

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 73

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS TO CARRY OUT DEVELOPMENT WITHOUT COMPLIANCE WITH PLANNING CONDITIONS PREVIOUSLY ATTACHED

Reference No:	2026/70/90373/E
Site Address:	land northwest of, Urban Terrace, Denby Lane, Grange Moor, Huddersfield, WF4 4EB
Description:	Variation of conditions 2. (plans) 10. (attenuation tank) & 27. (landscaping) on previous permission no. 2023/93704 for erection of 12 dwellings and associated works
Recommending Officer:	William Simcock

DECISION – Section 73 Variation of Condition – Approve

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

Nick Hirst

AUTHORISED OFFICER

Date: 07-Jul-2026

Application: 2026/90373

Site: Land northwest of, Urban Terrace, Denby Lane, Grange Moor, Huddersfield, WF4 4EB

Proposal: Variation of conditions 2 (plans) 10 (attenuation tank) & 27 (landscaping) on previous permission no. 2023/93704 for erection of 12 dwellings and associated works

Site Description

The site comprises an irregularly-shaped piece of land on the northern side of Denby Road. Near to its south-western corner it abuts a short row of terraced houses, and their curtilages, known as Urban Terrace. The western extent of the site the boundary is formed by Stoney Royd, a small housing development built as a cul-de-sac off Denby Road.

A public footpath (ref. KIR/209/10) runs adjacent to the eastern boundary and an irregular line of trees mark the northern boundary. The land to the north forms part of a large domestic garden. To the east, on the opposite side of the public footpath, is a site that benefits from a current permission for housing (23 units) and on which the build is at an advanced stage.

The site consists mainly of rough grass and scrub with a few small trees. There is at present, no formal means of access to the public highway. The site is near-level but somewhat elevated compared to the land that lies beyond the eastern boundary.

Description of Proposal

The proposal is for the variation of conditions 2 (plans), 10 (attenuation tank) and 27 (landscaping) on previous permission no. 2023/93704 for erection of 12 dwellings and associated works.

The existing conditions read:

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 with Policies LP1, LP2, LP7, LP20, LP21, LP22, LP24, LP30, LP33, LP52 and LP53 of the Kirklees Local Plan.*

10. Development shall not commence until a scheme showing a detailed plan and cross section of the selected attenuation tank alongside a detailed maintenance and management regime for the storage facility including the flow control device. The regime shall include an itinerary and schedule of tasks forming a method statement that in turn has been

risk assessed by the Principal Designer under CDM Regulations 2015. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

Reason: *To ensure that the site can be drained in a safe and sustainable manner at all times and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This information is required pre commencement to ensure that sustainable drainage arrangements are incorporated into the development at an appropriate stage.*

27. Notwithstanding the details on the landscaping scheme prepared by Rosetta Landscape Design, an amended landscaping plan shall be submitted to and approved by the Local Planning Authority before construction work commences above foundation level showing in detail the means of public access to the two areas of public open space, and shall include the following: 1. 2. The path giving access to the POS situated to the west of Plot 12 surfaced in bitmac or a similar material providing a sealed, cohesive surface. A pathway also surfaced in bitmac or another material providing a sealed, cohesive surface, crossing the area of POS located above and around the attenuation tank to the south-east of Plot 5, and seating provided in this area. All hard and soft landscape works shall be carried out in accordance with the landscaping scheme as approved in accordance with this condition within the first planting, sowing or landscape management season following the commencement of development. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme agreed with the Local Planning Authority.

Reason: *To enhance and conserve the visual amenity of the historic built environment as well as the natural environment in accordance with Policies LP24, LP30, LP32, LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.*

The applicant's covering letter sets out a list of plans that are deemed to require amendment. The principal changes to the layout and external works (within the remit of condition 2) are as follows:

- That the first turning head (that which lies north of Plots 1-2) is to be deleted. The Public Open Space indicated on the original plans is to be extended to the south into the space of the turning head to be removed.
- Increased land raising is indicated, especially near the northern and north-eastern boundaries.

The covering letter does not propose an alternative wording to conditions 10 and 27 but briefly sets out the variations that are being sought:

- The latest submissions include a drainage layout, SUDS maintenance plan and other technical supporting documents which are intended to fulfil the requirements of condition 10 with the intention that it can become a prescriptive condition.
- The applicant proposes that their amended landscaping scheme fulfils the purposes of condition 27 in that it provides sealed surface paths crossing both POS areas.

The covering letters specified several plans that are not specifically related to the above conditions, but have been modified to ensure that they are compliant with the amended layout under condition 2. These include Public Open Space amenity plan, crime prevention plan, cycle storage plan, EV charge point plan and bin store phasing plan.

History of negotiations/amendments received

03/03/2026: Levels to path to east of site boundary added.

20/05/2026: Minor amendments to site plan to ensure that bin collection points were accessible to collection crews.

15/19/2026: Tree planting scheme amended (the same number of new trees but their placement within the site was changed). More detailed tree protection measures are shown.

10/06/2026, 24/06/2026: Additional or amended drawings for drainage requirements.

None of the above were considered to require re-advertisement since the original plans submitted for this application had attracted no representations, the changes to the layout of the development and the landscaping scheme resulting from the above modifications were considered to be minor and not of sufficient magnitude to require the opportunity for new publicity.

Relevant Planning History

Application site

2023/93704: Erection of 12 dwellings and associated works. Granted subject to Section 106 Agreement covering the following matters:

- On site provision of affordable housing
- On site provision and subsequent management of public open space
- Financial contribution to off-site public open space
- Financial contribution to off-site biodiversity enhancement
- Management and maintenance of drainage infrastructure.

The S106 defines Planning Permission thus:

“a planning permission that may be granted by the Council pursuant to the Application and any permissions granted in relation to the Development under Section 73 of the 1990 Act”

2025/90760: Discharge of details reserved by conditions 3 (Phase II Intrusive Site Investigation Report), 4 (Remediation Strategy) and 7 (Remedial Works) of previous permission 2023/93704 for erection of 12 dwellings and associated works. Split decision. Conditions 3 and 4 were discharged. Condition 7 is a prescriptive condition which cannot be discharged until the required remediation has been implemented.

