
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 02-Apr-2026

Subject: Planning Application 2025/92335 Discharge of details reserved by condition 5 (retaining walls) of previous Reserved Matters approval 2022/91047 for development of 91 dwellings, pursuant to outline permission 2019/90527 (for erection of up to 127 dwellings, with details of access) Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU

APPLICANT

Vistry West Yorkshire

DATE VALID

19-Aug-2025

TARGET DATE

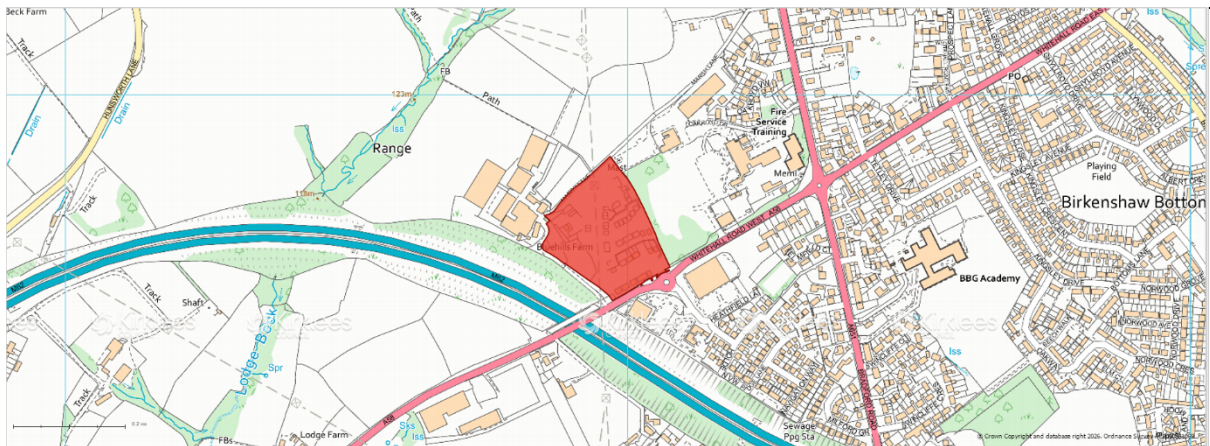
14-Oct-2025

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development.

1.0 INTRODUCTION

1.1 This is a Discharge of Conditions application relating to a retaining wall at a site currently being developed. The relevant condition (condition 5 of Reserved Matters approval 2022/91047) requires details of retaining walls at the site. The full wording of this pre-commencement condition is set out at paragraph 6.3 of this report.

1.2 This application was previously brought to the Strategic Planning Committee on 15/01/2026 for determination under the terms of the Delegation Agreement following a request from Ward Councillor Elizabeth Smaje. Cllr Smaje's grounds for requesting a committee decision were as follows:

The wall impacts on visual amenity, and it is not in keeping with the rest of the surrounding buildings – including the new houses. We have received no response on future maintenance questions, and it was built without planning permission.

1.3 Cllr Smaje's original request was accepted by the Chair of the Strategic Planning Committee.

1.4 At the meeting held on 15/01/2026, the Strategic Planning Committee resolved to defer its decision, and instructed officers to negotiate with the applicant and explore other options such as cladding and green/living walls (including, for example, moss), to achieve a more acceptable solution in relation to the visual impact of the wall.

1.5 Various options were subsequently discussed with the applicant. These are described and assessed in section 2 of this report. Section 3 of this report sets out ward Members' responses to the post-committee options initially proposed by the applicant team. Section 4 (onwards) of this report is largely as per the report previously brought to committee on 15/01/2026, albeit updated where necessary.

2.0 ALTERNATIVE OPTIONS CONSIDERED

2.1 Subsequent to the Strategic Planning Committee meeting held on 15/01/2026, the following alternative options (for the retaining wall adjacent to Whitehall Road West) have been proposed by the applicant or suggested by officers.

Living wall (moss)

- 2.2 Members specifically requested that this solution be looked into. The applicant responded as follows:

We have also enquired with manufacturers to the feasibility of the moss option identified by planning committee as a possible solution, due to the South facing orientation of the Redi-rock wall the moss option was deemed unfeasible as it requires damp, shaded, and cool environments to thrive.

- 2.3 Officers can confirm that the application site is not suitable for a moss wall. Given its southeast-facing orientation (and southwest-facing orientation at the wall's side return), exposure to direct sunlight and dryness, it would not be a suitable location for moss to grow.

Applicant's "option A"

- 2.4 This option was described by the applicant as "The previously submitted CGI, showing the hedge planting and the initial Artstone tinting to the Redi-rock wall".

- 2.5 This is not a new or alternative option, as it is the proposal previously brought to the Strategic Planning Committee with a recommendation (from officers) for approval. Full details of this option were set out in the previous committee report, and are set out again (as part of the consideration of the option F proposal) below, from paragraph 12.14 onwards.

Applicant's "option B"

- 2.6 This option was described by the applicant as "Darker/Aged drystone wall tinting with the currently specified hedge planting to the front of the Redi-rock wall".

- 2.7 In this option, the applicant proposed the same planting (as per option A), but different colours of tinting. The applicant has suggested the colours of the tinting would be more akin to a weathered natural stone. However, officers note that this proposal would not have the advantage of appearing similar to the artificial stone of five of the 12 dwellings that have been erected behind/above the retaining wall. Furthermore, it is doubtful that the application of tinting could convincingly give the appearance of weathered natural stone.

