

Kirklees Metropolitan Council,
Planning Services,
Huddersfield,
HD1 9EL
PO Box 1720

24 September 2026

Submitted via the Planning Portal only

Dear Sir / Madam

Application for Certificate of Lawful Development – LPA reference: 2026/70/90373/E

Land northwest of Urban Terrace, Denby Dale, Grange Moor, Huddersfield, WF4 4EB

On behalf of our client Vivly Living Limited (the 'Applicant'), please find enclosed an application for a Certificate of Lawful Development in respect of the above site. The application comprises:

- Application form and planning fee;
- Site Location Plan;
- Site Entrance Setting Out Plan – drawing number: D401 Rev 1.
- Proposed Site Entrance Works Plan – drawing number: 22D26 FBA DR A 0760 P02.
- Photographs - demonstrating that the site access works have taken place

The Applicant seeks to lawfully implement planning permission 2026/70/90373/E referred to above and requires a Certificate of Lawful Development to confirm that the works undertaken to form the site access constitute a material start in accordance with section 56 of the Town and Country Planning Act 1990, and that the planning permission has therefore been lawfully implemented and remains extant.

Planning History

Original Planning Permission

Detailed planning permission (LPA reference: 2023/62/93704/E) was granted on 6 March 2025 for the erection of 12 dwellings and associated works on land northwest of Urban Terrace, Denby Lane, Grange Moor, Huddersfield (the 'original planning permission'). The original planning permission was subject to thirty planning conditions.

Discharge of Conditions

Applications to discharge planning conditions attached to the original planning permission were submitted to Kirklees Council on 19 March 2025 and 19 May 2025:

- 2025/44/90760/E: Discharge of details reserved by conditions 3 (Phase II Intrusive Site Investigation Report), 4 (Remediation Strategy) and 7 (Remedial Works).
- 2025/44/91372/E: 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).

Variation of Conditions

A Section 73 application (LPA reference: 2026/70/90373/E) to vary conditions 2 (approved plans); 10 (attenuation tank) and 27 (Landscaping) attached to the original planning permission was submitted and validated by Kirklees Council on 10 February 2026.

The Section 73 application was approved by Kirklees Council on 8 July 2026. The Section 73 approval created a new planning permission that sits alongside the original planning permission.

The Section 73 permission updated the wording of conditions to take account of information that had been submitted and approved as part of the applications to discharge conditions.

Current Position

Table 1 appended to this Covering Letter sets out the current position regarding the planning conditions, including those that have been discharged, and those that require further submissions to the Local Planning Authority.

As set out in Table 1, there are outstanding actions associated with a number of conditions, highlighted in orange, the majority of which are pre-occupation or general compliance requirements.

There are two conditions that require further details to be submitted to Kirklees Council prior to the commencement of development. All other pre-commencement conditions are satisfied.

- **Condition 21** requires submission of a scheme including measures to protect the public sewerage infrastructure prior to commencement of development. The condition wording confirms that this requirement is relevant only to the areas of the site within 3 metres of existing or proposed sewer.
- **Condition 31** requires submission of details of the retaining walls adjacent to the Public Right of Way prior to commencement of development (excluding the formation of the access and visibility splays, grouting, mine capping and drainage infrastructure works).

In view of the above, Condition 21 relates only to the areas of the application site that are within 3 metres of the public sewer on site.

Condition 31 allows the formation of the access, visibility splays and/or undertake grouting, mine capping and drainage infrastructure works, prior to submitting the retaining wall details to the LPA. Therefore, provided that:

1. an engineering operation is carried out outside the areas of the site within 3 metres of the public sewer; and
2. the works undertaken are confined to the formation of the access and/or visibility splays, grouting, mine capping, and/or drainage infrastructure works, being the categories of work excluded from the submission requirement under Condition 31, it is considered that a lawful start on site can occur, implementing the S73 permission for the purposes of section 56 of the Town and Country Planning Act 1990.

Material Start: Access Works

Section 55(1) of the Town and Country Planning Act 1990 defines 'development' as including the carrying out of engineering operations on land.

