

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

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Wednesday 8 May 2024

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 16 May 2024**.

(A coach will depart the Town Hall, at 10:00 am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber.)

This meeting will be webcast live and will be available to view via the Council's website.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read 'Julie Muscroft', on a light-colored background.

**Julie Muscroft**

**Service Director – Legal, Governance and Commissioning**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Strategic Planning Committee members are:-**

### **Member**

Councillor Bill Armer  
Councillor Moses Crook  
Councillor Carole Pattison  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal  
Councillor Mark Thompson

When a Member of the Strategic Planning Committee cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provision of Council Procedure Rule 35(7).

### **Substitutes Panel**

#### **Conservative**

D Bellamy  
D Hall  
R Smith  
J Taylor

#### **Green**

K Allison  
A Cooper  
S Lee-Richards

#### **Labour**

B Addy  
P Moore  
E Firth  
T Hawkins  
H Zaman

#### **Liberal Democrat**

PA Davies  
J Lawson  
A Munro  
A Marchington  
A Smith

#### **Kirklees**

#### **Community**

#### **Independents**

A Anwar  
JD Lawson  
I Safdar

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

To receive apologies for absence from those Members who are unable to attend the meeting and details of substitutions and for whom they are attending.

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**2: Election of Chair**

To elect a Chair for the meeting.

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**3: Minutes of the Previous Meeting**

1 - 4

To approve the Minutes of the meeting of the Committee held on 28<sup>th</sup> March 2024.

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**4: Declaration of Interests and Lobbying**

5 - 6

Members will be asked to say if there are any items on the agenda in which they have any disclosable pecuniary interests, any other interests, or been lobbied, which may prevent them from participating in any discussion of the items or participating in any vote upon the items.

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**5: Admission of the Public**

Most agenda items take place in public. This only changes where there is a need to consider exempt information, as contained at Schedule 12A of the Local Government Act 1972. You will be informed at this point which items are to be recommended for exclusion and to be resolved by the Committee.

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**6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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## 7: Deputations/Petitions

The Committee will receive any petitions and/or deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, members of the public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

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## 8: Planning Applications

7 - 8

The Planning Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) on **Monday 13<sup>th</sup> May 2024**.

To register, please email [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) or phone the Governance Team on 01484 221000.

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## 9: Site Visit - Application No 2023/92191

Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping land at, Cliff Hill, Denby Dale, Huddersfield.

Ward(s) affected: Denby Dale

Contact: Victor Grayson, Planning Services

Estimated time of arrival on site: 10:25 a.m.

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**10: Site Visit - Application No 2023/93503**

Outline application for residential development of 82 dwellings and associated works, with layout and access as considerations Land off, Roslyn Avenue, Netherton, Huddersfield

Ward(s) affected: Crosland Moor and Netherton

Contact: Nick Hirst, Planning Services

Estimated time of arrival on site: 11:15 a.m.

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**11: Planning Application - Application No: 2023/92191**

9 - 56

Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping land at, Cliff Hill, Denby Dale, Huddersfield.

Ward(s) affected: Denby Dale

Contact: Victor Grayson, Planning Services

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**12: Planning Application - Application No: 2023/93503**

57 - 100

Outline application for residential development of 82 dwellings and associated works, with layout and access as considerations Land off, Roslyn Avenue, Netherton, Huddersfield

Ward(s) affected: Crosland Moor and Netherton

Contact: Nick Hirst, Planning Services

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**Planning Update**

An update report providing further information on matters raised after the publication of the agenda will be added to the online agenda prior to the meeting.

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Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### STRATEGIC PLANNING COMMITTEE

**Thursday 28th March 2024**

Present: Councillor Steve Hall (Chair)  
Councillor Bill Armer  
Councillor Eric Firth  
Councillor Carole Pattison  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal  
Apologies: Councillor Moses Crook  
Councillor Mark Thompson

**1 Membership of the Committee**

Apologies were received from Councillor Moses Crook and Councillor Mark Thompson. Councillor Eric Firth substituted for Councillor Crook.

**2 Minutes of the Previous Meeting**

**Resolved –**

That the minutes of the meeting of the Committee held on 22<sup>nd</sup> February 2024 be agreed as a correct record.

**3 Minutes of the Heavy Woollen and Huddersfield Area Planning Sub-Committees**

**Resolved –**

That the minutes of the last meeting of each of the bodies listed below be agreed as a correct record:

(i) Planning Sub-Committee (Heavy Woollen Area) – 8<sup>th</sup> February 2024

(ii) Planning Sub-Committee (Huddersfield) – 1<sup>st</sup> February 2024.

**4 Declaration of Interests and Lobbying**

No interests were declared.

**5 Admission of the Public**

All items were held in public session.

**6 Deputations/Petitions**

No deputations or petitions were submitted.

**7 Site Visit - Application 2022/91816**

Site visit undertaken.

**8 Planning Application - Application No: 2022/91816**

The Committee considered Application 2022/91816 in respect of alterations to convert existing properties at Carrs Close to create 6 apartments and the erection of a block of 12 apartments, with associated infrastructure, access, and landscaping works on land at Occupation Lane and Carrs Close, Staincliffe, Dewsbury.

Under the provisions of Council Procedure Rule 36(3), the Committee received a representation from Councillor Shabir Pandor.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Tony Bacon (on behalf of the applicant).

The Committee were informed that, contrary to the recommendation in the report and the information contained within the Committee Update, the Section 106 Legal Agreement would secure 100% of the units for social rent.

**Resolved –**

- (1) That approval of the application and the issuing of the decision notice be delegated to the Head of Planning and Development in order to:
  - (a) complete the list of conditions including those contained within the report, as set out below, and subject to an additional condition in respect of the provision of an electric vehicle charging point on the site:
    1. Timeframe for commencement of three years.
    2. Details of materials to be submitted and approved.
    3. Drainage details and management plan during construction and attenuation.
    4. Yorkshire Water requested condition.
    5. Vehicular access surfacing.
    6. Landscaping details to be submitted and approved in writing to ensure appropriate.
    7. External lighting to limit impact to residential amenity and wildlife.
    8. Acoustic reports to be submitted and approved due to addendum requirement.
    9. Waste management for highway safety.
    10. Biodiversity net gain as 10% minimum contribution is required on site.
    11. Contaminated land to ensure the site is suitable for safe occupation due to its former use.
    12. Carbon budget details to ensure the proposal would accord with LP24(B).
    13. Construction management plan to protect amenity of nearby sensitive receptors during construction.
    14. Details of boundary treatments to be submitted and approved in writing.
    15. Clearance works to be completed outside bird nesting season.



## Strategic Planning Committee - 28 March 2024

16. All units shall be for social rent as stipulated in the application form and agreed with Strategic Housing.
  - (b) secure a Section 106 agreement to cover the following matters:
    - (i) Affordable Housing: 100% of units, in perpetuity
    - (ii) Public Open Space (POS) (off-site): £36,234
    - (iii) Net Gain (to secure 10% net gain): £36,340
    - (iv) Management and Maintenance (Public Open Space, Drainage and any ecological features).
- (2) That, in the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution, the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured and, if so, the Head of Planning and Development be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

A recorded vote was taken, in accordance with Council Procedure Rule 42(5), as follows:

For: Councillors Armer, Eric Firth, Hall, Pattison, Pinnock and Sokhal (6 votes)

Against: No votes

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<p><b>KIRKLEES COUNCIL</b></p> <p><b>DECLARATION OF INTERESTS AND LOBBYING</b></p> <p>Strategic Planning Committee</p>			
<b>Name of Councillor</b>			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

**LOBBYING**

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### **Lobbying**

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

**In respect of the consideration of all the planning applications on this agenda the following information applies:**

## **PLANNING POLICY**

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8<sup>th</sup> December 2021).