Applicant's "option C"

- 2.8 This option was described by the applicant as "Dry-stone wall & a green moss splatter tinting with the currently specified hedge planting to the front of the Redi-rock wall".

- 2.9 This option also includes the same planting (as per option A), but with different tinting colours. Officers again note that this tinting proposal would not appear similar to the artificial stone behind/above the retaining wall, and it is doubtful that the application of tinting could convincingly give the appearance of moss cover.

Applicant's "option D"

- 2.10 This option was described by the applicant as follows:

Original grey Redi-rock wall with self-clinging evergreen Ivy species. Our landscaping consultant has identified and specified 3no. self-clinging evergreen Ivy options which would be suitable in the south facing. Hedera algeriensis 'Ravensholst' & Hedera Helix 'Tripod' which grow up to a height between 4 – 5 metres to screen the higher end of the wall to the front of plot 1 and the Hedera Helix 'Caridewen' growing up to 1m tall to screen the lower end of the wall. We have the option to mix the 'Ravensholst' and 'Tripod' species or plant either/or, accompanied by the 'Caridewen'. With the proposed hedge planting on the return of the wall. The hedge planting on the return is illustrative due to software limitations and will be amended to be reflective of the proposed planting specification should option D be deemed the most likely options to be accepted and put forward to committee.

- 2.11 Officers note that, in this proposal, more of the retaining wall could eventually be covered with foliage. However, there are concerns regarding how long the proposed ivy plants would take to cover the wall. Most ivy plants are slow to grow in their first and second years, and then accelerate once established. KC Landscape advised that, of the species proposed, Hedera algeriensis "Ravensholst" and Hedera helix "Tripod" typically require five to 10 years to reach their full climbing height and approximately seven to 12 years to achieve dense, full wall coverage. The third species (Hedera helix "Ceridwen") is a small, relatively low-growing cultivar and is not capable of screening a vertical surface of this height. It is considered that the proposed ivy planting alone would not provide a realistic or timely mitigation measure for addressing the visual impact of the retaining wall.

- 2.12 It is also noted that the previously-proposed hedge planting was not included in this option. That hedge planting was considered crucial to the success of the previous proposals, as it would have reflected (to an extent) the native hedgerow that already exists opposite the site at the Heathfield Farm PH/restaurant, and would have had benefits in relation to biodiversity.

- 2.13 Furthermore, KC Highway Structures have advised that ivy hides defects, makes inspections harder, and can affect the integrity of structures. Had this been a retaining wall for which the council had maintenance responsibilities, KC Highway Structures would not have agreed to ivy being grown up the wall.

- 2.14 For the above reasons, option D is not supported by officers.

Other living wall

- 2.15 As the applicant's initial post-committee response discounted a moss wall, and included no other living wall option, officers queried whether any such other living wall options had been considered. The applicant team initially responded as follows:

Along with the exploration of a moss option, other less intrusive living wall options were considered, with the Ivy proposal in this location deemed to be the most feasible 'living wall' option for a south facing environment. The introduction of evergreen climbing Ivy in the south facing location specifically addresses the request of Committee Members for a greener environmental element (and entrance to Birkenshaw) to be part of the proposed solution.

- 2.16 This response was noted, however it referred to option D (see description above) which is not supported by officers, and it did not detail the other living wall options that had been considered (or could be considered) by the applicant. Of note, officers are of the view that ivy grown up the wall could not reasonably be described as a “living wall”, as no plants would be grown from the wall itself.
- 2.17 The discussions then addressed the possibility of creating planted holes in the wall, or erecting an additional structure to support planting (either attached to the wall, or in the form of a freestanding structure that did not rely on the existing retaining wall for support). An example of an apparently successful freestanding living wall in Sittingbourne was referred to by officers. Officers are also aware of a retaining wall product used in 2025 at a site in Denby Dale which has resulted in a lush, vegetated embankment being formed in less than a year. In response to the idea of an additional structure, on 24/02/2026 the applicant stated:

Additional structural fixings to the Redi-rock wall to support planting was considered, however, through consultation with Redi-Rock it has been confirmed that fixing any additional structures to the Redi-Rock wall has the possibility of invalidating the product warranty.

- 2.18 Given the inconclusive “possibility” wording above, officers requested more evidence in relation to these risks. The applicant’s response is set out below in relation to a potential stone cladding / wall option.
- 2.19 Regarding the potential for a freestanding structure to support planting, KC Landscape additionally queried whether a pre-grown modular wall system (which could be the fastest and most visually effective screening solution) would be possible. Although this would need a watering system and routine maintenance, it could provide an instant green façade and could maintain consistent cover of the retaining wall.
- 2.20 In response, on 18/03/2026 the applicant advised that a freestanding structure is likely to result in the problems regarding loadings that the applicant believes apply to other options, as well as problems related to drainage, moisture and differential movement. The applicant’s landscape consultant considered “evergreen hedging planting 120cm width x 180cm length x 155cm height packs consisting of galvanised steel frames with bio-degradable trough containing growing medium and pre-established hedging plants”, however the applicant states that these would “probably still need anchoring to the Redi-rock product to prevent them being blown over in strong winds and/or pulled over as an act of vandalism”. Again, the above “likely” and “probably” wording is inconclusive, however the applicant’s points are noted as *possible* arguments against providing a freestanding structure to support planting.