2025/91372: Discharge of details reserved by conditions 9 (Construction Management Plan), 17 (Bin Storage Enclosures), 18 (Waste Storage), 19 (Construction Traffic), 20 (Highway Condition Survey), 22 (Arboricultural Method Statement), 24 (Boundary Treatments), 26 (Crime), 27 (Hard and Soft Landscaping), 28 (Cycle Parking), 29 (Electric Vehicle Charging), 30 (Construction Environmental Management Plan: Biodiversity) on previous permission 2023/93704 for erection of 12 dwellings and associated works.

Split decision. Details in respect of conditions 9, 17, 18, 20, 22, 26, 28, 29 and 30 were approved. The details submitted pursuant to conditions 24 and 27 could not be approved. Land-raising near site boundaries was substantially in excess of what was shown on the approved plans, and it was unclear whether the works could be undertaken without encroaching on the adjacent PROW, or whether the earthworks and landscaping would allow connectivity between the POS and PROW. Condition 29 (Electric Vehicle Charging) is a prescriptive condition with ongoing obligations that can only be complied with by implementation of the requirements of the condition and subsequent retention.

2025/93273: Discharge of details reserved by conditions 10 (attenuation), 11 (surface water), 12 (parking), 14 (visibility splay), 15 (access), 16 (footway), 21 (sewer) on previous permission 2023/93704 for erection of 12 dwellings and associated works. Application is ongoing.

Adjacent site

2024/92444: Erection of 21 dwellings and associated works with means of access from Denby Lane. Conditional full permission, implementation commenced.

Representations

Final publicity date expires: 21/03/2026.

Publicity was undertaken by neighbour site notice and press advertisement in accordance with statutory requirements and the Kirklees Development Management Charter as the proposal constitutes Major Development and would affect a Public Right of Way.

No public comments were received in response to the representation period.

Kirkburton Parish Council – No comment.

The site lies in Kirkburton Ward. The three Councillors for this ward at the time the application was submitted were:

- Cllr John Taylor
- Cllr Bill Armer
- Cllr Richard Smith

This is unchanged as a result of the May 2026 local elections.

The three Ward Councillors were notified of the application by email 13-Feb-2026.

Councillors Taylor and Armer confirmed that they had no concerns about the proposed changes. Councillor Smith did not respond.

Consultation Responses

The following is a summary of Consultee advice (more details are contained in the Assessment section of the report, where appropriate):

- KC Highways Development Management – Support subject to conditions.
- KC Lead Local Flood Authority – Details submitted in respect of condition 10 are acceptable.
- KC Landscape – Comments provided (informal response).

Policy

Kirklees Local Plan (LP)

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 27th February 2019).

The following Local Plan policies are considered relevant to the proposal:

- **LP 1:** Presumption in favour of sustainable development
- **LP 2:** Place shaping
- **LP 3:** Location of new development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 11:** Housing mix and affordable housing
- **LP 21:** Highways and access

- **LP 22:** Parking
- **LP 24:** Design
- **LP 28:** Drainage
- **LP 30:** Biodiversity and geodiversity
- **LP 32:** Landscape
- **LP 33:** Trees
- **LP 47:** Healthy, active and safe lifestyles
- **LP 52:** Protection & improvement of environmental quality
- **LP 53:** Contaminated and unstable land

Supplementary Planning Documents

- KC Highways Design Guide 2019
- Housebuilders Design Guide Supplementary Planning Document, (HGD SPD)
- Open Space Supplementary Planning Document
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) the Planning Practice Guidance Suite (PPGS) together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- 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 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flood risk and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

Assessment

The following matters are considered in the assessment below:

- 1) Scope of this application
- 1) Proposed variation condition 2
- 2) Proposed variation condition 27
- 3) Proposed variation condition 10
- 4) Planning obligations

- 5) Other matters
- 6) Review of conditions
- 7) Representations
- 8) Conclusion

1 – Scope of this application

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 S73.

The starting point for a S73 application is the previously granted planning permission, which must carry significant material weight.

The proposed changes would not affect the previously established principle of development, including the number of dwellings delivered. The proposed changes to levels, internal road layout and landscaping, and the proposed amendments to conditions 10 and 27 with the intention that they become prescriptive conditions, are all considered to be material. They will be assessed according to relevant national and local policies on visual and residential amenity, biodiversity and other material considerations.

The following text from Paragraph 140 of the NPPF is relevant and will inform the decision:

“Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”

2 – Proposed variation condition 2

The proposal will be considered having regard to the aims of LP24a, and also those of the House Builders’ Design Guide, in particular:

- Principle 2 – New development should take cues from the character of the natural and built environment and complement the surrounding built form.
- Principle 7 – Green infrastructure and accessible open space must be integrated into the scheme whilst retaining the site’s existing features.
- Principle 8 – The development should make a positive contribution to the wider landscape.

The site mostly lacks steep gradients. The site however is higher than the adjacent Public Right of Way, and there is steep banking towards the eastern boundary of the site. Changes in ground levels are indicated on the Levels Plan reference D100 Revision 5 and Earthworks Direct Comparison reference D600 Revision 2. These show modest land-raising in most parts of the south, east and north of the site, which would exceed 1m at the north-western and north-eastern boundaries close to the northern tip of the site, where it would be in excess of 1m and involve the formation of a retaining structure with a height of up to 1.5m.

It is noted that the formation of a retaining structure on the western side of the PROW would make it appear more enclosed, from the point of view of its future users. It is noted however that ground levels are lower on the eastern side of the footpath, and would remain so after the implementation of permission 20224/92444. It is anticipated that the boundary treatment for outer boundary of the development with the PROW would be 1.8m, as shown on the approved site plan, but it was observed in the officer's report at the time that since the fence would be set roughly 2m away from the PROW boundary and on land that is at a lower level, it would not be overbearing on users. It is therefore considered that the combined effect of the new retaining structure and the fencing associated with the development on the eastern side of the PROW would not cause the PROW to become unduly enclosed or cause its users to feel unsafe.

It is considered that the proposed changes to ground level have been kept to the minimum necessary to create a satisfactory layout that will provide safe vehicular access, allow a satisfactory drainage layout, and to ensure that the proposed dwellings can be built to the design and sitings that are shown.

