KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

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

Reference No:	2026/44/91276/E
Site Address:	Land off, Bankfield Drive, Holmbridge, Holmfirth, HD9 2PH
Description:	Discharge of details reserved by condition 10 (off-site highway works) of previous permission 2023/91212 for erection of 21 dwellings with access from Laithe Avenue
Recommending Officer:	Victor Grayson

DECISION – Discharge 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: 19-Aug-2026

Officer Report

Discharge of details reserved by condition 10 (off-site highway works) of previous permission 2023/91212 for erection of 21 dwellings with access from Laithe Avenue.

Planning history

2023/91212 – Full planning permission granted 11/03/2025 for erection of 21 dwellings with access from Laithe Avenue.

Various Discharge of Conditions applications and Non-Material Amendment applications have subsequently been (or are currently being) considered by the council.

History of negotiations

Key dates and events relevant to this Discharge of Conditions application include:

- 24/01/2025 – Conditions (to be imposed on permission 2023/91212) were agreed with the applicant (Orion Homes).
- 11/03/2025 – Permission 2023/91212 granted.
- 19/06/2025 – Orion Homes advised that the condition of Dobb Top Road prevented them from constructing what was illustrated in drawing 22027/GA/01 rev D.
- 11/11/2025 – KC Highways Development Management suggested a compromise solution to Orion Homes, involving an alternative scheme of works, costed at £114,664.12 (taking into account the £2,800 Section 278 fee already paid), funded by a financial contribution to be secured via a Section 106 agreement.
- 19/02/2026 – Submission from representative of Orion Homes (with legal advice dated 16/02/2026 attached) regarding the council's position and the suggested alternative scheme.
- 19/03/2026 – KC Legal Services wrote to the representative or Orion Homes, responding to the points raised, and again suggesting the alternative scheme costed at £114,664.12.
- 26/03/2026 – Orion Homes agreed pay the contribution of £114,664.12 in relation to condition 10 of permission 2023/91212.
- 20/04/2026 – Agent acting for Orion Homes submitted letter, setting out proposed way forward (namely, entering into a Section 106 agreement to secure the contribution of £114,664.12).
- 08/05/2026 – Draft Section 106 agreement submitted by agent acting for Orion Homes.
- 12/05/2026 – This Discharge of Condition application (2026/91276) received.

Consultation

Holme Valley Parish Council – No response.

KC Highways Development Management – Comments made regarding the wording of the draft Section 106 agreement. Confirmed that, in terms of highway safety, 13 dwellings may be occupied prior to work commencing on the Off-Site Highway Improvements, given the road marking improvements and the applicant's justification.

Ward Members

Holme Valley South ward Members (Cllr Birch, Cllr Brook and Cllr Butler) have been contacted by existing residents and future occupants of the development regarding this application and related matters, and raised queries with officers. In response, officers provided Members with updates on the application's progress, and regarding the design of the Off-Site Highway Improvements at Dobb Top Road.

Condition 10 (off-site highway works)

Condition 10 reads as follows:

> *10. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence on the superstructure of any dwelling hereby approved until the off-site highway works shown on drawing 22027/GA/01 rev D have been completed in full.*
> ***Reason:** To ensure suitable access is provided, in the interests of highway safety, and to accord with Policies LP20, LP21, LP24 and LP67 of the Kirklees Local Plan and the National Planning Policy Framework.*

The applicant initially submitted an initial draft Section 106 agreement (Walker Morris, dated 30/04/2026), a covering letter (Johnson Mowat, 13/05/2026) and a Discharge of Conditions Statement (Johnson Mowat, JM260043.dc10, 11/05/2026) with this Discharge of Condition application.

Extensive discussions subsequently took place between officers and the applicant team. This included a meeting held on 09/07/2026.

As set out during pre-application discussions, officers remain of the view that the off-site highway works (hereinafter referred to as "the Off-Site Highway Improvements" for consistency with the wording of the Section 106 agreement) required by condition 10 can be delivered via a financial contribution (of £114,664.12) being paid to the council. The council would then implement the Off-Site Highway Improvements. Condition 10's wording includes no barriers to such a contribution being made, or to the council implementing the Off-Site Highway Improvements. Such a contribution would need to be secured via a Section 106 agreement, and officers remain of the view that this can be a standalone agreement (as opposed to a Deed of Variation to the original Section 106 agreement dated 06/03/2025 and associated with the full planning permission 2023/91212).