Trailing plants above wall

- 2.21 Officers asked the applicant to explore the possibility of planting at the top of the wall with trailing plants. It was suggested that these could hang down and cover the part of the top of the wall that would not be covered by the hedge planting of option A. However, the applicant confirmed (with evidence) that there is no suitable planting substrate at the top of the wall, nor is there space to provide any.

Stone cladding / wall

- 2.22 The applicant's initial post-committee response did not include an option involving wrapping or cladding the retaining wall with a natural stone skin. Officers queried this, and the applicant team initially responded as follows:

Through past discussions with Kirklees Highways, we understand there are limitations as to what is permitted to be mechanically fixed to an (already approved) highway retaining structure. In addition, a proposal along this avenue would also have product warranty implications with the manufacturer, Redi-rock. In response to the Ward Councillors request for a more natural stone look be explored, the two additional natural stone tinting proposals offer options of colouring, utilising less intrusive methods to achieve the natural stone aesthetic.

- 2.23 In response, officers pointed out that KC Highway Structures would not, in principle, object to a dry stone wall skin being built around the existing retaining wall. It was also noted that referring to "limitations" and "implications" did not conclusively confirm that this option could be ruled out.

- 2.24 In further exchanges, the applicant expressed concerns regarding "increased loads to the structure with the significant likelihood of overloading the foundations, thereby affecting the structural integrity of the wall (and the dwellings behind it)". On 18/03/2026 the applicant also forwarded a response from the manufacturer of RediRock, which stated:

Redi-Rock blocks already have an integrated stone texture and appearance, so the benefit of adding an additional natural stone veneer to the face is not immediately clear.

From a technical and warranty perspective, fixing a stone skin to the face of the wall will:

- introduce additional permanent and point loads to the structure,*
- require drilling/anchors into the blocks, and*
- create risks related to drainage, trapped moisture, and differential movement.*

In other words, the original structural calculations used to design the wall would not be valid anymore.

- 2.25 While the above response is noted, officers cannot advise Members that a stone cladding option has been convincingly ruled out, as the comment regarding the validity of previous structural calculations does not mean a recalculation *cannot* be done, or that a recalculation would demonstrate the wall *would* be unstable, structurally unsound or incapable of being covered by an (amended) warranty. The applicant has not responded to this specific point.

- 2.26 In earlier discussions, officers also enquired as to whether a freestanding stone-built or stone-clad structure (that did not rely on the existing wall for support) could be erected in front of the retaining wall. On 07/01/2026 the applicant responded as follows:

...we did not consider building a secondary wall in front of the Redi-rock retaining structure, because the Redi-rock wall rakes back at a slight angle. This would create a void which would require backfilling, making the secondary wall also a retaining structure, and there is simply not enough space for two retaining structures to be constructed side by side, in front of the plots and adjacent to the highway.

- 2.27 The above point regarding a void being created between a freestanding structure and the existing retaining wall is valid. It is also noted that – particularly at the south corner of the retaining wall – there is very little space available for the erection of such a structure, and that much of this space has the foundations of the RediRock wall beneath the surface.

Option F

- 2.28 On 18/03/2026, the applicant suggested a further option, which included the hedge planting previously proposed under option A, but with additional climbing plants (planted in the same soil bank as the hedge plants) growing up the wall. This was illustrated with a 3D image. The applicant stated that this option would have a similar appearance to the living wall example at Sittingbourne, without the need for intrusive structural alterations and additions.

- 2.29 In response, officers advised that this option – which could achieve a greater degree of coverage of the retaining wall – could be supported (at officer level), if the previously-proposed tinting was proposed again to help address visual impacts while plants grow. In a further response, on 24/03/2026 the applicant submitted two versions of this option. The first, referred to by the applicant as option E, included the same ivy species that were previously proposed under option D, and is therefore not supported by officers. The second, referred to by the applicant as option F, includes:

- Tinting of the retaining wall (as per option A);
- Hedge planting (as per option A);
- Climbing plants grown from the same soil bank as the hedge planting. The applicant has explained that metal vine eyes would be resin-fixed into the RediRock wall, and that these would support a wire trellis system for the plants to climb up. The applicant reported that the RediRock manufacturer has advised that this solution is acceptable in principle. The climbing plant species proposed by the applicant are:
 - Clematis cirrhosa (purpurascens) “Freckles”
 - Clematis cirrhosa “Wisley Cream”
 - Clematis montana rubens “Sunrise”
 - Clematis montana “Primrose Star”
 - Jasminum officinale “Argenteovariegatum”
 - Jasminum officinale “Devon Cream”
 - Lonicera periclymenum “Caprilla Imperial”
 - Rosa moschata

- 2.30 Of the eight climbing plant species proposed, most are capable of growing to a height of 3.5m or more. Most would reach maturity within two to five years. The proposals include a mix of evergreen and deciduous species, and species attractive to pollinators. No potentially invasive species are proposed. While native species would have been preferred at this site, it is acknowledged that, in order to meet all the relevant requirements (including in relation to wall coverage and suckers), non-native species would need to be used.