Subject to the use of appropriate facing materials, it is considered that the proposed retaining structures would not have an adverse impact on visual amenity or local character. The plans do not specify the methods of construction or external facing materials of the proposed retaining structures. The details submitted (although not ultimately approved) for discharge of condition application 2025/91372 indicated that any retaining structures required would be formed using the Gravitass earth banking system. This would be potentially one of the better design solutions as being the one that is most in keeping with the semi-rural surroundings of the site, although other treatments such as coursed stone may be considered. It is noted however that any proposed new retaining wall with a retained height of 1.35m or more and that is located within 3.6m of the highway – including a Public Right of Way – is liable to a formal technical approval. This permission will therefore need to be subject to a new condition requiring details (engineer's drawings and calculations) to be submitted.

In conclusion, it is considered that subject to the above condition, and the reimposition of other conditions as appropriate, the variation of condition would not result in a scheme that is inferior to that approved, in terms of urban design and visual amenity.

The wording of condition 2 is not proposed to be varied, although it is recommended that the associated plans table be updated to reflect the new plans.

3 – Proposed variation condition 27

The proposed development would result in a small net increase in the amount of soft landscaping within the site owing to the deletion of the first turning head.

A detailed landscaping scheme was submitted with the original application, 2024/93704, 3875/2 Rev J. KC Landscape were consulted and in their final comments (19/11/24) the only concerns they raised were over poor accessibility to the two POS areas. The application was approved subject to a condition that an amended landscaping scheme be submitted for approval which should show both areas of POS being accessible by means of sealed-surface paths.

Such a scheme was submitted for discharge of condition application 2025/91372. This made no changes to the species schedule and negligible changes to the number of specimens planted as against the original landscaping scheme (revision J), but did incorporate the hard-surfaced paths that were specifically requested in the condition. KC Landscape were consulted on this but did not issue a response. At present there is therefore no approved landscaping scheme.

The present application was accompanied by an updated landscaping scheme, 3875/2 Rev Q (also by Rosetta). The landscaping scheme contains full details of the planting and sowing schedule. This would briefly comprise flowering lawn mix to front gardens, grass seeding to the rear, wildflower mix to POS areas, the planting of 18 trees, and deciduous hedges laid out to most highway boundaries. An implementation schedule is included in the right-hand margin. A full list of species is provided. Both areas of POS incorporate seating and a hard-surfaced path which in the case of the eastern POS provides a link to the PROW.

KC Landscape, in making informal comments on the proposals, expressed the following concerns about the scheme:

- Trees within curtilages of Plots 5-8 planted over or close to drainage runs;
- Lack of clarity as to location of root barriers.
- Lack of detail concerning species, planting densities, etc.

It is good practice to install root barriers wherever newly planted trees or hedgerows would be within 5m of an adopted highway or a new road forming part of the development that is set to be adopted; in the case of new estate roads, this is essential for adoption. In this instance the proposed estate road is intended to be unadopted, so whilst root barriers between trees and the

estate road might be advisable from the point of view of avoiding future maintenance issues caused by root incursion, they are not essential.

The latest plans however show the installation of a root barrier along the Denby Lane frontage to prevent root incursion into the new footway (which will be adopted) from the *Fagus sylvatica* hedge, at locations within the site where trees and hedgerows are particularly close to the estate road or parking spaces, and surrounding the proposed attenuation tank.

The developer's agent was advised during the application process that the planting of trees above or close to drainage pipes within Plots 5-8 would give rise to the risk of future maintenance problems owing to root incursion, and the proposed trees have now been removed from these plots and substituted with trees elsewhere in the site. The NPPF (paragraph 136) recommends that all new streets are tree-lined. It was accepted in the assessment of the original application that the planting of true street trees would not be practicable since there was to be no footway within the estate road, but that the majority of trees would be within dedicated open space and other managed areas, and others would be within gardens that face the new estate road. It is considered that the loss of the proposed trees from the front gardens of Plots 5-8 would not result in a reduction in the quality of the landscaping scheme overall since there would not be a net reduction in the number of trees and the majority would still be within public open space areas where they would still offer a clear benefit to public amenity.

In conclusion, it is considered that the submitted plans would satisfy the objective of creating useable and accessible POS that would encourage dwell time, and further would allow convenient interconnection with the adjacent PROW thereby fulfilling one of the aims of the Public Open Space SPD which states that consideration should be given to facilitating connectivity with wider networks, and those of LP20.

It would also deliver an acceptable landscaping scheme that would serve to enhance the visual amenity of the development and would take advantage of opportunities to achieve habitat enhancement on site. Accordingly, it is recommended that condition 27 be varied to the following wording:

27. All hard and soft landscape works shall be carried out in accordance with the landscaping scheme 3875/2 Rev Q and external works plan 0740 Rev P15 within the first planting, sowing or landscape management season following the substantial completion of development and prior to the occupation of any part of the development. Thereafter, the landscaping scheme shall be maintained and managed in accordance with the approved Landscape Management Specification authored by Rosetta Landscape Design, Revision A, and submitted 19/11/2024 in support of application 2023/93704.

Reason: *To enhance and conserve the visual amenity of the built environment as well as the natural environment in accordance with*

Policies LP24, LP30, LP32, LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

4 – Proposed variation of condition 10

Condition 10 required that a drainage strategy be submitted to, and approved by, the LPA. A full drainage scheme has been submitted with this application.

A SUDS Management Plan, reference SMP/RWO/Y22054/2 version 6, has been submitted. This includes, as an appendix, sections through the attenuation tank at a scale of 1:75. A detailed schedule of maintenance tasks is included.

KC Lead Local Flood Authority (LLFA) comments dated 20/06 were that most aspects of the submissions were considered acceptable with two caveats:

- (i) that the maintenance plan should allow for replacement every 25 years;
- (i) that the flow control should be altered in such a way that dismantling for maintenance purposes would involve replacement of the neoprene seal before remounting.

In response the applicant submitted amended flow control details and a BBA Approval Inspection Testing Certificate. The latter advised that the tank should have a lifespan of up to 60 years if the recommended inspection and maintenance regime were followed.

LLFA were consulted on these submissions and confirmed that these would be acceptable and, if these were approved as part of the maintenance plan, they would have no further concerns.

Whilst the submitted documents do not confirm that the tank and maintenance schedule have been risk assessed by the Principal Designer under CDM Regulations 2015 as required by the wording of the condition, the LLFA have confirmed by email that they have no concerns about this omission. It is considered that the submitted information is detailed enough to fulfil the requirements of the condition and it can therefore be changed to a prescriptive condition.