### National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> December 2023 the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 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.

## **REPRESENTATIONS**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 55 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 (as amended) stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF and further guidance in the PPGS, launched on 6th March 2014, require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning Committee have been made in accordance with the above requirements.**

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 16-May-2024

**Subject: Planning Application 2023/92191 Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping land at, Cliff Hill, Denby Dale, Huddersfield, HD8**

#### APPLICANT

Nick Gould, Urban Group  
York Ltd

#### DATE VALID

30-Aug-2023

#### TARGET DATE

29-Nov-2023

#### EXTENSION EXPIRY DATE

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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

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

All contributions are to be index-linked.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution, then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION**

- 1.1 This application for full planning permission is presented to Strategic Planning Committee as a significant number of representations contrary to the case officer's recommendation for approval have been received.
- 1.2 A previous application (ref: 2022/91911) for a residential development of 48 dwellings was refused on 21/03/2023 in accordance with the Heavy Woollen Planning Sub-Committee's resolution of 16/03/2023.



## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site lies to northeast of Cumberworth Lane, to the west of existing dwellings on Leak Hall Crescent, and to the northwest of existing dwellings on Springhead Gardens. The application site is undeveloped, grassed agricultural land, and forms part of the northern edge of the village of Denby Dale. To the north of the application site is the green belt.
- 2.2 The application site slopes downhill from north to south, and measures approximately 1.9 hectares in size. A public footpath (DEN/61/10) runs along its northern boundary, beyond which there is further grassland and trees. The application site has a narrow street frontage between existing buildings on Cumberworth Lane. Although land directly to the south is also grassed, most land to the south is residential in character. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, and from trains passing over the railway viaduct to the west.
- 2.3 The application site comprises the majority of site allocation HS144 (allocated for residential development in the Kirklees Local Plan). Springhead Gardens, a parcel of land to the south of the application site, and a further parcel to the north of Leak Hall Crescent are within the same site allocation. The application site also includes strips of land outside the site allocation, on Cumberworth Lane either side of the site entrance.
- 2.4 In relation to minerals, all of the application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by the Coal Authority, while other parts are within the Low Risk Area. A 250m buffer zone (of a historic landfill site) extends into the western edge of the application site.
- 2.5 There are no designated heritage assets within the application site, however the Wesleyan Methodist Church to the west is Grade II listed.
- 2.6 The application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.
- 2.7 The Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site. A Tree Preservation Order (TPO 17/21/t1) protects a tree within the application site.
- 2.8 The application site is not located within an Air Quality Management Area (AQMA).
- 2.9 Regarding the social and other infrastructure currently provided and available in Denby Dale, the area has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby

Dale railway station is a 600m walk (approximately) from the proposed entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes.

### **3.0 PROPOSALS**

- 3.1 A residential development comprising 62 dwellings, with associated access, open space and landscaping, is proposed.
- 3.2 To stabilise the site, the applicant proposes grouting and capping. Additionally, the applicant has stated that excavation may be necessary at the centre of the site.
- 3.3 The proposed site layout includes a vehicular access provided from Cumberworth Lane, with an estate road extending into the site, off which two branches are proposed. A mix of detached, semi-detached and terraced housing would line the development's roads. Open spaces are proposed at the site entrance and along the site's northeastern boundary.
- 3.4 Of the 62 units proposed, four would be detached. The following unit size mix is proposed:
- 3x 1-bedroom units
  - 12x 2-bedroom units
  - 24x 3-bedroom units
  - 23x 4-bedroom units
- 3.5 12 of the proposed dwellings would be affordable, provided as a mix of affordable rent homes, First Homes and other intermediate homes. These are proposed at units 8 to 13, 34 to 36 and 60 to 62, and would therefore be located at the site entrance and along the application site's northwestern edge.
- 3.6 10 house types are proposed. All dwellings would have two storeys, although some would have rooms in their attics, and some dwellings would have three-storey elevations at the rear where topography allows this. Roofs would be pitched. Eight dwellings would be provided with garages. External materials would include artificial stone (for the walls of most dwellings), natural stone (for the four dwellings at the western end of the application site), concrete slate-effect tiles (for the roofs), grey UPVC (for the windows and doors) and timber (for external entrance canopies).

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history)**

- 4.1 Various applications relating to the different parts of the allocated site (HS144) have been considered, as follows:

#### *Application site*

2022/91911 – Planning permission refused 21/03/2023 for a residential development of 48 dwellings with associated highways and landscaping. The seven reasons for refusal were:

1. *Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as National Planning Policy Framework Paragraph 183 (clauses a, b and c).*

2. *It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed, the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall, the proposal is found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).*

3. *The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary to Policy LP7 of the Kirklees Local Plan and Paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan.*

4. *Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.*

5. *It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f).*

6. *Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.*

7. *Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan.*

*Land accessed from Cumberworth Lane (south of the application site)*

2018/93309 – Outline application for erection of residential development – Appeal against non-determination dismissed 25/11/2019.

2019/93906 – Outline application for erection of residential development of up to 10 dwellings – Approved 07/01/2021.

2023/93714 – Reserved Matters application for the erection of 10 dwellings – Pending determination.

*Springhead Gardens*

2017/93798 – Erection of six detached dwellings – Approved 06/06/2018.

2020/91506 – Variation of condition 2 (plans and specification) of previous permission 2017/93798 – Approved 20/11/2020.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

5.1 Amendments were made to the applicant's proposals following the previous refusal of planning permission (ref: 2022/91911). With regard to the council's seven reasons for refusal, the key amendments were:

- 1) Further information submitted regarding site contamination.
- 2) Extensive mineral extraction is no longer proposed.
- 3) The number of dwellings proposed has been increased from 48 to 62.

- 4) The proposed dwellings have been moved away from 2 and 3 Springhead Gardens.
- 5) A revised internal road layout is proposed.
- 6) The proposed dwellings have been moved away from Cruck Cottage.
- 7) The applicant is willing to enter into a Section 106 agreement which would secure contributions and measures intended to mitigate the development's impacts and secure its benefits.

5.2 Further amendments were made during the life of the current application, including to the proposed road layout, the unit size mix, and the materials to be used on dwellings close to the site entrance.

5.3 Regarding the development's financial viability, Aspinall Verdi were commissioned by the council to review the applicant's information. They concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

5.4 Most recently, the development's affordable housing unit size mix and locations were confirmed by applicant.

## 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be 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):

6.2 The application site comprises the largest part of site HS144, which is allocated for residential development in the Local Plan. For the entirety of the site allocation, the Local Plan sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.

6.3 Site allocation HS144 identifies the following constraints relevant to the site:

- Third party land required to achieve sufficient visibility splays
- The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane
- Public right of way crosses the site
- Site is close to listed buildings
- Site is close to an archaeological site
- Part/all of the site is within a High Risk Coal Referral Area

6.4 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP3 – Location of new development

LP4 – Providing infrastructure

LP5 – Masterplanning sites

LP7 – Efficient and effective use of land and buildings

LP9 – Supporting skilled and flexible communities and workforce

LP11 – Housing mix and affordable housing

LP19 – Strategic transport infrastructure  
LP20 – Sustainable travel  
LP21 – Highways and access  
LP22 – Parking  
LP23 – Core walking and cycling network  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP29 – Management of water bodies  
LP30 – Biodiversity and geodiversity  
LP31 – Green infrastructure network  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP38 – Minerals safeguarding  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.5 Relevant guidance and documents are:

- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Affordable Housing and Housing Mix SPD (2023)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Planning Applications Climate Change Guidance (2021)
- Viability Guidance Note (2020)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- Kirklees First Homes Position Statement (2021)
- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Public Rights of Way Improvement Plan (2010)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)

## Climate change

- 6.6 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.
- 6.7 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.