- 2.31 The applicant has provided reassurance that both the climbing plants and the hedge plants can indeed be planted in the same soil bank. Regarding the concerns raised by KC Highway Structures in relation to inspections and maintenance, risks have been reduced by the applicant proposing species (other than ivy) that have no (or less aggressive) suckers, and it is noted that

ongoing maintenance of the wall would be the responsibility of the Management Company. Appropriate management and maintenance information for the climbing plants was submitted on 24/03/2026, and the applicant has also been asked to provide a brief maintenance strategy (that would be adhered to by the Management Company) for the wall, addressing maintenance and inspection.

Conclusion regarding options

- 2.32 In conclusion, officers advise that a moss wall is not a suitable option for this site. Furthermore, the applicant's proposed options B, C and D are not supported by officers. Other options (suggested by officers) have not been fully or convincingly discounted by the applicant, however notwithstanding this, it is recommended that the applicant's option F (which achieves a greater degree of wall coverage than the option previously considered by the Strategic Planning Committee, and comprises hedge planting, climbing plants and tinting) be approved. It is considered that this would sufficiently soften the visual impact of the retaining wall to an acceptable degree.

3.0 FURTHER REPRESENTATIONS

- 3.1 Ward Members were notified of the applicant's options A, B, C and D, and of the applicant's initial responses regarding a moss wall, other living wall, and stone cladding.

- 3.2 Cllr Mark Thompson responded as follows:

I don't understand why the removal of the wall and the houses on it aren't an option. The wall wasn't in the plan, they didn't / don't have planning for it, we know they have done it on purpose so they can get retrospective planning permission, which means they know that enforcement aren't going to enforce.

We, the village residents have to look at this eyesore everyday coming in and out of the village, it appears the council, planning and enforcement have no wish to help the residents only the developer.

My request is that the demolition of the wall and the houses on it is an option and that enforcement do what they are paid to do which is enforce illegally build walls / dwellings, thank you.

- 3.3 Cllr Joshua Sheard responded as follows:

I agree with Mark's comments. Allowing the developer to get away with this by throwing a few bushes in front of it, sets a worrying precedent that Kirklees enforcement will simply not act, enabling developers to build homes that were not included in the original approved plans and then seek retrospective permission without consequence.

It undermines already dwindling confidence in the planning system in Kirklees and is unfair to residents who expect developments to follow the rules that were consulted on and agreed. Robust enforcement is essential if we are to protect our communities and maintain trust in local decision making.

I'm 100% with Mark on this; demolition of the wall and the houses is an option that should be taken.

- 3.4 Regarding the points above related to planning enforcement and the chronology of events at this site, as noted later in this report, the retaining wall was reported to Planning Enforcement, who drafted an Enforcement Notice. However, that notice has not been served, as the Government expects Local Planning Authorities to explore options for resolving matters with applicants (including options for mitigating the impacts of unauthorised development) before resorting to enforcement action. That exploration of options has continued under this current Discharge of Conditions application. If, following that exploration, Members are not satisfied that any mitigation would be effective, another refusal could be issued by the council. The council would then decide whether it would be expedient to take enforcement action against the retaining wall. The applicant would have the option of appealing against a refusal and an enforcement notice.

4.0 SITE AND SURROUNDINGS

- 4.1 The application site is located on the northwest side of Whitehall Road West (the A58), close to that road's bridge over the M62. The site is allocated for housing in the Local Plan (site allocation ref: HS93). The site previously formed part of Blue Hills Farm, but is now being developed for residential use pursuant to a previous permission for a 91-dwelling development.
- 4.2 To the northeast of the application site is the West Yorkshire Fire and Rescue Service headquarters – this large adjacent site is enclosed by stone walls, and includes the Grade II listed former Oakroyd Hall, several other buildings, trees protected under Tree Preservation Order 19/92/a1, and soft landscaped areas. To the southeast the site is bounded by Whitehall Road West (the A58), beyond which is the Heathfield Farm PH/restaurant, a large employment unit, and the Emmet's Reach development. The southwest edge of the application site borders the access lane to Blue Hills Farm. Further to the southwest is the M62 motorway and its embankment.
- 4.3 The application site slopes downhill from north to south. Its north corner is approximately 172m AOD, and prior to development its south corner was approximately 152m AOD.
- 4.4 The application site is not within or close to a conservation area. A public footpath runs around the rear and southwest side of the site. Part of the application site is within a Development High Risk Area as defined by the Coal Authority.
- 4.5 As part of the recent (and ongoing) development of the application site, a large retaining wall has been erected along the site's Whitehall Road West frontage. Behind this wall, at a higher level, 12x 2-storey dwellings have been erected. The footway of Whitehall Road West directly in front of the application site has been widened to provide a shared footway/cycleway. Alterations have been made to the roundabout in front of the application site, to enable vehicular access to be provided for the residential development.

5.0 PROPOSAL

- 5.1 The applicant seeks an approval (pursuant to Reserved Matters condition 5, the full wording of which is provided at paragraph 6.3 below) of details relating to the retaining wall to the site frontage along Whitehall Road West. The details comprise:

- Already-implemented works: The retaining wall (with approval of its height and materials sought); and
- Proposed works: The tinting of the wall and implementation of soft landscaping (now including climbing plants) in front of it.