Accordingly, officers recommend that condition 10 be varied to the following wording:

10. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme as shown on Drainage Layout ref. D200 rev. 5, Drainage Construction Detail ref. D701 rev. 1, and Flow Control Details ref. D703 rev. 1, have been completed. The flow restriction and attenuation works shall thereafter be maintained and managed in accordance with the maintenance schedule SMP/RWO/Y22054/2 version 6.

Reason: To ensure that the site can be drained in a safe and sustainable manner at all times and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This information is required pre commencement to ensure that sustainable drainage arrangements are incorporated into the development at an appropriate stage.

5 – Planning obligations

The issuing of an approval under a Section 73 application will result in a new planning permission. In many cases, this means that a Deed of Variation will need to be entered into to ensure that obligations pertaining to any Section 106 Agreement entered into for the original application will remain valid.

The Section 106 Agreement entered into for the original reserved matters approval, 2021/91933, lists the following obligations:

- On site provision of affordable housing
- Payment of Managed Areas Inspection Fee
- Payment of POS contribution before more than 50% of units occupied
- Payment of education contribution before more than 50% of units occupied
- Payment of off-site highways contribution before more than 50% of units occupied
- Payment of biodiversity contribution before more than 50% of units occupied
- Payment of Metrocard contribution before any unit is occupied.

The Agreement contained the following clause:

12. Future Permissions.

12.1 In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and a planning permission is granted in respect of that application then:

12.1.1 References to “Planning Permission” in this Deed shall thereafter be deemed to include both the Planning Permission and the new planning permission granted pursuant to Section 73 of the Act; and

12.1.2 This Deed shall apply to and remain in full force in respect of both the Planning Permission and that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act unless required to do so by the Council.

The Agreement already entered into will remain binding on any variation of condition (including this one).

Furthermore, no new or modified obligations are deemed necessary. The proposal results in the creation of additional open space, and on this basis the applicant would be entitled to ask for a recalculation of the off-site open space contribution – however, they have chosen not to pursue this option. Similarly, the current landscaping scheme might deliver marginally more on-site habitat than would have been achieved under the original version, but it is considered that this is unlikely to make a significant difference to the net gain to be delivered off-site, and again, the applicant has not requested that this be recalculated.

Accordingly, there is no requirement to enter into a deed of variation.

6 – Other matters

Impact on residential amenity

Of the existing dwellings that share a boundary with the site, only one, Holme Lea (to the north), would have any new retaining structures on or close to its borders. It is considered that the retaining structures would not have an overbearing impact taking into account the size of this property's garden and that the position of the dwelling within a plot, a considerable distance away from the common boundary.

The parts of the site that lie close to Urban Terrace would undergo relatively modest increases in ground level, of 500mm or less. It is considered that the impact arising from this, including that of the floor levels of existing dwellings, would not be significant in terms of its impact, particularly bearing in mind the proposed dwellings adjacent to Urban Terrace are bungalows

The impact upon dwellings to the east and north-east of the site (granted permission, and presently under construction, under planning permission reference 2024/92444) must also be given consideration. The dwellings that would be in closest proximity to the retaining wall – plots 6-9 within the development – would have their floor levels set at between 211.800 and 213.000m above ordnance datum (AOD), whereas the height of the proposed retaining wall would be 216.480m AOD at its highest point. The retaining wall would be separated from the nearest point on these properties' rear garden boundaries by approximately 4m and it is considered that with these separation distances the retaining wall and associated earthworks would not have an overbearing impact on these dwellings. The distance from the eastern elevation of the dwelling on Plot 5, which would be placed near the northern corner of the site where finished land levels are highest, to the nearest dwelling it would directly face (Plot 8 within the 2024/92444 development) would be approximately 21m. It is considered that, in this context, the difference in finished floor levels, 4.67m, would not be overbearing.

It is also considered that the landscaping scheme would not have any effect upon the light or outlook available to residential properties outside the site.

None of the approved dwellings are changed in terms of scale, orientation or siting within plots. No plot has reduced garden space as a result of the changes.

New trees, including those within gardens, are not to be planted in positions where they would affect light or outlook.

It is therefore that the proposed development is at least of equal quality, in terms of the level of amenity it would offer future residents, to the original approval.

It is considered that no conditions need be imposed specifically to protect residential amenity, except for the erection of boundary treatments – this is covered by a condition on the existing permission, which can be carried over to the new one.

Impact on highway safety

The only significant change from the point of view of highway and access issues is that the estate road would now be provided with a single turning head at its western end. The turning head at the eastern end of the site, near the entrance, has been deleted. KC Highways have confirmed that the eastern turning head is not necessary for safe vehicular access and servicing. Its original function was to provide access to the neighbouring land however, following the determination of application ref. 2024/92444, which relies upon an independent means of access, this is no longer required. The western turning head is unchanged in terms of its dimensions and layout.

The original application was assessed on the basis that the internal layout would not be offered for adoption and would remain private, and it is understood that this remains the case. Means of access to the site, and the provision and distribution of private and visitor parking spaces, would be unchanged.

Each dwelling would have its own bin store and its own bin collection point, all of which would be adjacent to the footway and therefore easily accessible by bin collection crews. The original approved layout showed, in addition to these, a shared bin collection point to the east of the access, intended as a fall-back measure in the event that bin collection crews were unable or unwilling to collect from the estate road. This feature is not explicitly shown on the current proposed site plan although there is a hard surfaced area that could fulfil this purpose. It appears that the shared bin collection point was included as a precautionary measure on the original plans, but KC Waste have confirmed that even though the street is not intended to be adopted, the proposed layout is suitable for access for a refuse collection vehicle and that provided the turning head is not obstructed by parked cars, there is no reason why Kirklees Council bin collection crews will not be able to collect from within the estate. The proposal contains, as previously noted, private and visitor parking meeting adopted Kirklees standards and there is therefore no reason

to suppose that irregular parking of vehicles within the turning head is likely to occur.

KC Highways Development Management have recommended conditions be applied covering the following matters:

- Approved vehicle parking areas to be surfaced and drained;
- Visibility splays to be provided and area within to be tarmac surfaced;
- 2m wide footway to be provided across frontage;
- Means of access to and from the site shall be in accordance with the preliminary access design(s) as shown on the approved plan ref. 22D26-FBA-ZZ-XX-DR-A-0719-P09.