Section 56(4)(d) of the Act further provides that development is taken to be begun on the earliest date on which any operation in the course of laying out or constructing a road, including a vehicular access, is carried out. The courts have confirmed that the threshold for what constitutes a material operation for these purposes is low (*Malvern Hills DC v Secretary of State for the Environment and Barnes* [1982] JPL 439), such that even preparatory or setting-out works are capable of amounting to a material start.

Works Completed

In accordance with the approved plans, works have been carried out to form the site access, comprising:

- the scraping back of the existing ground surface,
- removal of stone wall to form visibility splays
- laying of stone to provide a base-layer for the access road

These works constitute operations carried out in the course of laying out and constructing a road for the purposes of section 56(4)(d) of the Act and accordingly represent a material operation sufficient to constitute the lawful commencement of development.

Compliance with pre-commencement conditions

The access works described above fall within the categories of work expressly excluded from the pre-commencement submission requirement under Condition 31, namely the formation of the access and associated visibility splays.

The works have also been carried out outside of the areas of the site situated within 3 metres of the public sewer and therefore do not engage the pre-commencement requirement under Condition 21. The works are accordingly capable of being lawfully carried out in advance of the discharge of the relevant details required by those conditions.

On this basis, it is submitted that the works undertaken to the site access constitute a lawful material start on site for the purposes of section 56 of the Town and Country Planning Act 1990, and that the planning permission has been lawfully imented and remains extant.

We trust the enclosed is sufficient to confirm the position and that a Certificate of Lawful Development can be issued as soon as possible. If there are any queries in the meantime please do not hesitate to contact me.

Kind regards

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Senior Associate

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Condition 1	Time limit condition requiring permission to be implemented by 5 March 2028, in line with the original permission time limit.	Compliance
Condition 2	Implement planning permission in accordance with the Approved Plans and Specifications defined in schedule attached to the S73 planning permission.	Compliance
Condition 3	Condition removed, following determination of Discharge of Condition application ref. 2025/9076	Removed / No Action
Condition 4	Condition removed, following determination of Discharge of Condition application ref. 2025/90760	Removed / No Action
Condition 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	Compliance
Condition 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.	Submit Verification Report prior to first use
Condition 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.	Compliance
Condition 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	Statement to be submitted confirming the site

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	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.	is safe and stable prior to occupation.
Condition 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.	Compliance
Condition 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.	Compliance
Condition 11	The 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.	Compliance
Condition 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	Compliance
Condition 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.	Compliance
Condition 14	Before any part of the development is first occupied, any	Compliance, prior

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	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.	to occupation
Condition 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 P12 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.	Compliance
Condition 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-P12, 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.	Submit site frontage footway details prior to occupation
Condition 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.	Compliance, prior to occupation
Condition 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.	Compliance
Condition 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.	Compliance
Condition 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	Prior to occupation submit a highway condition survey

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	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.	
Condition 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.	Submit a scheme including measures to protect the public sewerage infrastructure prior to commencement of development (relevant only to the areas of the site within 3metres of existing or proposed sewer)
Condition 22	Development shall be implemented in accordance with the Arboricultural Method Statement and Tree Protection Plan approved under discharge of condition application 2025/91372.	Compliance
Condition 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.	Submit samples prior to commencing work on the superstructure of any dwelling
Condition 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	Submit Boundary treatment details prior to occupation of any dwelling
Condition 25	Before development commences above foundation level, details of the proposed solar array to be incorporated into the	Submit renewable energy generating

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	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.	scheme prior to commencing development above foundation level.
Condition 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.	Compliance, prior to occupation
Condition 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.	Compliance, prior to occupation
Condition 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.	Compliance, prior to first use
Condition 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 32 Amps. The electric vehicle charging points so installed shall thereafter be retained.	
Condition 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.	Compliance
Condition 31	Before development commences (other than the formation of the access and visibility splays as set out in conditions 14 and	Submit details of the retaining walls

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	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.	adjacent to the Public Right of Way prior to commencement of development (excluding grouting, mine capping and drainage infrastructure works).
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