5.2 The height of the retaining wall varies, reaching a maximum height of 3.45m at its southern corner (measured from the top of the soil bank, which at that point rises 1m above the adjacent shared footway/cycleway). At the centre of the tinting sample panel (in front of plot 7) the wall is 1.22m high (again measured from the top of the soil bank). From its southern corner to the point in front of plots 9 and 10 (where the wall's visible part ends), the retaining wall is 55m long.

5.3 The retaining wall has been built using pre-cast grey concrete blocks. A product named RediRock has been used.

5.4 The proposed tinting of the retaining wall would involve the application of a tint which would be hand-mixed on site to achieve an appropriate colour match. The tint would penetrate the concrete blocks, and give them a buff colour. A sample panel has been provided on site to part of the retaining wall, in front of plot 7.

5.5 The soft landscaping proposed in front of the retaining wall comprises:

- A continuous strip adjacent to the shared footway/cycleway, planted with field maple, hornbeam, hazel, spindle, beech, honeysuckle, crab apple, and guelder-rose.
- A sloped area in front of the retaining wall's southwest-facing return, planted with some of the above species, as well as holly, blackthorn and dog-rose.
- A third area in front of plots 8 to 12, planted with spindle, holly, blackthorn, dog-rose and guelder-rose.
- Climbing plants grown from the same soil bank as the planting described above. The proposed climbing plant species are listed at paragraph 2.29 of this report. The climbing plants would be supported by a wire trellis system attached to the retaining wall.

5.6 Although not for consideration under this application, it is noted that a section of acoustic fencing has been erected above the retaining wall along its southwest-facing return, and railings have been installed above the retaining wall along its entire length facing Whitehall Road West.

6.0 RELEVANT PLANNING HISTORY (including enforcement history)

6.1 2018/20382 – EIA Screening Opinion issued 27/09/2018, confirming EIA not required for development of the site to provide up to 123 residential units.

6.2 2019/90527 – Outline permission granted 09/12/2019 for erection of up to 127 dwellings, with details of access.

6.3 2022/91047 – Reserved Matters approved 30/06/2023 for a development of 91 dwellings. Condition 5 of that approval stated:

5. There shall be no commencement of each phase of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls / building retaining walls adjacent to the existing/proposed highway has first been submitted to and approved in writing by the Local Planning Authority, in liaison with the Local Highway Authority. The approved scheme shall be implemented prior to the commencement of the proposed development and thereafter retained during the life of the development.

Reason: In the interest of highways safety, in accordance with Policy LP21 of the adopted Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure details of highway structures etc are designed and approved at an appropriate stage.

- 6.4 2023/92092 – Discharge of Condition application refused 02/07/2024. This related to Reserved Matters condition 5 (new retaining walls). The decision notice stated:

KC Highway Structures have confirmed that the proposed boundary wall is acceptable from a structures perspective, as an Approval In Principle and Construction Compliance Certificate have been issued.

However, officers have significant concerns regarding the height and stark materials used for the retaining boundary wall, due to its prominence along the A58 and the fact that the area is characterised by lower boundary treatments which feature more appropriate materials.

As such, the retaining wall cannot be supported and therefore condition 5 cannot be discharged.

- 6.5 Various other Discharge of Conditions applications (relating to outline and Reserved Matters conditions) and a Non-Material Amendment application have been determined or are yet to be determined.

7.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):

Outline application

- 7.1 The drawings approved under outline application 2019/90527 did not show the retaining wall that has since been built at the site. The relevant committee report stated (at paragraph 10.21) that “Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage”. The indicative drawings and images, and the Design and Access Statement submitted with this application showed an active frontage to Whitehall Road West, with a “new 0.45m high brick dwarf wall with 0.45m black metal fence and gates to top, total max 0.9m height”.

Reserved Matters application

- 7.2 The drawings approved under Reserved Matters application 2022/91047 did not show the retaining wall that has since been built at the site. Some of the approved drawings showed and/or annotated a retaining wall along the site’s Whitehall Road frontage, but not to the height or design it has been built to, and the RediRock product used in the wall’s construction was not referred to in the approved drawings and documents.

Approval in Principle (AIP)

- 7.3 In addition to an approval pursuant to Reserved Matters condition 5, the retaining wall to the site frontage required an Approval in Principle (AIP), given its proximity to the highway. The AIP process primarily concerns structural, stability, engineering and safety matters, and is intended to ensure new features (such as retaining walls) do not adversely affect the highway. Accordingly, parallel to the ongoing consideration of planning applications, discussions took place between the applicant team and KC Highway Structures regarding the retaining wall at this site. Some proposed solutions (namely, a gabion retaining wall, crib retaining wall and a Stepoc system) were rejected by KC Highway Structures. Several versions of an AIP document were submitted by the applicant team from June 2023 onwards. Advice was given to the applicant team at various stages by KC Highway Structures, and an AIP relating to the retaining wall was issued.

Previous Discharge of Conditions application 2023/92092

- 7.4 The previous Discharge of Conditions application was submitted on 12/07/2023, prior to the retaining wall being erected. However, the applicant commenced construction of the retaining wall prior to that Discharge of Conditions application being determined.
- 7.5 Cllr Smaje raised concerns on 11/02/2024 regarding the retaining wall that was being built at the application site. Officers subsequently raised concerns with the applicant team and reported the matter to Planning Enforcement, who drafted an Enforcement Notice.
- 7.6 Following several exchanges with the applicant team, no acceptable details had been submitted in relation to the retaining wall, and the Discharge of Conditions application was refused on 02/07/2024.
- 7.7 A post-refusal site meeting, attended by the case officer, Planning Enforcement, KC Highway Structures and the applicant team, was held on 05/06/2025.