These conditions were imposed on the original application and it is considered that they should be reimposed (see Review of Conditions below).

In conclusion, it is considered that the development – as modified by this variation of condition application – demonstrates both safe access to the existing highway network and an internal layout that would ensure satisfactory access, parking and servicing for all future users. It would avoid any adverse impact on the free and safe use of the highway and accord with Policies LP21-22 of the Local Plan and Principle 12 of the Housebuilder Design Guide SPD.

Ecology

A Preliminary Ecological Appraisal (PEA), BNG Metric and report were submitted with the original application (2023/93704) which calculated the value of the existing habitat on site at 5.22 habitat units, of which none would be retained. A total of 0.86 habitat units would be created on site, mostly consisting of modified grassland and vegetated garden, with some urban trees, giving rise to a net loss of 4.36 habitat units.

The current application was not supported by a new PEA or BNG Metric. It is noted that the scheme now proposed results in a modest increase in the amount of soft landscaping compared to the original layout, and would not result in any net loss in the number of new trees planted. It is therefore considered that the creation of new habitat units on site would, at the very least, be equal to that created if the original scheme were implemented. Consequently, it is considered that the lack of an updated PEA or BNG Metric does not represent a deficiency in the application.

The mandatory provision of a Biodiversity Net Gain (BNG) of 10% as set out under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) does not apply in this case since the parent permission was applied for before 12/02/2024. The original permission was granted subject to an offsite contribution to provide a 1%

biodiversity net gain (a financial contribution of £101,430) secured via a legal agreement.

7 – Review of conditions

Section 73 of the Town and Country Planning Act 1990 allows the Local Planning Authority to review the previously applied conditions attached to permission 2021/94664 and to update, revise, add to or delete redundant conditions as part of the assessment of the current application.

Those conditions would normally be re-applied in any subsequent approval of a Section 73 application, as the effect of the Section 73 approval is the issue of a fresh grant of permission.

Conditions 2, 10 and 27 are recommended to be varied as set out within this report. The wording of condition 2 does not need to be changed, but it will refer to the current plans. It is recommended that conditions 10 and 27 are re-worded as prescriptive conditions.

It is recommended that all other conditions be re-imposed, where they continue to serve an essential planning purpose. Furthermore, a condition will be required for technical approval of retaining structures adjacent to the public highway. The condition list is:

1. Development to be commenced within three years
 - Reimpose, but with date specified as three years from the original permission, as S73 cannot be used to extent a time limit for commencement.
2. Development to accord with plans and specifications
 - Reimpose, although with the plans table updated, as detailed in this assessment.
3. Phase 2 contaminated land report to be submitted
 - Delete (details approved under 2025/90760, no ongoing obligations).
4. Remediation strategy to be submitted
 - Delete (details approved under 2025/90760, no ongoing obligations).
5. Remediation strategy to be implemented
 - change wording to refer to details submitted and approved under 2025/90760.
6. Verification report to be submitted

- Reimpose.
7. Shallow coal remediation works scheme to be undertaken
- Reimpose.
8. Statement / declaration re. coal remediation to be submitted
- Reimpose.
9. Construction Environmental Management Plan to be submitted
- Change to prescriptive condition as the details have been approved under 2025/91372.
10. Cross-section of attenuation tank and maintenance plan
- Change to a prescriptive condition, to align with the details submitted as part of this application.
11. Construction drainage scheme to be submitted
- Change to prescriptive condition. The Construction Phase Surface Water Management Plan version 3 submitted with this application is identical to that submitted for discharge of conditions application 2025/93273 (which LLFA comments 31/12/2025 confirmed was acceptable), except that the underlying base plan has been updated to suit the new proposed layout.
12. Parking spaces to be hardened and drained
- Reimpose.
13. Approved garages to be retained
- Reimpose.
14. Visibility splays to be provided, areas to be tarmac surfaced in accordance with details to be submitted and approved
- Reimpose (details submitted under application 2025/93273 but not yet approved, at the time of writing)
15. Access to be in accordance with preliminary access design, details of surfacing to be submitted
- Reimpose (details submitted under application 2025/93273 but not yet approved, at the time of writing)

16. Details of 2m footway to be submitted

- Reimpose (details submitted under application 2025/93273 but not yet approved, at the time of writing)

17. Bin enclosures to be submitted

- Change to prescriptive condition to adhere to the details approved under DOC 2025/91372.

18. Temporary waste collection arrangements to be submitted

- Change to prescriptive condition to adhere to the details approved under DOC 2025/91372)

19. Construction Management Plan to be submitted to be submitted

- Change to prescriptive condition to adhere to the details approved under DOC 2025/91372.

20. Highway condition survey to be undertaken to be submitted

- Change to prescriptive condition to adhere to the details approved under DOC 2025/91372)

21. No obstructions to be built over the public sewer

- Reimpose. Yorkshire Water, in their comments on 2025/93273, confirmed that they had no objection in principle with the proposals to divert the sewer and that the plans maintained the 3m easement, but could they could not support the discharge as the applicant had not provided evidence that the YW Adoptions and Diversions team had agreed the diversion works.

22. Arboricultural method statement to be submitted

- Change to prescriptive condition (details approved under 2025/91372)

23. Facing and roofing materials to be submitted

- Reimpose.

24. Boundary treatments to be submitted

- Reimpose.

25. Solar array to be submitted

- Reimpose.

26. Crime prevention measures to be submitted

- Change to prescriptive condition (details approved under 2025/91372 but an updated version has been submitted with this application)

27. Landscaping scheme to be submitted

- Condition to be amended as outlined previously in this report.

28. Details of cycle parking facilities to be submitted

- Change to prescriptive condition . The details were approved under 2025/91372, although an updated version has been submitted with this application. Nonetheless, the details remain acceptable.

29. Electric vehicle charging points

- Change to prescriptive condition. The details were approved approved under 2025/91372 but an updated version has been submitted with this application. Nonetheless, the details remain acceptable.

30. CEMP: Biodiversity to be submitted

- Change to prescriptive condition, to comply with the details approved under DOC ref. 2025/91372.

As detailed previously, a new condition requiring that details of the proposed Retaining structures adjacent to highway be submitted and approved is recommended.

8 – Representations

No public representations were received.

9 – Conclusion

The NPPF has 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.

