the plan is pointing towards both 19 Summerdale and 21 Summerdale. It appears to use the term 'soft landscaping' as language to convey a minimal impact/minimal risk. In reality the flood exceedance is being directed towards two existing residential properties (19 Summerdale and 21 Summerdale). Plan PV2511-APP-92-XX-DR-C-2501-P01 shows both properties approximately 3-5m from the site boundary. However, the plan itself is incomplete and does not include all of the built structures associated with 21 Summerdale. At its northern end 21 Summerdale has a conservatory which extends towards the development site boundary being approximately 1.5m at its closest point. At its southern end, and also attached to 21 Summerdale, is a garden wall of approximately 1.5m height which extends towards 19 Summerdale. The gap between this wall and 19 Summerdale is 0.8m and there is currently a garden gate across that remaining gap. The proposed scheme is wholly reliant on excess floodwater being able to flow through that 0.8m gap and that that the gate remains free from obstruction. There is also a boundary wooden fence between number 21 and number 19 ahead of the gate that would further impede the flow of water and likely result in the buildup of floodwater against the property at number 21 and potentially number 19. The construction of the houses on Summerdale is such that there are air bricks one-brick course above ground level; therefore, any buildup of water of 15cm or more against the building will enter the property. This issue will be compounded if a combined drainage system is in place as it will allow foul water to enter the property.

In addition, the development site's ground levels are to be elevated approximately 1.5m above their current levels by the proposed development and hardstanding placed to within 1m of the boundary. This places the proposed development approximately 2m above the Summerdale properties. Therefore, any flood exceedance / flash flooding will flow at great speed across the development site's hardstanding towards the Summerdale properties. This will have the potential to cause damage to both the garden and properties of 19 and 21 Summerdale and potentially properties further downgradient on Summerdale.

Speaking as a near-neighbour of 21 Summerdale, the occupants of that property have neither been informed nor provided their consent that the flood exceedance can be directed across their property. As indicated above there is a common law duty that the developer must not increase the flood risk of neighbouring properties. This plan clearly identifies their intent to increase the flood risk and to direct that towards a neighbouring property. Furthermore, the occupants have not been contacted by Kirklees Council LLFA, nor has a site visit been conducted by KC LLFA. It is inconceivable that the condition can be discharged without the relevant LLFA having first engaged with residents in the directly affected neighbouring properties on Summerdale and also conducted a site visit to ascertain just how unsuitable the proposed scheme is. The absence of the authority to conduct these basic activities could be considered

a demonstration of failure of the LLFA and Kirklees Council to conduct and discharge their required duties to a reasonably expected standard.

The proposal for a combined drainage system (see Condition 16 above) will compound the effect of any flood exceedance as it will result in release of foul drainage and its associated constituent contents directly onto a neighbouring property and throughout Summerdale itself; this is not acceptable.

If the developer considers that 'soft landscaping' does provide some means of mitigation to potential flooding then they should provide this within the boundaries of their own site rather than assume that this should be a risk that they place on existing neighbouring properties. Based on the current site layout Properties 9 and 10 (which are also the most challenging properties to construct due the specified requirement for High Pressure grouting of coal workings and raft foundations (Ref C5115 – Coal Remedial Proposals: Rogers Geotechnical Services Ltd 08/09/2025)) should not be built and instead be retained as green space which in turn would also retain some of the site's biodiversity (noting that the development will result in an overall biodiversity net loss of ~64% (i.e two-thirds of the total site biodiversity) according to the Ecological Design Strategy Issue 3 (ref 23091a JCA Ltd 10/09/2025)). It would also mean that all drainage on the site could be gravity-fed to a connection on Moor Lane reducing the potential risk from any pumped drainage solution and failure thereof. Alternatively, Properties 9 and 10 could be built at a ground level lower than 19 and 21 Summerdale such that the flood exceedance route is directed through them first. If that would not be an acceptable solution from a developer or planning perspective then evidently directing any flood exceedance straight to the existing properties on Summerdale is equally not acceptable.