Current Discharge of Conditions application 2025/92335

- 7.8 The current Discharge of Conditions application was submitted on 19/08/2025.
- 7.9 During the life of the current application, the applicant team submitted details regarding the proposed tinting of the retaining wall, and revised soft landscaping proposals. A "Welcome to Birkenshaw" stone at this key entry point was initially proposed (as discussed on site on 05/06/2025), however Cllr Smaje subsequently pointed out that there is already such a sign at the A58 / A651 roundabout further to the northwest.
- 7.10 Subsequent to the Strategic Planning Committee meeting held on 15/01/2026, various alternative options for mitigating the visual impact of the retaining wall were discussed by the applicant and officers, as detailed in section 2 of this report.

8.0 PLANNING POLICY

8.1 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 27/02/2019).

Kirklees Local Plan (2019)

8.2 The site is allocated for housing in the Local Plan (site allocation ref: HS93).

8.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP7 – Efficient and effective use of land and buildings
- LP21 – Highways and access
- LP24 – Design
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents

8.4 Relevant guidance and documents:

- Kirklees Climate Change Action Plan (2022)
- Planning Applications Climate Change Guidance (2021)
- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)

Climate change

8.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

8.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document. In December 2022 the council launched the Kirklees Climate Change Action Plan.

National Planning Policy and Guidance

- 8.7 The National Planning Policy Framework (December 2024, corrected February 2025) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant chapters are:
- Chapter 2 – Achieving sustainable development
 - Chapter 4 – Decision-making
 - Chapter 5 – Delivering a sufficient supply of homes
 - Chapter 11 – Making effective use of land
 - Chapter 12 – Achieving well-designed places
 - Chapter 15 – Conserving and enhancing the natural environment
- 8.8 A consultation draft of a revised National Planning Policy Framework was published on 16/12/2025. This document is at an early stage and may be subject to change. Accordingly, for the purposes of this application, no weight is given to the current consultation document.
- 8.9 Since March 2014 Planning Practice Guidance for England has been published online.
- 8.10 Relevant national guidance:
- National Design Guide (2019)
 - National Model Design Code (2021)
- 8.11 Since 12/02/2024, the provision of a Biodiversity Net Gain (BNG) of 10% has been a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). However, this requirement does not apply to this particular development, for which planning applications were submitted and approved prior to 2024.

9.0 PUBLIC/LOCAL RESPONSE

- 9.1 No public consultation is required in relation to Discharge of Conditions applications, however all drawings and documents submitted by the applicant under this application have been posted online.
- 9.2 No representations were received from members of the public.
- 9.3 Cllr Smaje (ward Member for Birstall and Birkenshaw) commented on 26/08/2025 as follows:

I am sceptical as to whether this will work in the longer term without significant maintenance. I do understand that they built the houses without permission for the wall and that planning enforcement should have done something about this a lot sooner than now.

Who will make sure the landscaping goes up the atrocious wall which does not fit into anything in the surrounding area? Who will maintain the landscaping in the longer term? Who will be responsible for maintaining the paintwork on the wall?

In respect of the "Welcome to Birkenshaw" stone, we already have one put in by Birkenshaw in Bloom at the roundabout. Therefore, I do not think that two in such close proximity would work.

9.4 Cllr Smaje commented further on 02/12/2025 as follows:

I agree with my colleague.

It concerns me that it will deteriorate quickly.

Only the other day I got another comment about how it is ruining an entrance to Birkenshaw. Surely a stone wall that is in keeping with both houses and environment would be better.

9.5 Cllr Thompson (ward Member for Birstall and Birkenshaw) commented as follows:

1/ It concerns me that it will deteriorate quickly, its concrete and no matter what you do to it short term it will gather moss and dirt quickly and become more of an eyesore than it is today. That wall is a sows ear and no one is going to make a silk purse of it!

This road is the main gateway into our ward and now it has been made to look as ugly as could be. No planting is going to cover that illegal monstrosity and if it does it means that whatever that is when it matures would undermine the wall anyway!

2/ It is ruining an entrance to Birkenshaw. Surely a stone wall that is in keeping with both houses and environment would be better.

3/ I apologise for the naivety of this reply but isn't it the planning enforcement teams remit that if there is a structure that wasn't in a plan and then was refused on the retrospective application that the enforcement need to enforce? If we are to be taken seriously in this type of misleading construction then we should make them remove it!

My view, for what it is worth, is the wall is removed as soon as possible and the original plans are delivered by the developer.

9.6 More recent (post-committee) comments received from Cllr Thompson and Cllr Sheard are set out at paragraphs 3.2 and 3.3 of this report.

10.0 CONSULTATION RESPONSES

10.1 KC Highway Structures – Condition can be discharged. The designs for two structural retaining/burr walls (affecting the safety of the highway) were agreed retrospectively, and can be evidenced by AIPs and design and check certificates signed by the TAA. No structural amendments have been made to the proposal in the resolution of the aesthetic issues. Advice provided later regarding growing ivy up retaining walls.