This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that plans and other details submitted for this application would deliver a development that would enhance the environment through delivering a scheme with high quality design and landscaping and that would guarantee the safe use of the highway for future residents. It is considered that the quality of approved development would not be diminished as a result of the changes for which approval is sought.

It would constitute sustainable development and is therefore recommended for approval.

Recommendation: GRANT VARIATION OF CONDITION

Report Dated: 06/07/2026

Decision Authorisation: Delegated Powers

Application Number: 2026/90373

Officer Recommendation: Grant variation of condition

Conditions and Reasons

1. The development hereby permitted shall be begun no later than 05-Mar-2028.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990.

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 with Policies LP1, LP2, LP7, LP20, LP21, LP22, LP24, LP30, LP33, LP52 and LP53 of the Kirklees Local Plan.

3. Removed, following determination of Discharge of Condition application ref. 2025/90760

4. Removed, following determination of Discharge of Condition application ref. 2025/90760

5. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved under discharge of condition application 2025/90760. If remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

6. 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. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be 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. 196 and 197 of the National Planning Policy Framework.

7. No above ground development shall commence until remedial works to address land instability arising from shallow coal mining legacy and recorded mine shafts 422416 004, 422416-005 and 422416-029 have been carried out in full, to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure that there are no risks to the safety of future users or occupiers of the site arising from land instability, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

8. Prior to the occupation of the development a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure that there are no risks to the safety of future users or occupiers of the site arising from land instability, and to accord with the aims of Policy LP53 of the Kirklees Local Plan and paragraph nos. 196 and 197 of the National Planning Policy Framework.

9. The Construction Environmental Management Plan (CEMP) approved under discharge of condition application 2025/91372 shall be adhered to throughout the construction of the development.

Reason: To safeguard the amenities of the occupiers of nearby properties in accordance with part 15 of the NPPF and LP52 of the Local Plan. This information is required pre-commencement to ensure that the amenities of local residential properties are safeguarded at all stages in the development process.

10. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme as shown on Drainage Layout ref. D200 rev. 5, Drainage Construction Detail ref. D701 rev. 1, and Flow Control Details ref. D703 rev. 1, have been completed. The flow restriction and attenuation works shall thereafter be maintained and managed in accordance with the maintenance schedule SMP/RWO/Y22054/2 version 6.

Reason: To ensure that the site can be drained in a safe and sustainable manner at all times and to accord with the aims of Policy LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework. This information is required pre commencement to ensure that sustainable drainage arrangements are incorporated into the development at an appropriate stage.

11. The hereby approved development shall be undertaken in accordance with the Construction Phase Surface Water Management Plan reference D1000 revision 3 at all times during the implementation of the development. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning.

Reason: To ensure that the development does not give rise to flood risk or pollution of the water environment during the construction phase and to accord with the aims of Policy LP27 of the Kirklees Local Plan. This information is required pre-commencement to ensure that suitable temporary drainage arrangements are in place at all stages of the construction process.

12. All spaces to be used for the parking of vehicles as shown on the site plan shall be provided and laid out with a hardened and drained surface, and the integral garages provided to serve Plots 6-8 provided, before the dwelling they serve is first occupied (or in the case of visitor spaces, before any part of the development is first occupied), and shall thereafter be retained, free from all obstruction to their use by vehicles

Reason: To ensure that sufficient parking for all future users of the site is provided and retained in the interests of highway safety and to ensure that informal parking does not interfere with the servicing of the site, and to accord with the aims of Policies LP21 and 22 of the Kirklees Local Plan.

13. Notwithstanding the provisions of section 55(2)(a)(ii) of the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Act or Order with or without modification), all integral garages to Plots 6-8 shall be retained as such and shall not be converted to living accommodation.

Reason: To ensure that sufficient parking for all future users of the site is provided and retained in the interests of highway safety and to ensure that informal parking does not obstruct turning space or interfere with the servicing of the site, and to accord with the aims of Policies LP21 and 22 of the Kirklees Local Plan.

14. Before any part of the development is first occupied, any obstruction shall be set back to the rear of the proposed visibility splays as shown on approved plan number 0719-P12 and the land within the visibility splays cleared of all obstructions to visibility. Before any part of the development is occupied, the access shall be tarmac surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.

Reason: To ensure adequate visibility in the interests of highway safety and to accord with the aims of Policies LP20-21 of the Kirklees Local Plan. Details are required pre commencement to ensure that intervisibility is provided at all times including during the construction period.

15. Means of access to and from the site shall be in accordance with the preliminary access design(s) as shown on the approved plan ref. 22D26-FBA-ZZ-XX-DR-A-0719 P09 and shall be fully constructed and made operational prior to first occupation of any new dwelling within the development and shall be thereafter retained and maintained as such.

Reason: To ensure that the development gains access to the existing highway network in a safe manner, and to accord with the aims of Policies LP20-21.

16. No part of the development shall be occupied until a footway 2.0m metres wide has been provided along the site frontage as shown on plan no 22D26-FBA-ZZ-XX-DR-A 0719-P09, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. The footway so approved shall thereafter be retained.

Reason: In the interests of highway safety and to allow for safe pedestrian access to and from the site, and to accord with the aims of Policies LP20-21 of the Kirklees Local Plan.

17. All the bin enclosures approved under discharge of condition application 2025/91372 shall be provided, and all of the areas shown on the approved site plan for the storage and collection of wastes including both private and communal bin presentation points, laid out with a hard surface and made available for use, before any new dwelling is first occupied, and thereafter retained as such, free from all obstructions to their use.

Reason: In the interests of visual amenity and to ensure the provision of satisfactory facilities for the separation, storage and disposal of wastes, to meet the requirements set out in Policy LP24 part d(vi) of the Kirklees Local Plan.

18. Where implementation of the development hereby approved is to be phased or any of the dwellings hereby approved are to become occupied before the approved estate road is completed, the temporary waste collection arrangements shown on the submitted Bin Store Phasing Plan shall be implemented throughout the construction phase.

Reason: To ensure satisfactory arrangements are implemented in relation to waste, including during the construction phase, in the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

19. All construction arrangements shall be carried out in accordance with the Construction Management Plan approved under discharge of condition application 2025/91372 throughout the period of construction.

Reason: To ensure that no harm to the safety or convenience of highway users occurs during the construction process and to accord with the aims of

Policies LP20 and LP21. This information is required pre-commencement to ensure that the safety and convenience of highway users are not adversely affected at any stage during the development process.