### National Planning Policy and Guidance:

- 6.8 The National Planning Policy Framework (2023) 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 proposals. Relevant paragraphs/chapters are:
- 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 9 – Promoting sustainable transport
  - Chapter 11 – Making effective use of land
  - Chapter 12 – Achieving well-designed places
  - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
  - Chapter 15 – Conserving and enhancing the natural environment
  - Chapter 16 – Conserving and enhancing the historic environment
  - Chapter 17 – Facilitating the sustainable use of minerals
- 6.9 Since March 2014 Planning Practice Guidance for England has been published online.
- 6.10 Relevant national guidance and documents:
- National Design Guide (2019)
  - National Model Design Code (2021)
  - Technical housing standards – nationally described space standard (2015, updated 2016)
  - Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
  - Fields in Trust Guidance for Outdoor Sport and Play (2015)
  - Securing developer contributions for education (2019)

## 7.0 PUBLIC/LOCAL RESPONSE

- 7.1 The applicant's Statement of Community Involvement details the public consultation that was carried out prior to the submission of the previous application (ref: 2022/91911), but notes that no further consultation was carried out following the refusal of that application and the submission of the current application.
- 7.2 The current application was advertised by the council as a major development, and as development affecting a public right of way and the setting of a listed building.
- 7.3 The application was advertised by the council via four site notices posted on 07/09/2023, a press notice on 15/09/2023, and letters delivered to addresses close to the application site. This was in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/10/2023.
- 7.4 52 representations were received in response to the council's consultation. These were posted online, and include representations submitted by the Upper Dearne Valley Environmental Trust (UDVET) and comments relayed by ward Members. The following is a summary of the comments made:
- Objection to principle of development.
  - Previous reasons for refusal not addressed.
  - Application should not be considered.
  - Decision should not be made until Local Plan is reviewed.
  - Local Plan was based on incorrect population predictions.
  - Site should be redesignated as safeguarded land.
  - Site was designated as Urban Green Space in the Unitary Development Plan.
  - Site should be used for biodiversity net gains not being achieved on-site by other developments. Rewilding may be possible.
  - No need to build on this land.
  - Alternative, sustainable development options should be developed.
  - Applicant incorrectly refers to Denby Dale as an urban location.
  - NPPF sets out a presumption against development in the green belt.
  - Loss of green space.
  - Applicant's information is contradictory.
  - Site is incorrectly referred to as vacant.
  - Unsustainable development.
  - Objection to number of dwellings. Proposal represents overdevelopment.
  - NPPF chapter 12 (design) should be complied with. Previous poor designs should not justify further mistakes.
  - Three-storey houses inappropriate. Surrounding area is mostly two-storey or bungalows.
  - Surrounding short terraces and staggered roof ridges are not reflected in the proposals.
  - Flat dormers and timber porches are inappropriate.
  - Dwellings should have chimneys to reflect surrounding development.
  - Development would be visually prominent.



- Materials should reflect original village's character. Stone recently used on Barnsley Road should be used. Artificial stone and roof tiles are inappropriate here.
- Tall, close-boarded fencing is inappropriate here. Harmful to public footpath.
- Gabion baskets for retention are visually inappropriate, and short-lived.
- Query what foundations are needed for retaining walls, and how these would be maintained.
- Street scene would be dominated by parking.
- Housebuilder Design Guide SPD not complied with.
- Harm to character of Denby Dale.
- Lack of useable green space in proposals. No new opportunities for sport and recreation. Green space should be centrally located within the site, and not at its periphery.
- Inappropriate landscaping. Lack of native hedge planting.
- Overlooking of adjacent properties. Applicant admits that one dwelling wouldn't provide required separation distance.
- Lack of affordable housing. Unclear whether any dwellings would be affordable. Applicant's proposals are contradictory.
- Dwellings would not be accessible to people with disabilities.
- Bungalows should be provided.
- Many empty properties demonstrate a lack of need for new housing. Development elsewhere in Denby Dale has stalled. No evidence of more housing being needed in Denby Dale.
- Congestion to surrounding roads. Traffic generated by adjacent site to south.
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked.
- Applicant's trip generation data understates the development's impact.
- Errors in applicant's junction modelling.
- Officers should confirm whether proposals are safe.
- Applicant's accident data is unreliable.
- Concerns regarding visibility at site entrance. Officers have applied the wrong visibility standard. Longer visibility splays are required. Cumberworth Lane is busy, large vehicles use it, and traffic is fast. Road narrows at this point. Vehicles are parked on the road, affecting visibility, progress of traffic and access. Guidance in Manual for Streets should not be applied in this situation, and instead guidance from the Design Manual for Roads and Bridges should be applied.
- Access should be provided off Leak Hall Lane, as agreed by officers and Inspector at Local Plan hearings.
- Application site does not reach Cumberworth Lane, therefore applicant can't provide the required 2m wide footway. Lack of a pedestrian crossing at site entrance. Wheelchair and pushchair users not taken into account. Risk to pedestrians.
- Highway safety risk at Cumberworth Lane / Wakefield Road junction. Junction should be re-aligned and improved.
- Internal road layout unacceptable. Circular layout required.
- Applicant incorrectly states there is a local cycle network.
- Public footpath should not be used by extraction or construction traffic. Risk to pedestrians (including school children) using the footpath.
- Lack of detail regarding construction traffic.

- Cumberworth Lane has already been damaged by HGVs accessing the application site.
- Inadequate measures to enable new residents to access village facilities on foot.
- Public footpath is unlit, and pedestrian connections to it would put residents at risk.
- Objection to loss of or alteration to public footpath. Objection to loss of safe walking route to school.
- Inadequate parking proposed, including visitor parking. Proposed garages are too small.
- Increased flood risk. Adjacent land already floods. River Dearne floods. Existing drains cannot cope. Grouting would make site non-permeable. Adverse impact on existing watercourses. Existing culvert is in a poor condition.
- Developments already under way in Denby Dale will use any spare sewer capacity.
- Separate surface water and foul water drainage systems are needed.
- Rainfall data has been collected at Birchencliffe, when data from Emley is available.
- Risk of water pollution.
- Damage to local soil quality.
- Unclear why gas boilers are proposed.
- Objection to coal extraction. Open cast coal mining still proposed. Applicant's coal mining proposals are unclear. Burning the extracted coal would release emissions. Contrary to green energy objectives. Lack of clarity as to how coal would be extracted. Disruption, noise, vibration, dust and pollution affecting health and amenity during extraction. Methane would be released. Risk of subsidence to adjacent properties. Investigation work has already caused subsidence. Coal extraction risks water pollution. Lack of information regarding grouting. Lack of details of maintenance, management and aftercare. No community benefit to coal extraction. If development here requires extraction, site is not fit for development.
- Gardens would not be grouted or remediated, risking the safety of new residents.
- Any remediation should be proposed under a separate application.
- Any remediation should be allowed to settle before the land is developed.
- Harm to local quality of life.
- Residents will no longer want to live in Denby Dale.
- Damage to neighbouring properties. Risk of subsidence.
- Impact on property values.
- Waste from Springhead Gardens development has been dumped on the site.
- Lack of detail as to how affected neighbours would be compensated.
- Owls, other birds, bats, deer, foxes, hedgehogs, toads and other wildlife are present and would be adversely affected. Site has been illegally cleared. Applicant's ecological information is unreliable.
- Proposed private gardens would impact upon watercourse wildlife corridor.
- Risk of rat infestation.
- Existing TPO-protected tree has been damaged during site investigation. Further risk of damage and pressure to prune. Development would affect roots.