10.2 KC Landscape – Detailed advice provided regarding soft landscaping suitable for the soil bank in front of the retaining wall.

11.0 MAIN ISSUES

- Highway structures considerations
- Visual amenity considerations
- Other planning matters
- Representations

12.0 APPRAISAL

- 12.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Highway structures considerations

- 12.2 Separately to the planning process, the retaining wall has received an Approval in Principle (AIP) from the council. This was necessary as the wall supports land adjacent to the highway.
- 12.3 Given the previously-issued AIP, and the comments of KC Highway Structures (relating to this Discharge of Conditions application) reported above, the retaining wall and the proposed tinting and hedgerow planting raise no concerns in relation to highway structures considerations. Regarding the climbing plants now proposed, it is again noted that the maintenance and inspection risks introduced would be limited by using plants with less aggressive suckers, and maintenance would remain the responsibility of the Management Company.

Visual amenity considerations

- 12.4 The application site, and in particular its road frontage, is highly visible in views from public vantagepoints. The site has an extensive frontage along the A58 (Whitehall Road West), and due to the straightness, width and arrangement of Whitehall Road West and Heathfield Lane, the retaining wall can be seen from locations relatively far away. The visual sensitivity of the application site (and, in particular, its road frontage), is amplified by the fact that it is located at the edge of, and at a key entry point to, the settlement of Birkenshaw. Furthermore, given the high levels of traffic that the A58 carries on a daily basis, many people pass the site and see it every day.
- 12.5 Local Plan policies LP2, LP24 and LP32 are of particular relevance to this application and its visual amenity considerations, as are chapters 12 and 15 of the NPPF and the council's Housebuilders Design Guide SPD.
- 12.6 Local Plan policy LP24 requires proposals to promote good design by ensuring, inter alia, the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.
- 12.7 NPPF paragraph 131 states:
- The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*
- 12.8 NPPF paragraph 135 states:
- Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history,*

including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit...

12.9 NPPF paragraph 139 adds that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

12.10 Paragraph 5.13 of the council's Housebuilders Design Guide SPD concerns topography, and states:

The influence of the topography of a site and how the development responds should be clearly set out in the Design and Access Statement. Applicants should demonstrate how the topography of the site has been utilised to create well-designed and distinctive places, this can mean including bespoke house types and using the topography to provide under-croft car parking. On steep sites standard house types separated by high retaining walls should be avoided and a high-quality street scene should be maintained. The topography of the site is likely to impact on the access arrangements and the development density of the site and this should be clearly identified in Design and Access Statements

12.11 From a visual perspective, the design and height of the retaining wall (in its current form, in the absence of measures to soften its impact) is not considered acceptable. The pre-cast grey concrete blocks (a product named RediRock) used by the applicant have resulted in large feature that does not appear in keeping with the surrounding character and appearance. Nearby boundary treatments include natural stone walls, soft landscaping, low timber railing, and (at one corner of the nearby roundabout) a short section of natural stone blocks. The wall as built also differs to the materials used in the elevations of nearby buildings, including those of the development it forms part of. The height of the wall varies, reaching its maximum height at its most prominent (southern) corner, where its visual impact is exacerbated by its position above a sloping soil bank and by the further boundary treatments erected above it. The wall – particularly its southern corner which is the first thing seen at this key (main road) entry point to Birkenshaw – is visually obtrusive and overdominant, and gives the development an inappropriate, fortified appearance. Furthermore, it prevents the development from engaging with and animating the road, and as a result the development effectively turns its back on the most important public realm it abuts. No boundary treatments of a similar height and length exist in the site's immediate vicinity.

12.12 Given the substantial height and stark appearance of the retaining wall, a refusal pursuant to condition 5 was previously issued under delegated powers on 02/07/2024 (application 2023/92092).

12.13 Subsequent to that refusal, the applicant made further representations, and a site meeting was held on 05/06/2025. The current Discharge of Conditions application (2025/92335) was then submitted.

- 12.14 The applicant seeks an approval that would allow the retention of the retaining wall as built, subject to it being tinted in a buff colour, and subject to planting (now including climbing plants) being implemented in front of it.
- 12.15 The proposed tinting of the retaining wall would involve the application of a tint which would be hand-mixed on site to achieve an appropriate colour match. The tint is a potassium silicate solution with an added pigment. The tint would give the concrete blocks a buff colour. A sample panel has been provided on site to part of the retaining wall, in front of plot 7. This sample panel confirms that the appearance of the concrete blocks would change so that it more closely resembles the artificial stone of five of the 12 dwellings that have been erected behind/above the retaining wall.
- 12.16 Regarding the durability and maintenance of the proposed tinting, the applicant's contractor has stated that, unlike a conventional paint, the tint would not be applied as a covering over the substrate, but instead would penetrate the concrete blocks. The contractor added that the tint would integrate with the substrate (rather than sit on top of it), that peeling and flaking would be reduced (as there would be no surface film to fail), and that no long-term maintenance would be required – the product would last for the full lifetime of the substrate.
- 12.17 Discussions took place between officers and the applicant team regarding what soft landscaping would be appropriate and possible in front of the retaining wall, given the limited space, soil depth and slope, likely dryness of the soil and the adjacent shared footway/cycleway. The applicant's initial soft landscaping proposals included entirely non-native planting in front of the retaining wall (which was not considered acceptable), and the applicant's visualisations suggested that the wall would be entirely screened by the planting (which was not considered likely, given the limitations of the soil).
- 12.18 The hedge planting proposed in front of the retaining wall is considered acceptable. It includes native species (including evergreen holly, and hornbeam which retains its leaves long into winter, thus helping to provide screening), and no thorny species directly adjacent to the highway (which would have raised concerns regarding harm to highway users and litter getting caught). The submitted planting schedule suggests that the proposed plants could reach 1.5m in height (albeit this is not what was shown on the applicant's visualisations) – this means the retaining wall would not be fully screened. 1.5m high plants would, however, achieve at least some screening and softening of the visual impact of the retaining wall.
- 12.19 In addition, and following the Strategic Planning Committee meeting held on 15/01/2026, climbing plants are now proposed. This additional proposal is considered in section 2 of this report.
- 12.20 The maintenance of the planting would be the responsibility of the Management Company (as set out in the Section 106 agreement dated 29/06/2023 associated with the Reserved Matters approval 2022/91047). The definition of the Management Company in that Section 106 agreement refers to the maintenance of any land not within private curtilage or adopted by other parties. The applicant's Planting Specification (rev H – version received 07/01/2026) submitted under this current Discharge of Conditions application sets out appropriate measures regarding soil preparation, planting, plant stabilisation, weed suppression, replacement of failed plants, pruning and