20. Upon completion of the development and before any building is occupied, a highway condition survey identifying a scheme to reinstate any defects in the condition of the highway on Denby Lane that have arisen from construction activity shall be submitted to and approved in writing by the Local Planning Authority. All of the identified works shall be implemented before any part of the development is first brought into use.

Reason: To ensure that any deterioration in the quality of the highway that may occur during construction is remedied in the interests of the safety and convenience of highway users, and to accord with the aims of Policies LP20-21 of the Kirklees Local Plan. This information is required pre-commencement to ensure that an accurate record of the condition of the highway is obtained so that any defects arising from construction can be accurately identified and remediated.

21. No building or other obstruction including landscape features shall be located over or within 3 metres either side of the centre line of the public sewer i.e. a protected strip width of 6 metres, that crosses the site, and no construction works in the relevant area(s) of the site (within 3m of any existing or proposed public sewer) shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the required stand-off or protection measures are to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

Reason: So as to ensure that public sewer infrastructure is maintained in the interests of the continued safe drainage of the site and the local area, and to accord with the aims of Policy LP28 of the Kirklees Local Plan. This information is required pre commencement to ensure that no damage to the public sewer or interruption to maintenance access occurs at any stage in the development process.

22. Development shall be implemented in accordance with the Arboricultural Method Statement and Tree Protection Plan approved under discharge of condition application 2025/91372.

Reason: To ensure the protection and long-term viability of trees within or on the boundaries of the site and to accord with the aims of Policy LP33 of the Kirklees Local Plan. This information is required pre-commencement to ensure that no harm arises to any retained trees at any stage in the development process.

23. Samples of all facing and roofing materials to be used in the development shall be submitted to, or left on site for the inspection of, the Local Planning Authority before work on the superstructure of any dwelling commences. The development shall thereafter be implemented using the approved materials.

Reason: To ensure that the development conserves and enhances the townscape and visual amenity in accordance with the aims of Policy LP24(a) of the Kirklees Local Plan.

24. Before any new dwelling is occupied, a full scheme of boundary treatments showing the location, height and design of any new or retained fences, walls and other boundary treatments forming part of the proposed development, including any retaining structures that do not fall within the remit of condition 31 below, shall be submitted to and approved in writing by the Local Planning Authority. All of the approved boundary treatments shall be erected or constructed before any part of the development is occupied, and shall thereafter be retained as such.

Reason: In the interests of visual and residential amenity, to ensure that the safety, character and useability of the adjacent Public Right of Way is not adversely affected, and to accord with the aims of Policy LP24 and LP20 of the Kirklees Local Plan.

25. Before development commences above foundation level, details of the proposed solar array to be incorporated into the roof of each dwelling, or any other on-site renewable energy generation to be provided as part of the proposal, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development during construction and shall thereafter be retained as such.

Reason: To ensure that the proposed development contributes to the Council's target of achieving 'net zero' carbon emissions by 2038 and thereby reducing the causes of climate change, and to accord with the aims of Policy LP24(d) of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

26. The measures to protect future occupants from crime and the fear of crime as shown on plan 0722 Revision P10 shall be implemented before the dwelling to which they relate is first occupied and thereafter retained as such.

Reason: To ensure that future occupants are adequately protected from crime and the fear of crime and to accord with the aims of Policy LP24 of the Kirklees Local Plan.

27. All hard and soft landscape works shall be carried out in accordance with the landscaping scheme 3875/2 Rev Q and external works plan 0740 Rev P15 within the first planting, sowing or landscape management season following the substantial commencement of development and prior to the occupation of any part of the development. Thereafter, the landscaping scheme shall be maintained and managed in accordance with the approved Landscape Management Specification authored by Rosetta Landscape Design, Revision A, and submitted 19/11/2024 in support of application 2023/93704.

Reason: To enhance and conserve the visual amenity of the built environment as well as the natural environment in accordance with Policies LP24, LP30, LP32, LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

28. The secure covered cycle parking measures shown on plan reference 0723 Revision P9 submitted with this application and on the specification sheets submitted for discharge of condition application 2025/91372 shall be provided before any part of the development is brought into use and shall be so retained thereafter.

Reason: In the interests of cyclist safety and security, to ensure a satisfactory layout, and to promote the use of low-impact means of transport, in accordance with Policies LP21 and LP24 of the Kirklees Local Plan and Chapters 9 and 12 of the National Planning Policy Framework.

29. One electric vehicle recharging point shall be installed within the dedicated parking area or garage for each of the approved dwellings before the dwelling to which the recharging point relates is first occupied. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The electric vehicle charging points so installed shall thereafter be retained.

Reason: In accordance with the aims of Policy LP24(d & v) of the Kirklees Local Plan and Chapter 14 of the NPPF, to promote infrastructure which encourages modes of transport with low carbon emissions.

30. The Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) approved under discharge of condition application 2025/91372 shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To protect biodiversity during construction by avoiding direct impacts to protected species and preventing the spread of non-native plants, and to accord with Kirklees Local Plan Policy LP30. This information is required pre-commencement to ensure that impacts on biodiversity do not occur at any stage in the construction process and that invasive species are not allowed to spread.

31. Before development commences (other than the formation of the access and visibility splays as set out in conditions 14 and 15, grouting, mine capping, and drainage infrastructure works), details shall be submitted to and approved in writing by the Local Planning Authority of any new retaining structures or modifications to existing retaining structures adjacent to the Public Right of Way that borders the site. The works thus approved shall be implemented in full accordance with the approved details before any part of the development is first occupied and thereafter retained as such.

Reason: To ensure that retaining structures required to construct the development are designed to a satisfactory standard prior to their construction and therefore do not endanger the safety of future users of the Public Right of Way, and to accord with the aims of Policies LP21 and LP24 of the Kirklees Local Plan.