Condition 17 also requires an assessment of blockage scenarios to be provided; none of the provided evidence details or specifies any such assessment. As the proposed scheme relies on a single 150mm pipe connection to Moor Lane, A blockage assessment Including potential for drain collapse is essential.

In addition, the current developer's previous development elsewhere in Gomersal has suffered from significant drainage issues, particularly during high rainfall events. This highlights a need for a robust fail-safe drainage solution for the site to be agreed prior to this condition being discharged.

For the reasons above I disagree with the Kirklees Council LLFA that this condition can be discharged and request that their attention be brought to the additional information above. I also feel that further consideration should be given of Kirklees Council's LLFA's statutory responsibilities under the Flood and Water Management Act 2010 (FaWMA 2010). A scenario is being created here where the LLFA will, under its statutory duty (FaWMA 2010 - Section 19) be required to investigate flood events impacting neighbouring properties, and the root cause and conclusions will clearly point back to the decisions made by Kirklees Council as part of this application and failure to consider relevant matters.

In relation to the evidence provided by the developer for the discharge of Condition 18: Temporary Surface Water Drainage (Construction Phase)

Plan PV2511-APP-92-XX-DR-C2502 cannot be accepted as evidence to discharge Condition 18 as it specifies that the it will be via a new 'combined water lateral 150mm diameter drain'. Yorkshire Water has indicated in their consultation response that surface water is to be connected into the surface water drain on Moor Lane' not the combined sewer. This may also be a contravention of condition 20 which states 'there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works'.

In addition, the plan shows no consideration whatsoever for surface water management as the site development progresses and the amount of building and hardstanding coverage increases. High intensity rainfall events as we have seen throughout each recent year, particularly in summer, would likely overwhelm the rather simplistic surface water control measures shown on the plan. Furthermore, there is no finished level provided regarding the bund; it is indicated it will be 1m high but site levels in that area of the site are to be raised by 1.5m. Are we to assume that the bund will be 1m above the proposed finished

site level (i.e. 2.5m above existing levels)? Similarly, the bund is to be positioned across part of the site that is to be developed with hardstanding; up until which stage of the development is the bund to be retained and what protection measures will be in place between its removal and the site's full connection to drainage? The bund also appears to have a low point at its northernmost end which will simply result in surface water circumventing the control measures at that low point making the whole bund principle ineffective.

Finally, the Surface Water Management Plan does not align in any way with the Sidmar Construction Environmental Management Plan CEMP meaning that either one, or both of them are incomplete and/or incorrect at this point in time. The CEMP does not make any mention of a bund but does instead make mention of 'excavation of V drains and settlement ponds. These are not indicated at all on the Surface Water Management Plan. Further information in relation to the CEMP is also provided below in relation to Condition 21.

With due consideration of the above the evidence supplied is insufficient to discharge this condition. Also, for the reasons above I disagree with the Kirklees Council LLFA that this condition can be discharged and request that their attention be brought to the additional information above.

In relation to the evidence provided by the developer for the discharge of Condition 19: Foul Drainage

This condition relates to the means of disposal of foul water from the site. The proposed scheme specifies routing both the surface water and foul drainage on-site together and directing them to the Combined Sewer on Moor Lane. Yorkshire Water has indicated in their consultation response (Ref A/02700 dated 31/10/2025) their objection to the proposed surface drainage scheme for the site indicating that surface water from the site must be routed to the separate surface water sewer on Moor Lane. By definition this means that all foul and surface water drainage from the site must be kept separate throughout the site (i.e. there must be no combined drainage on site). Therefore, the proposed scheme cannot be implemented and therefore this Condition cannot be discharged.

In relation to the evidence provided by the developer for the discharge of Condition 20: Surface Water Drainage

The Condition states 'There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works'. Plan PV2511-APP-92-XX-DR-C2502 clearly identifies the intention and reliance to use piped drainage for surface water disposal from the outset of the works. As it currently stands there is clearly insufficient evidence for this Condition to be discharged

In relation to the evidence provided by the developer for the discharge of Condition 21: Construction Environmental Management Plan

The submitted CEMP is insufficient and in places incorrect. For a 14 month project worth £6,000,000 the CEMP is scant on specific detail. It appears to have been produced as a generic plan for a non-specific project. There is no cross reference to any existing plans or project documentation. The CEMP itself does not include any drawings or diagrams it relies on the readers knowledge and interpretation of their description to understand where activities on the site may be undertaken. In Section 1 only Worthy Notes (v) and (x-xii) relate to environmental matters; in Section 3 Site Specific Environmental issues appear to relate to another site and or /project. Section 3 makes continued reference to 'reporting to PBPL' throughout with no indication of who or what that is and many of the Reporting Entries specify Department of Environment and Heritage Protection which is a government department in Queensland, Australia.