watering, and confirms that root protection measures are to be implemented to prevent roots penetrating the wall foundations/backfill, to ensure the stability of the wall would not be undermined. The ongoing maintenance of the wall would also be the responsibility of the Management Company, and the Planting Specification has been amended to confirm that ongoing maintenance of the planting in front of the wall would also be the responsibility of the Management Company. In addition, the applicant has submitted an updated version of Plan 3 of the relevant Section 106 agreement (dated 29/06/2023), confirming that this planted area would fall within the definition of Public Open Space that would be maintained by the Management Company (the definition of Public Open Space in the agreement allows for Plan 3 to be amended in this way).

- 12.21 During discussions with officers, the applicant team pointed out that the retaining wall has received AIP from the council. The applicant team also argued that the wall's height is necessary due to the highway levels required within the site, and that the retaining wall cannot be dismantled and replaced at this stage as it supports the front gardens and shared footpath that serves plots 1 to 11 (of which, by late December 2025, plots 1, 2, 6, 7, 8, 9, 10 and 11 were occupied). However, limited weight can be given to these points as possible justification for issuing an approval pursuant to condition 5. It should not be assumed that an approval pursuant to a planning condition will necessarily follow an issuing of an AIP approval.
- 12.22 Similarly, the challenging topography of development sites does not necessarily fully justify tall retaining walls at site perimeters. As noted at paragraph 5.13 of the council's Housebuilders Design Guide SPD, bespoke house types can be proposed in response to challenging topography and different levels across a site (for example, houses with 2- and 3-storey elevations on opposite sides could be proposed instead of standard house types with high retaining walls). Creating acceptable private amenity space is not considered to be a suitable justification for the height of the retaining wall built at this site, given that gardens can be stepped or slightly sloped and still be useable.
- 12.23 The breach of condition 5 (which is a pre-commencement condition) that has occurred is not in itself a reason for now issuing an approval pursuant to that condition, nor is the fact that some of the dwellings behind/above the retaining wall are now occupied.
- 12.24 However, given the tinting and planting proposed by the applicant (in the option F proposal), it is considered that the visual impact and harm caused by the retaining wall would be reduced to an acceptable level, such that – it is recommended – an approval pursuant to condition 5 can now be issued.
- 12.25 Having regard to Cllr Thompson's comments, a natural stone retaining wall would indeed be preferable in visual amenity terms at this prominent site, however such a wall is not proposed by the applicant, and the council as Local Planning Authority is required to make a decision based on the details currently before it.

Other planning matters

- 12.26 The retaining wall raises no significant concerns in relation to neighbouring residential amenity. The wall is located well away from existing residential properties, and stands below the 12 nearest dwellings recently built as part of the ongoing residential development of the site. There are therefore no concerns regarding the proposal's impact upon neighbouring residential properties in relation to privacy, outlook and natural light.

- 12.27 The further work (namely, the proposed tinting and planting) associated with the retaining wall would need to be carried out in compliance with the Construction Environmental Management Plan approved under Discharge of Conditions application 2022/90985.
- 12.28 Approval of the submitted details would not result in material harm to heritage assets or TPO-protected trees to the northeast, and the future use and attraction of the nearby footpath to the southwest (SPE/14/10) would be unaffected.

Representations

- 12.29 No representations were received from members of the public.
- 12.30 The comments made by Cllr Smaje, Cllr Thompson and Cllr Sheard are responded to in the assessment set out earlier in this committee report.

13.0 CONCLUSION

- 13.1 The retaining wall erected along the application site's Whitehall Road West frontage currently causes harm due to its height, materials and appearance. However, with the tinting and soft landscaping now proposed by the applicant (in the option F proposal), this harm would be reduced to an acceptable level, such that – it is recommended – an approval pursuant to Reserved Matters condition 5 can now be issued.
- 13.2 The NPPF 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. The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposal would constitute sustainable development and is therefore recommended for approval.

Background Papers

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2025%2f92335>