Note: Contaminated land

All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. Reports must be prepared in accordance with the following guidance: 3. 4. 5. Land Contamination Risk Management (LCRM) BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020 by the Yorkshire and Lincolnshire Pollution Advisory Group. The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

Note: Construction Environmental Management Plan

No construction related noise shall be audible beyond the site boundary outside the hours of: 6. 7. 07.30 to 18.30 hours Mondays to Fridays 08.00 to 13.00 hours Saturdays With no construction related noise audible beyond the site boundary on Sundays or Bank/Public Holidays. For further information regarding dust control, guidance can be found in the Institute of Air Quality Management (IAQM) document "Guidance on the assessment of dust from demolition and construction" Version 2.1 2023. Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited

Note: Approved Access

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Local Highway Authority is required. You are required to consult the Local Highway Authority Design Engineer (Kirklees Street Scene: 01484 221000) at the earliest opportunity in the development process to obtain approval of the design details, agree the mechanism for delivery, and obtain the necessary permissions / permits to enable the delivery of the site access(es). This process will involve entering into a Section 38 or 278 agreement of the Highways Act 1980 or other appropriate agreement to enable delivery of the works. The applicant is advised to make early contact with the Local Highway

Authority Design Engineer, to ensure that the delivery of the works does not delay occupation of the development.

Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

Management and Maintenance of Private Estate Streets – Informative

The applicant is advised that it is their responsibility to inform the potential purchasers of the properties served by any unadopted streets that the streets will remain unadopted and provide details of the ongoing management and maintenance requirements and their obligations. The potential purchasers must also be advised by the developer of the potential implications of the streets remaining private, which are described in DfT Advice Note 'Highway Adoption' at Annex C 'A Guide for Home Buyers': Highways Adoption (publishing.service.gov.uk) The applicant is advised to consult with the Local Highway Authority guidance document on 'Private Streets and the Advance Payments Code':

Highways guidance note: Private Streets and the Advance Payments Code (kirklees.gov.uk)

NOTE: Works within the highway

The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: To discuss road adoption arrangements under Section 38 of the Highways Act 1980, please contact Highway Adoptions on 01484 221000 or highways.section38@kirklees.gov.uk.

NOTE: To discuss all new surface water attenuation tanks, pipes and manholes located within the proposed highway footprint, please contact Highway Structures on 01484 221000.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Council with regard to obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference

with the highway without such permission is an offence which could lead to prosecution.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of 07.30 and 18.30 hours Mondays to Fridays, and 08.00 and 13.00 hours on Saturdays, with no working Sundays or Public Holidays. These hours should be referred to in any Construction Environmental Management Plan to be submitted to the Local Planning Authority for approval. In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974 (Section 60), Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Submitted with this application, reference 2026/90373			
Application form			20/02/2026
Location plan			20/02/2026
Proposed site plan		12	20/05/2026
Proposed levels plan	D100	5	19/05/2026
Construction Phase Surface Water Management Plan	D1000	3	10/02/2026
Drainage Layout	D200	5	10/02/2026
Surface water flow data	Causeway Technologies	2	10/02/2026
SUDS Maintenance Schedule	SMP/RWO/Y22054/02	6	10/02/2026
Flow Control Details	D703	1	24/06/2026
Polystorm testing certificate	06/4297		24/06/2026
Manhole Schedule	D201	4	10/02/2026
Impermeable Areas Plan	D204	3	10/02/2026
Drainage Construction Detail	D701	1	10/02/2026
Plot Setting Out	D400	2	10/02/2026
Earthworks Direct Comparison	D600	2	10/02/2026
Road Construction Details	D702	3	10/02/2026
S104 Layout	D800	4	10/02/2026
S185 Layout	D801	3	10/02/2026
S38 Layout	D802	4	10/02/2026

Plan Type	Reference	Version	Date Received
Engineering Layout	D001	10	10/02/2026
Long Sections	D901	7	10/02/2026
External works plan	0740	P15	10/02/2026
POS Areas Plan	0730	P02	10/02/2026
Bin Store Phasing Plan	0724	P9	10/02/2026
EV Charging Plan	0723	P8	10/02/2026
Cycle Store Plan	0723	P9	10/02/2026
Crime Prevention Plan	0722	P10	10/02/2026
Civils issue sheet	Y22054		10/02/2026
Landscaping Scheme	3875/2	Q	19/06/2026
Submitted with original application, 2023/93704			
Plans and elevations house type A	2000	P06	17/09/2024
Plans and elevations house type B	2000	P07	17/09/2024
Plans and elevations house type C Plot 5	2000	P15	27/09/2024
Plans and elevations house type C Plot 9	2000	P14	27/09/2024
Plans and elevations house type F	2000	P05	17/09/2024
Plans and elevations house type G	2000	P04	17/09/2024
Plans and elevations house type U1	2000	P06	27/09/2024
Design and access statement			17-Sep-2024
Supporting statement			12/03/2024
Climate change statement			15/12/2024
Lithos Gas Risk Assessment	016/4511/AG/JHR		15/12/2023
Lithos preliminary findings	016/4511/AG/JHR		15/12/2023
Geo-environmental report	E21/7792/R001		15/12/2023
Phase I Report	KR/GEODS/G23054		27/03/2024
Certificate of Analysis	22-22300		11/07/2024
Certificate of Analysis	22-20871		11/07/2024
Coal Mining Risk Assessment	KR/CMRA/G23054		24/05/2024
Coal Mining Risk Assessment report	KR/CMRA/G23054		27/03/2024
Flood Risk Assessment	FRA/RWO/Y20054.100	2	01/10/2024

Plan Type	Reference	Version	Date Received
Plan showing existing position of sewer	YCP 120924 003		07/01/2025
Landscape maintenance schedule		A	19/11/2024
Tree Survey	Iain Tavendale		15/12/2023
Arboricultural Impact Assessment	Iain Tavendale		15/12/2023
Tree plan	Iain Tavendale		15/12/2023
Tree shadow plan	Iain Tavendale		15/12/2023
Preliminary Ecological Appraisal	MAB Environment & Ecology	1	15/12/2023
BNG Metric updated			21/01/2025
Transport Statement	23102 Denby Lane TS	3	13/09/2024
Road adoption plan	0750	P03	14/02/2025
Affordable housing plan	0721	P01	31/01/2025
Swept path analysis	Via Solutions		18/11/2024
RSA Stage One	2024-12 Grange Moor RSA1	0	08/01/2025
RSA Stage One designers' response	GG119 Via Solutions		08/01/2025
Landscape Management Specification	Rosetta	A	19/11/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

The case officer requested amendments during the process to ensure that refuse collection would be achievable and that a satisfactory landscaping scheme would be delivered, including the insertion of root barriers where appropriate, which informed the final decision.