Other comments as follows.

- The CEMP specifies the use of ‘several items of heavy plant’ on site. There is no consideration or information in relation to fuel storage or any environmental controls regarding refuelling activities (bunding, protected areas, spill prevention etc.).
- Given that lead contamination has been identified in shallow soils on site (it may have been assessed as fine for the finished development but it does still present a risk during construction) a proactive regime of air and dust monitoring should be employed at the site boundary. Worthy note (x) in Section 1 specifies that ‘muck is to be stored at the bottom of the site’. This disturbance and transfer of soil will increase the potential for dust creation and contaminant dispersal. Also the bottom of the site is supposed to be the area for the surface water protection bund. Stockpiling of materials in that area may increase surface water runoff risk both in terms of quantity and leaching of contaminants and presents an unacceptable risk to neighbouring properties.
- No mention is made of any environmental control measures associated with the high pressure grouting that the Coal Remedial Proposals (Ref C5115 – Coal Remedial Proposals: Rogers Geotechnical Services Ltd 08/09/2025) deemed necessary in order for properties 9 and 10 to be constructed. These activities would have potential for ground disturbance and mobilisation of ground gas and groundwater through previous mineworkings and preferential pathways beyond the boundaries of the site. They would also add to the noise and dust impacts at and in the vicinity of works, including neighbouring properties.
- Furthermore, the section on contaminated soil is overly simplistic, the monitoring simply states ‘any contamination sampling’. A full sampling regime (quantity, frequency, sampling depths, analytical suite) should be specified. No consideration is given with regard to the likely potential to encounter pockets shallow/thin seams of coal and how that will be managed (i.e. presence of elevated PAHs etc.).
- Regarding wheel washing the CEMP mentions that a jet wash will be available ‘at all times should it be required’. From experience this is likely to be largely ineffective in reducing the transfer of mud and debris offsite. This increases the risk of transfer of mud and potentially contaminated soils onto adjacent public highways and subsequently increases the potential for dust generation and silting and blocking of offsite drains. Control of arisings from jet wash activities is also not mentioned.
- There is too heavy a reliance on ‘complaint based monitoring’ as a means of monitoring. This is a reactive, after-the-event measure. Whilst each monitoring entry states ‘X or complaint based monitoring’ (e.g. Water quality monitoring program or complaint based monitoring) there is zero detail provided of what X may be and very little to indicate that it would be the preferred approach.
- The CEMP states that ‘Works on site to conform to standard working hours.’ but then later states that ‘All significant noise generating activities will be undertaken between Mon-Sat 6.30am to 6.30pm’. Those hours of operation are not acceptable in terms of noise impact on neighbours. Again the specified means of monitoring is ‘Noise monitoring program or complaint based monitoring’ with zero detail on what a ‘noise monitoring programme’ would entail (threshold levels etc.). All it states is that they have a policy to switch machines off when not in use.

- In addition, all corrective actions throughout are simply stated as 'Corrective actions and implementation timeframe' with no further detail.
- Many of the Reporting Entries specify to report to the Department of Environment and Heritage Protection. Regardless of this not being a UK authority there is no detail of what would be reported to any (UK equivalent) authority and why.

From my experience of site remediation and development projects of this nature I do not consider that the submitted SEMP is sufficient to discharge this Condition.

I trust that the above comments are clear and will be taken into consideration by Kirklees Council with regard to determining potential discharge of the associated Conditions. To be clear my expectation is that there is insufficient evidence presented for any of Conditions 16-21 to be currently discharged. If you wish to discuss any of the comments above in further detail, please feel free to contact me.