- Schools are over-subscribed. Several developments will worsen situation. Children will not be educated locally. Surprise regarding KC Education advice and no primary school contribution being sought.
- Pressure on local surgeries.
- Loss of only location where air ambulance could land in an emergency.
- Council debts mean services would not be provided for new residents.
- Lack of publicity regarding the application. Some residents may not be aware of the proposals.

7.8 Denby Dale Parish Council – Objection. The following is a summary of the comments made:

- No further public consultation carried out since previous application was refused.
- Errors in applicant's submissions.
- Controversial developments should be paused until Local Plan is reviewed.
- Mining still proposed. Unregulated open cast mine proposed.
- Site is incorrectly referred to as vacant.
- Increased flood risk. Existing sewers do not capacity to cope with proposed development. Library car park floods.
- No strategy for existing springs, sinks and watercourse.
- Damage to biodiversity and protected species. Applicant's ecological information is lacking. Site accommodates birds (including owls), bats, frogs, newts, common toads and insects.
- Risk to trees.
- Remediation would cause noise, vibration, air and water pollution, and additional traffic (more than the many lorry movements associated with the Springhead Gardens development).
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked. Disagree with assertions regarding vehicle movements, and construction traffic. Increased commuter traffic.
- Development is contrary to NPPF paragraph 111.
- Risk of subsidence.
- Risk of land contamination.
- Local housing need would not be met. Inappropriate housing sizes. Four-bedroom (and larger) dwellings are not needed for young couples or older people wishing to downsize.
- No housing would be affordable.
- Local Plan was based on incorrect population predictions.
- Many empty properties demonstrate a lack of need for new housing.
- 3-storey "type C" houses would overlook neighbouring residents.
- Proposed development would do nothing to aid the economy, locally or nationally. There are no opportunities for local employment.
- Pressure on local schools and surgeries.
- Destruction of rural community. Urbanisation of Denby Dale.
- No community benefits would be secured. There is no mention of a Section 106 agreement.

7.9 Responses to the above comments are set out later in this report, where necessary.

7.10 Submissions made by the applicant after the council consulted on the application did not necessitate public reconsultation.

## 8.0 CONSULTATION RESPONSES

### 8.1 Statutory:

8.2 Coal Authority – Substantive concern and objection. Remedial measures (grouting) could be secured by condition. One of the site's three mine entries is remote from any built development and owing to past excavations is likely to have been removed in its entirety, therefore related risks are so low and do not warrant any further intervention. Concern regarding erection of buildings within the zones of influence of the other two mine entries (which are to be capped and grouted) – details should be provided. Building over mine entry caps would be contrary to Coal Authority policy.

8.3 Lead Local Flood Authority – Support proposals. A connection to watercourse can now be sanctioned as downstream improvements have been carried out. A proposed future connection at five litres per second is agreed in principle. A new headwall and trash screen, intention of improvement and formal design of drainage design can be conditioned. Provision of safety fences for open sections of the site's culvert adjacent to parking areas will be required at detailed design stage. Watercourse improvements should be conditioned for detailed design stage. The watercourse/drainage ditch and associated ancillary structures will need to be maintained by a management company (secured via a Section 106 agreement) with an agreed maintenance plan. This is to ensure risk is reduced on- and off-site by formalising arrangements. A box culvert would be used in one section to provide access to the northernmost plots – this was agreed in a site visit. Separately from the watercourse, all surface water drainage should have a risk assessment and method statement applied concerning maintenance and management. This should be carried out by a management company until such a time as this infrastructure is adopted by the statutory undertaker, Yorkshire Water, or equivalent NAV. The management company should be required to maintain the watercourse for the lifetime of the site. Mine capping can cause less infiltration of water, particularly in the construction phase – measures should be taken to reduce related risk. Construction-phase drainage can be conditioned. Perimeter land drainage will need to be considered as part of an assessment to ensure that this development will not increase flood risk elsewhere. Safe flood routing is shown on submitted plans. Conditions recommended.

### 8.4 Non-statutory:

8.5 KC Ecology – Applicant's ecological information should be updated. Particular regard should be paid to the Biodiversity Net Gain assessment which should update the baseline and post-development habitat units, in line with the updated proposals.

8.6 KC Education – £97,444 towards secondary provision required.

8.7 KC Environmental Health – Applicant's findings regarding site contamination and ground gas are accepted, although further gas monitoring is required. All remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. Application site is not

within an Air Quality Management Area (AQMA) or near to roads of concern. Proposed development does not require a construction dust risk assessment or an emissions damage cost calculation. Officers accept applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are predicted to be below the national air quality objectives. Applicant's air quality methodology is accepted, and no further mitigation measures are required for this development. Adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. Construction Environmental Management Plan required (this can be conditioned). Regarding noise, works would be restricted to appropriate hours, and proposed construction methodology is acceptable, however temporary acoustic screens would be required. Further conditions recommended regarding noise, electric vehicle charging and site contamination (remediation).

- 8.8 KC Highways Development Management – The applicant has now satisfactorily addressed all of the outstanding issues, and KC HDM have no objection to the proposals, subject to conditions and Section 106 obligations being secured. Design of site entrance and site layout have been amended and are acceptable. Works to Cumberworth Lane represent an improvement on current situation. Conditions and Section 106 obligations recommended.
- 8.9 KC Highways Structures – Conditions recommended.
- 8.10 KC Landscape – Details of typologies and measured areas for all proposed open spaces required. In the absence of this information, and given some areas (such as the green space between units 14 and 29) shouldn't be counted towards on-site provision until their details are provided, a contribution of £120,305 towards off-site open space is required. Inclusion of green space on-site is welcomed. Green spaces need to be designed to meet the needs of the widest possible range of users. Purpose of open space above attenuation tank is queried. Management and maintenance details required for green spaces. Extensive areas of hard surfacing are proposed. More soft landscaping (including street trees) is required. Proposals for trees are tokenistic. Details of root protection/barriers and soil volumes required. Potentially invasive species should be avoided. Landscape management and maintenance plan required. Images in Design and Access Statement do not correspond with drawings. Curtilages of units 39 to 42 (and the adjacent open spaces) should be better defined with defensible space. Locally Equipped Area for Play (LEAP) required. Four existing play spaces are within 720m of (and a 15 minute walk from) the application site – the children and young people's element of the open space contribution could be spent in those locations, subject to local consultation (including with Members). Retention of TPO-protected tree is welcomed, although there are concerns regarding its root protection area. Footpath connections required. Conditions and Section 106 obligations recommended.
- 8.11 KC Strategic Housing – 20% affordable housing provision required, and on-site provision preferred. Proposed 12 affordable units, and affordable unit size mix (3x 1-bedroom units, 7x 2-bedroom units and 2x 3-bedroom units) are acceptable. Given council's 55% social/affordable rent / 45% intermediate (including First Homes) preference, provision should comprise seven social/affordable rent homes, three First Homes and two other intermediate homes. The affordable homes' build quality and other relevant aspects should be indistinguishable from the market housing in the development.

- 8.12 KC Strategic Waste – There is one closed landfill site within 250m of the application site.
- 8.13 KC Trees – No objection in principle to site being developed. Location of dwelling in relation to TPO-protected tree may result in pressure to prune, however council would have control over an application to do so. A “no dig” cellular confinement system needs to be shown on plans and implemented for the footpath near to the tree. Conditions recommended requiring a final Arboricultural Method Statement and Tree Protection Plan.
- 8.14 KC Waste Strategy – Details of bin collection points acceptable. Looped layout preferred.
- 8.15 Northern Gas Networks – No objection. Generic advice provided.
- 8.16 West Yorkshire Archaeology Advisory Service – Condition recommended, securing a programme of archaeological recording.
- 8.17 West Yorkshire Police Designing Out Crime Officer – Detailed comments provided regarding external lighting, soft landscaping, rear access to properties and parking.
- 8.18 Yorkshire Water – A water supply can be made available under the provisions of the Water Industry Act 1991. Condition recommended regarding foul water connection. Flood Risk Assessment and Drainage Strategy is generally acceptable.