Condition 10 specifically refers to the off-site highway works shown on drawing 22027/GA/01 rev D. However, officers have subsequently designed a similar, refined scheme of Off-Site Highway Improvements, most recently illustrated in drawing HD/50/61901/S106 rev P02 (which is to be appended to the necessary Section 106 agreement as Plan 2). Although this more recent scheme differs in some respects to what was shown on drawing 22027/GA/01 rev D (for example, the previously-illustrated containment kerbs have been replaced with standard kerbs, and additional guard-railing is proposed), the differences do not fundamentally or materially change the nature of the Off-Site Highway Improvements, and therefore it is not considered necessary to reword condition 10 (regarding the drawing number referred to therein) via an amending condition, nor is it considered necessary to put the amended scheme to public consultation. The condition's "Unless otherwise agreed…" wording allows for non-material deviations from drawing 22027/GA/01 rev D.

The final Section 106 agreement (that has been completed in connection with this Discharge of Conditions application) allows for further reasonable deviation from what is illustrated in drawing HD/50/61901/S106 rev P02, should this prove necessary.

The Section 106 agreement need not secure road marking improvements (lining works), as these have already been carried out by the applicant (to the satisfaction of the Local Highway Authority).

It is considered acceptable (to the council in its roles as Local Planning Authority and Local Highway Authority) to allow the occupation of 13 dwellings of the development (in relation to condition 10 and traffic impact) prior to work commencing on the Off-Site Highway Improvements. This is because – as noted above – road marking improvements (lining works) have already been carried out by the applicant (to the satisfaction of the Local Highway Authority), addressing the safety concerns associated with the traffic impact of 13 dwellings. Furthermore, additional justification regarding trip generation was provided by the applicant's agent on 15/07/2026.

Once works commence on the Off-Site Highway Improvements, it is considered acceptable to allow the occupation of the remaining eight dwellings of the development (in relation to condition 10 and traffic impact), as those works would necessitate Temporary Traffic Management, which is likely to include temporary traffic signals, and potentially temporary point closures along Dobb Top Road with associated diversion route(s). Those measures would address the outstanding safety concerns associated with the traffic impact of 21 dwellings for the duration of the works. Once the Off-Site Highway Improvements are completed, there would be no reason (in relation to condition 10 and traffic impact) to restrict occupation of any dwellings of the development.

Of note, the above commentary regarding occupation only relates to condition 10 and traffic impact. It may be the case that other conditions and obligations still restrict occupation of the development's dwellings for other reasons.

The £114,664.12 Off-Site Highway Contribution has been paid by the applicant.

The applicant's initial draft Section 106 agreement (Walker Morris, dated 30/04/2026) was posted online (and has been visible online since 14/05/2026), however significant changes were subsequently made to it. A draft (engrossment) version of the final Section 106 agreement has been visible online since 11/08/2026. The final Section 106 agreement was subsequently completed on 13/08/2026. There are no material differences between the draft (engrossment) version and the completed version of the final Section 106 agreement. A redacted version of the completed final Section 106 agreement of 13/08/2026 (with signatures and handwritten addresses removed) has been visible online since 14/08/2026. It is considered that the council's publication of the final Section 106 agreement (in its draft form, and then in its completed form) complies with Article 40(3)(b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. No representations specific to any versions of the Section 106 agreement have been received.

Of note, the final Section 106 agreement does not (and cannot) amend or override planning conditions. It will therefore operate in parallel with, rather than in substitution for, condition 10.

Given the above assessment, it is recommended that an approval pursuant to condition 10 be issued, subject to the applicant being reminded of the restrictions on occupation set out in Schedule 1 of the Section 106 agreement.

Recommendation

Approve details submitted pursuant to condition 10 (off-site highway works), subject to advice.

Report Dated: 18/08/2026

Recommended Decision Notice Text

Condition 10 (off-site highway works)

Pursuant to condition 10, you have entered into a Section 106 agreement (dated 13/08/2026) with the council, and you have paid the Off-Site Highway Contribution secured by that agreement. An approval is therefore hereby granted pursuant to condition 10, and you are advised that there is now no restriction under condition 10 on the occupation of the first 13 dwellings of the development.

Please note, however, that there is currently an outstanding restriction on the occupation of remaining eight dwellings of the development, as set out in Schedule 1 of the Section 106 agreement.