## **9.0 SUMMARY OF MAIN ISSUES**

- Land use and principle of development
- Masterplanning
- Quantum and density
- Sustainability and climate change
- Urban design matters, heritage and landscape impacts
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Environmental health considerations
- Site contamination and stability
- Ecological considerations
- Trees
- Open space
- Other planning considerations
- Planning obligations and financial viability

## **10.0 MAIN ISSUES – ASSESSMENT**

Land use and principle of development

- 10.1 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. Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.

*Housing need and delivery*

- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling three-year period (the "pass" threshold is 75%).
- 10.4 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. For decision making, this means:

*Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless:*

*(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7); or*  
*(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 10.5 The council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development, however this has to be balanced against any adverse impacts of granting permission for a proposal.
- 10.6 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the 'tilted balance') unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.

- 10.7 A residential development of 62 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.
- 10.8 Full weight can be given to site allocation HS144, which allocates the majority of the application site for residential development. Allocation of this and other greenfield sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of greenfield land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site (which was previously allocated as Provisional Open Land in the Unitary Development Plan), in her report of 30/01/2019 the Local Plan Inspector stated:

*The site is contained by dwellings on three sides and is well related to the core of the village. At the hearing the council indicated that access may be facilitated via Leak Hall Lane, and this should be clarified. No fundamental constraints relating to heritage and other matters have been identified and, subject to the above modification, the allocation is soundly based.*

#### *Minerals*

- 10.9 The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 1c of policy LP38 is relevant, and allows for approval of residential development here, as there is an overriding need (in this case, housing needs, having regard to Local Plan delivery targets) for it.
- 10.10 Paragraph 223 of the NPPF is also relevant, and states:
- Planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).*
- 10.11 As explored under the previous application ref: 2022/91911 (and reflected in the second reason for refusal), extensive coal extraction from the application site would risk significant impacts, largely due to the proximity of existing residents. The council's previous reason for refusal regarding this matter also noted that there were no overriding community benefits which would have made coal extraction from this site acceptable. This remains the case, and the applicant's intention to not carry out such extraction is considered appropriate.
- 10.12 Regarding the related matter of site stability, further commentary is set out later in this report.



- 10.13 Given the above assessment, the principle of residential development at the application site is considered acceptable, subject to the further discussion of other relevant matters later in this report.

#### Masterplanning

- 10.14 Careful masterplanning of development sites can ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.
- 10.15 Ideally, the wider HS144 allocated site would have been the subject of a masterplan drawn up jointly by all interested parties. Such a masterplan would have then informed subsequent applications for the development of the various separately-owned parcels of land within the wider HS144 site.
- 10.16 However, as illustrated by the planning history detailed above, development proposals for the various parcels came forward at different times. Furthermore, the applicant for the current application was unable to secure the final parcel of land (to the north of Leak Hall Crescent) for inclusion in the scheme currently proposed. It is also noted that the Inspector determining an appeal relating to application ref: 2018/93309 concluded (in his decision dated 25/11/2019) that a masterplan was not needed for the HS144 site.
- 10.17 Although this means development proposals for the HS144 site have been piecemeal (and possibly not optimal in terms of efficient use of land), it is noted that the topography of the wider site may have limited opportunities for internal connections and consolidated open space or drainage attenuation in any case, such that – even with a masterplan – layouts may have been similar to those proposed to date under the approved and proposed applications. No land within HS144 would be sterilised if the current application were to be approved (of note, the final parcel of land to the north of Leak Hall Crescent could potentially be accessed from Leak Hall Lane). The council could not reasonably withhold planning permission on the grounds that the final (northernmost) parcel of land (and a vehicular connection through it, to Leak Hall Lane) has not been included in the scheme currently proposed. Finally, it is noted that the previous application relating to the current application site (ref: 2022/91911) was not refused on masterplanning grounds.
- 10.18 The current applicant has proposed useful pedestrian connections to the adjacent public footpath, such that movement through the application site would be enabled despite the final (northernmost) parcel not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application.
- 10.19 Regarding apportionment of obligations across the HS144 site, this is not a concern in relation to the current application, as the size of the proposed development (at 63 dwellings) means all relevant thresholds are triggered in any case, and no further obligations would be triggered by the total amount of development (namely these 62 dwellings, plus the six already built at Springhead Gardens, the 10 approved at land to the south of the application site, and the dwellings that may in time be proposed at the final parcel of land

to the north of Leak Hall Crescent) that may be delivered across the HS144 site (although development at land to the north of Leak Hall Crescent is likely to trigger its own obligations). It is also noted that no major cross-HS144 infrastructure (that may disproportionately affect one of the parcels, and which should be fairly shouldered by all developers of the HS144 site) is needed.

#### Quantum and density

- 10.20 As noted above, site allocation HS144 sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.
- 10.21 To ensure efficient use of land, Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve. Any proposal at application sites capable of accommodating major development would be expected to make a significant contribution towards the quanta set out in the Local Plan.
- 10.22 It is noted that the previous application relating to the current application site (ref: 2022/91911) was refused partly due to its unacceptably low density (as set out in the council's third reason for refusal).
- 10.23 With 62 units now proposed in 1.9 hectares, a density of 32.6 dwellings per hectare would be achieved by the proposed development. This falls short of the 35 dwellings per hectare figure set out in Local Plan policy LP7 and which already takes into account likely on-site open space needs.
- 10.24 It is noted, however, that constraints applicable to this site have a significant bearing on what development can be achieved. In particular, the site's topography, coal mining legacy (three mine entries exist within the site), TPO-protected tree, public right of way easement, sewer easement, and the need for on-site surface water attenuation have reduced the site's developable area, and have informed the proposed development's layout and quantum.
- 10.25 It is also noted that, at other sites, excessive numbers of large, detached units have driven down densities to the extent that land is not efficiently used. This, however, is not proposed at the application site – of the 62 dwellings proposed, only four would be attached, and no 5-bedroom (or larger) units are proposed.
- 10.26 Given the above, it is considered that the proposed density – while below the figure set out in Local Plan policy LP7 – is acceptable. The development represents an efficient use of scarce allocated land.

## Sustainability and climate change

- 10.27 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. An assessment is necessary to ascertain whether the proposed development would achieve net gains in respect of all three of the NPPF's sustainable development objectives.
- 10.28 The application site is considered to be a sustainable location for residential development, as it is on the edge of an existing, established settlement that is served by public transport and other (albeit limited) facilities. As noted above, Denby Dale has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes. Given these facilities, at least some of the daily, social and community needs of residents of the proposed development could be met locally (within walking distance), and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 10.29 A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, the specification of energy-efficient electrical goods, the provision of instructions for residents, the implementation of a carbon reduction plan during construction, the orientation of dwellings to maximise solar gain (where possible), the implementation of measures to reduce flood risk, the implementation of water-saving measures, and the inclusion of appropriate landscaping incorporating biodiversity enhancements.
- 10.30 Measures would be necessary to encourage the use of sustainable modes of transport, and to minimise the need to use motorised private transport. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Further consideration of these matters is set out later in this report, however it is noted that the proposed development includes (or would be required to include, in accordance with the recommended conditions):
- Pedestrian connections to the adjacent Public Rights of Way network;
  - Cycle storage;
  - Electric vehicle charging points;
  - A residential Travel Plan (to encourage the use of sustainable modes of transport) and related £10,000 monitoring fee; and
  - A Sustainable Travel Fund contribution of £49,335.88
- 10.31 Drainage and flood risk minimisation measures would need to account for climate change. This is addressed later in this report.

- 10.32 In relation to residential development, social sustainability largely concerns the creation of places that people will want to live in and remain living in, and that are convivial and create opportunities for interaction and community-building. Places offering low standards of residential amenity and quality are often inhabited by short-term and transient populations who do not put down roots – such places are less likely to foster a sense of community, civic pride and ownership. Design, residential amenity and quality, open space, and other relevant matters are considered later in this report.
- 10.33 In relation to residential development, economic sustainability can concern employment and training opportunities during the construction phase. The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.
- 10.34 Following completion of construction, opportunities for local employment are relevant to the consideration of the proposed development's economic sustainability. Of note, the application site is within walking distance of employment opportunities in Denby Dale. In addition, buses serving Denby Dale provide access to employment opportunities further afield.
- 10.35 In light of the assessment set out above and later in this report, it is considered that the proposal can be regarded as sustainable development.

#### Urban design matters

- 10.36 Local Plan policies LP2, LP5, LP7, LP24 and LP35 are of particular relevance to this application in relation to design, as is the text of site allocation HS144 and the council's Housebuilders Design Guide SPD. Chapters 11, 12 and 16 of the NPPF and the National Design Guide are also relevant. In relation to the Grade II listed Wesleyan Methodist Church to the west, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant.

#### *Site context*

- 10.37 The application site is currently undeveloped, grassed agricultural land. It forms part of the northern edge of the village of Denby Dale. To the north of the application site are further areas of grassland and trees within the green belt. Land to the south is also grassed, but has planning permission for residential development, and most land to the east, south and west of the application site is residential in character. The application site slopes downhill from north to south. It has a narrow street frontage between existing buildings on Cumberworth Lane. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, including those on Barnsley Road (looking over the Churchfield open space, and the HS136 allocated site). The application site is also visible from trains passing over the railway viaduct to the west.

- 10.38 Existing development surrounding the application site is predominantly 2-storey, however there are several bungalows and chalet bungalows nearby, as well as 3-storey elevations on East Hill Way and Wakefield Road. Terraced, detached and semi-detached properties surround the application site. Most roofs are pitched, while roofs on Leak Hall Crescent are hipped.
- 10.39 Natural stone is the predominant material at the centre of Denby Dale and immediately adjacent to the application site's proposed entrance onto Cumberworth Lane, however other materials including brick, render, pebble dash and artificial stone have been used near to the application site.

*Design assessment*

- 10.40 The proposed development would inevitably have a transformative effect on the appearance of the application site, as what is currently green space would be developed with new buildings and hard surfaces. This visual impact would, however, be softened by the implementation of soft landscaping and the inclusion of areas of open space. It is also noted the application site is largely surrounded on three sides by existing buildings, such that the proposed development would not read as a new, sprawling intrusion into the green space that surrounds Denby Dale. The impact of the proposed development on the character of Denby Dale (as defined by its appearance and layout) would not be significantly adverse.
- 10.41 The proposed development's internal layout is considered to be legible and logical. It appropriately responds to the site's topography (as far as is possible, given the need to achieve appropriate road gradients) and other constraints such as the TPO-protected tree. It is accepted that a looped road layout (which is normally preferred, as it reduces the need for refuse collection vehicles reversing, and can be more dementia-friendly) is not possible at this site due to its topography. The arrangement of dwellings around the proposed estate road would not appear regimented, and this would assist in helping the development reflect its surroundings (where existing development appears similarly unregimented).
- 10.42 The proposed typologies and house types are considered appropriate for this site. A welcomed mix of terraced, detached and semi-detached dwellings is proposed. This is reflective of the variety that surrounds the application site, and would ensure that a repetitive or monotonous street scene is not created. The proposed 2-storey height of the dwellings is suitably reflective of the majority of buildings nearby. The 3-storey elevations to the rear of eight units (at plots 39 to 46) are similarly considered to be suitably reflective of existing buildings nearby, as are those dwellings that would have rooms in their attic spaces. These taller elements would not appear unduly obtrusive in views from public vantagepoints (including in longer views from Barnsley Road).
- 10.43 The proposed elevations are considered acceptable for this location. The proposed pitched roofs and fenestration arrangements are suitably reflective of local vernacular, while other details (including the proposed forward-facing gables and timber entrance canopies) would add interest to the elevations and street scene.

- 10.44 Artificial stone is proposed for the majority of the dwellings. This material is considered acceptable in principle for this location, however it is recommended that a condition be applied, requiring the submission of details and samples of all external materials. This would ensure the council would have final control over the quality and appearance of the artificial stone. Natural stone is appropriately proposed for the four dwellings nearest to the application site's entrance on Cumberworth Lane, where most of the existing buildings are of natural stone. The other external materials proposed by the applicant (namely, concrete slate-effect tiles, grey UPVC and timber) are considered acceptable for this location, again subject to final approval at conditions stage.

#### *Heritage assets*

- 10.45 The Grade II listed Wesleyan Methodist Church to the west of the application site derives some of its historic interest from its context, although this mainly relates to its commanding location on the village's northern hillside, its prominence on Cumberworth Lane, and its relationship with the village of Denby Dale below. It derives little of its historic interest from its relationship with the application site's undeveloped, grassed appearance (which is not readily appreciated from Cumberworth Lane, due to a difference in levels and an existing retaining wall which limit views from the lane into the application site).
- 10.46 Longer views from the south take in both the church and the application site, and although the proposed development would change the heritage asset's context in these views, the effect would not be significant due to the proximity and extent of existing development which already crowds the church and occupies space between it and the open countryside that surrounds the village. The creation of a new vehicular entrance on Cumberworth Lane to the north of the church would also affect the heritage asset's context, however it is considered that the impact upon its historic interest would not be significant, provided that appropriate materials and landscaping (to be controlled by recommended conditions) is used. The setting back of the proposed dwellings away from the new site entrance would also help ensure the heritage asset is not crowded by new development, and the use of natural stone for those four nearest dwellings would be reflective of that part of the church's context. Given the above considerations, the proposed development would not cause demonstrable harm to the setting or appreciation of the listed building.

#### *Crime prevention*

- 10.47 Regarding crime prevention, the proposed layout would generally provide good levels of natural surveillance of the public realm, and clear distinctions between spaces that are public and private. Most parking spaces would be overlooked by their users from their homes. Pedestrian access to the rear gardens of terraced dwellings can be secured with gates. Subject to landscaping and boundary treatment details (to be secured via recommended conditions), no parts of the proposed development would be particularly vulnerable to flytipping and other anti-social behaviour. Conditions regarding security measures and lighting are additionally recommended. Details submitted pursuant to those conditions would need to address the detailed comments of the West Yorkshire Police Designing Out Crime Officer.

### *Landscaping*

- 10.48 Soft landscaping is shown on the applicant's proposed site plan (rev P17). Street trees and hedges are proposed along the development's estate road where there are opportunities to provide them, having regard to the council's parking expectations and the site's topography which would necessitate retaining walls adjacent to the estate road in some places. In light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

### *Boundary treatments and retaining walls*

- 10.49 Details of proposed boundary treatments and retaining walls have been provided by the applicant in drawings 0205 rev P05 and 0210 rev P06. Boundary treatments proposed along the development's estate road are generally considered acceptable. Stone walls are proposed at the site entrance, and metal railings (painted black) would separate front gardens. Away from the estate road, most rear gardens would be separated by 1.8m high timber fences. 1.8m timber fences are also proposed in places around the edges of the site, which may not be appropriate where the amenities of adjacent neighbours and the adjacent public footpath would be adversely affected, or where such boundary treatments would be prominent in views from outside the site (local residents have raised this concern in representations). For visual amenity and landscape impact reasons, the new green belt edge to Denby Dale (that would be established by the proposed development) should be lined with appropriate boundary treatments and soft landscaping.
- 10.50 Retaining walls are proposed in several locations, including between the termini of the two branches of the development's estate road, and along part of the application site's southern boundary. In these locations, the submitted drawing indicates that retaining walls of between 3m and 4m (in height) are proposed. This is significant, and risks causing harm in terms of visual and residential amenity (although it is noted that a retaining wall of a similar height has been constructed relatively recently nearby at East Hill Way). Given that the final heights of these retaining walls have not yet been determined by the applicant, given the potential for harm to be caused, and given that there may be opportunities to reduce the height of these walls through adjustments to levels, it is recommended that a condition be applied, requiring the submission of full details and justification for all retaining walls. The same condition would also require details of the materials of the proposed retaining walls, and of adjacent soft landscaping which may help to soften their visual impact.
- 10.51 A further condition relating to boundary treatments is also recommended. Details submitted pursuant to this condition would additionally need to account for flood routing and the movement of hedgehogs.

### Residential quality and amenity

- 10.52 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

#### *Neighbour amenity*

- 10.53 The previous application relating to the current application site (ref: 2022/91911) was refused partly due to impacts upon the amenities of the occupants of existing neighbouring dwellings. The council's fourth and sixth reasons for refusal concerned the impact of the proposed development in relation to 2 and 3 Springhead Gardens and Cruck Cottage, which are residential properties located to the south of the application site.
- 10.54 The proposals were subsequently amended, and separation distances between the proposed dwellings and existing adjacent properties (as illustrated and annotated on drawing 0207 rev P04 and described in the submitted Planning Statement) would now be adequate to ensure no unacceptable loss of natural light, privacy or outlook would occur. Regarding Cruck Cottage, which is a bungalow located close to the application site boundary, the submitted Planning Statement notes that the rear elevations of the nearest proposed dwellings have been moved back by 2.3m. It goes on to note that while a 21m elevation-to-elevation distance would not be achieved (as is expected under the council's Housebuilders Design Guide SPD), there is an existing level difference, and "the possibility of looking into Cruck Cottage is considered to be entirely eliminated, with any overlooking from the proposed development being on the roof of Cruck Cottage and not into the dwelling or outside amenity space". This is accepted. Regarding 2 and 3 Springhead Gardens, in the current proposals 21m elevation-to-elevation distances (or slightly less) would be achieved by units 43 to 46. Where separation distances would fall slightly short of the SPD's expectation, this is considered acceptable due to the oblique angle at which the dwellings would be set in relation to the rear elevations of those existing neighbouring dwellings.
- 10.55 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses in relation to noise.

#### *Construction management*

- 10.56 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP.



### *Residential quality and amenity*

- 10.57 The quality and amenity of the proposed residential accommodation is also a material planning consideration.
- 10.58 All of the proposed dwellings would be dual aspect. This is welcomed, as dual aspect enables natural ventilation, and has amenity and outlook benefits.
- 10.59 All units would have adequate privacy, outlook and access to natural light.
- 10.60 Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents.
- 10.61 Adequate distances would be provided within the proposed development between new dwellings.
- 10.62 The sizes of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.63 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard has become more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.
- 10.64 All of the proposed units would be NDSS-compliant.
- 10.65 All new units would have ground floor WCs, making those units at least visitable by people with certain disabilities.

### *Unit size mix*

- 10.66 The following unit size mix is proposed:
- 3x 1-bedroom units
  - 12x 2-bedroom units
  - 24x 3-bedroom units
  - 23x 4-bedroom units

10.67 Within the above, 50 units would form the development's private (market) element, provided as 5x 2-bedroom units, 22x 3-bedroom units and 23x 4-bedroom units. This unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	SPD expectation	Proposed
1- and 2-bedroom	30-60%	10% (five units)
3-bedroom	25-45%	44% (22 units)
4+-bedroom	5-25%	46% (23 units)

10.68 The proposed mix for the development's private element does not fully accord with the expectations of the guidance set out in the SPD, in that a shortfall of smaller units and an overprovision of larger units is proposed. While this weighs negatively in the balance of planning considerations, it is not recommended that permission be refused on these grounds.

#### Affordable housing

10.69 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split is expected.

10.70 First Homes, launched by the Government in 2021, are a specific kind of discounted market sale housing (and a form of affordable housing) which:

- must be discounted by a minimum of 30% against the market value;
- are sold to a person or persons meeting the First Homes eligibility criteria;
- on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
- after the discount has been applied, the first sale must be at a price no higher than £250,000.

10.71 First Homes are the Government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations. In response to this Government initiative, in December 2021 the council published a First Homes Position Statement, explaining how this tenure will be secured in Kirklees. Of particular note, the 25% requirement for First Homes will be expected to form part of the normally-required 45% intermediate element of a development's affordable housing provision.

10.72 Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.

10.73 20% of 62 dwellings is 12.4, therefore 12 affordable units would be required at this application site, in the form of:

- seven social/affordable rent units;
- three First Homes; and
- two other intermediate units.

10.74 The applicant initially proposed no affordable units, arguing that the development's financial viability prevented any such provision. However, in light of the council's consultant's findings (that the development could indeed provide the required 12 affordable housing units), and following further discussion with officers regarding the expectations of the council's Affordable Housing and Housing Mix SPD, the applicant agreed to provide the following:

Affordable Rent:

- 5x 2-bedroom units
- 2x 3-bedroom units

First Homes:

- 1x 1-bedroom units
- 2x 2-bedroom units

Other intermediate:

- 2x 1-bedroom units

10.75 These affordable homes would be provided at plots 8, 9, 10, 11, 12, 13, 34, 35, 36, 60, 61 and 62.

10.76 The proposed affordable housing unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	Affordable rent SPD expectation	Affordable rent proposed	Intermediate SPD expectation	Intermediate proposed (as First Homes and other intermediate)
1- and 2-bedroom	60+%	71% (five units)	40-79%	100% (five units)
3-bedroom	20-39%	29% (two units)	40-59%	0%
4+-bedroom	0-19%	0%	0-19%	0%

10.77 Crucially, the proposed affordable rent element is SPD-compliant. The proposed intermediate element is not SPD-compliant (in that all units would have one or two bedrooms, and no 3-bedroom units are proposed), however this has not attracted an objection from KC Strategic Housing (officers of the relevant team in fact suggested the affordable housing unit size mix now proposed), and it is not recommended that permission be refused on the grounds that part of the affordable housing offer does not fully meet the expectations of the guidance set out in the SPD.

- 10.78 The proposed locations of the affordable housing units (at the termini of the two branches of the development's estate road, and at the site entrance) are considered acceptable. The development's affordable housing element would be well spread and provided in locations with good levels of amenity, and would not be clustered or isolated in an inferior or distinguishable part of the application site.
- 10.79 The design of the proposed affordable housing would also ensure it would not be visually distinguishable from the development's private element. Of the three house types proposed in the affordable element, two would also be used in the private element. The same materials would be used across the tenures (including at the west end of the application site, where natural stone would be used on private and affordable units at plots 1, 60, 61 and 62), and elevational detailing would be similar across the application site.

#### Highway and transportation issues

- 10.80 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.81 Paragraph 114 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

#### *Existing conditions*

- 10.82 Existing highway conditions must be noted. The application site has no existing vehicular access points, other than via a field gate off the track to the north of the application site, adjacent to 275 Cumberworth Lane. The western end of the application site meets Cumberworth Lane, which slopes downhill from north to south, and lacks a footway on the application site side of the road (a footway exists on the opposite side of the carriageway). No parking restrictions apply along this part of the road. The posted speed limit on Cumberworth Lane in the vicinity of the application site is 30mph, which changes to the national speed limit (60mph) approximately 100m to the northwest. Further to the south, Cumberworth Lane bends as it approaches the junction with Wakefield Road. Bus stops exist on either side of the road at this bend.

- 10.83 Regarding public transport accessibility, Denby Dale railway station is a 600m walk (approximately) from the entrance to the proposed application site. Besides the above-mentioned bus stops on Cumberworth Lane (which are served by the D2 and X1 bus routes), bus stops on Wakefield Road are served by several bus routes. Buses serving these stops provide a combined service frequency of at least three buses per hour to Huddersfield, an hourly service to Holmfirth and Wakefield, and limited services to Barnsley and Penistone.
- 10.84 A public footpath (DEN/61/10) runs along the application site's northern boundary. This forms part of the borough's existing Core Walking and Cycling Network, as defined in the Local Plan.

*Traffic impact and network assessment*

- 10.85 The scope of the submitted Transport Assessment (TA) was agreed between officers and the applicant during pre-application discussions, and is based on current guidance and industry standard methodology.
- 10.86 The TRICS database has been used to determine trip rates, for the AM and PM peak hours of 08:00 - 09:00hrs and 17:00 - 18:00hrs respectively. Traffic growth has been based on TEMPro growth rates with a future design year of 2028. In terms of traffic generation, this equates to 37 and 36 two-way vehicle trips respectively in the AM and PM peak periods (25 AM and 26 PM two-way trips would travel to/from the village centre to the southeast).
- 10.87 Traffic has been distributed on the highway network using origin and destination data from the 2011 Census, method of travel to work data set for the middle super output area (MSOA) in which the site is located. This shows that beyond the site access junction, traffic generated by the development would be less than 30 two-way peak hour vehicle trips in either direction, and the TA concludes that:

*Beyond the site access junction the traffic generated by the site is well within the normal daily fluctuations in traffic flows that could be expected on Cumberworth Lane. The impact of the traffic generated by the site is therefore considered to be negligible at the Cumberworth Lane / A636 Wakefield Road junction. This is further supported by the MCC results for the junction (Appendix D) which show that this is not a busy junction. As such, junction modelling has only been undertaken for the proposed site access junction.*

- 10.88 KC HDM officers generally agree with the above conclusions, and agree that the development is not anticipated to have any significant effect beyond the site access junction. To put this into context, development traffic would represent a maximum increase of 6.7% in vehicular traffic on Cumberworth Lane to the southeast of the access to/from the village centre (26 new vehicle trips compared to 371 existing PCU's in the 2028 PM peak baseline data).
- 10.89 The site access junction has been modelled using the PICADY function within the Junctions 9 software. This assessment demonstrates that the proposed site access junction would operate comfortably within practical capacity in the future design of 2028 and is therefore considered suitable to serve the proposed development.

- 10.90 It is considered that the impact of the traffic generated by the development would have no material or severe impact on the operation or safety of the local highway network.

*Site access*

- 10.91 Much discussion with the applicant during the life of the application has concerned the design, adequacy and safety of the proposed site access on Cumberworth Lane.
- 10.92 The proposed site access takes the form of a simple priority T-junction, with a minor road carriageway width of 5.5m and 2m wide footways on both sides. 10m radii are proposed at the site access to accommodate the turning movements of the councils design refuse vehicle (11.85m long) to/from the site access, which has been demonstrated on the applicant's swept path drawings.
- 10.93 A 2m wide footway is proposed along the site frontage, which would connect the site access to the private access track that carries public footpath DEN/61/10 to the north of the site. To the south of the site frontage, the proposals include a new 1.5m wide section of footway that would front 1 Chapel Court and would connect to the existing footway network to the south. These footway improvements would provide a direct link to the wider footway network to the south from the development site, and would also provide improved provision for existing pedestrians walking between public footpath DEN/61/10 and the village centre. It is noted that the 1.5m wide section of footway is below the preferred minimum width of 2m, which cannot be provided in this location due to land constraints. However, this width is sufficient to allow two pedestrians to pass and also for guided pedestrians (e.g. parents with children) in accordance with guidance contained in the DfT's Inclusive Mobility document. Dropped crossing points are proposed at the site access junction, and on either side of the junction to assist pedestrians crossing Cumberworth Lane. These would be suitably located where there is adequate pedestrian/vehicle inter-visibility. The proposed footway improvements at the site access and on Cumberworth Lane are considered acceptable and would provide a welcome improvement for existing and proposed highway users. It is also noted that the new footway would also have consequential benefits to junction visibility for properties accessed from the private track that carries public footpath DEN/61/10 (as the existing retaining wall that blocks visibility will be set back).
- 10.94 Notwithstanding the posted speed limit on this part of Cumberworth Lane, as on-site observations suggested that southbound approach speeds to the proposed site access junction were in excess of 30mph, the applicant provided speed survey data in their Transport Assessment (Appendix D) to determine the required junction visibility splay for approaching southeast-bound traffic. The speed survey was undertaken at a point approximately 100m north of the proposed site access (e.g. at the speed limit change), and identified 85th percentile southeast bound speeds of 34.8mph.
- 10.95 Based on the guidance contained in Manual for Streets Parts 1 & 2 (MfS), and taking into account the recorded approach speeds and gradient of Cumberworth Lane, a 2.4m x 59m visibility splay is required looking northwest from the proposed site access. This has been demonstrated on the proposed site access drawing 2111502-Rev I, with the splay measured to the nearside

wheel track in accordance with MfS guidance. Given the proximity of the site access to the Wakefield Road junction and the built-up nature and geometry of the southern end of Cumberworth Lane, vehicles are observed to be generally travelling within the posted 30mph speed limit in the northbound direction. Accordingly, a visibility splay of 43m commensurate with a 30mph speed limit is considered appropriate to the southeast of the site access, which has again been demonstrated on the proposed site access drawing.

- 10.96 Local residents have raised concerns regarding the proposed site entrance junction visibility and have suggested that the guidance in MfS should not be applied in this situation, and instead that guidance from the Design Manual for Roads and Bridges should be applied to Cumberworth Lane. However, Section 1 and 10 of MfS (Part 2) states that stopping sight distances (SSD) for roads where speeds are below 37mph (60kph) should apply the MfS guidance. Further guidance on this matter is also provided in the Kirklees Highway Design Guide SPD, which states: "For routes that carry over 10,000 vehicles per day and/or have vehicle speeds greater than 37mph, the visibility guidelines within the Design Manual for Roads and Bridges (DMRB) should be followed". As the recorded speeds are below 37mph and the two-way flow of traffic on Cumberworth Lane is well below 10,000 vehicles per day (based on the traffic data contained at Appendix D of the TA, the average weekday two-way flow was recorded at 3,507 vehicle per day), it is clear that the MfS guidance is applicable in this situation.
- 10.97 As vehicles speeds above 30mph have been recorded to the northwest of the site access at the entrance to the 30mph speed limit, the applicant has agreed to provide improved speed limit terminal signage on yellow backing boards on both sides of the carriageway (on offset brackets on the east side to avoid carriageway overhang), together with a 30mph speed limit roundel road marking on the carriageway, to highlight the speed limit change and encourage better compliance with the speed limit. These works would be implemented as part of the site access proposals, and it is recommended that they be secured by planning condition.
- 10.98 Local residents have also raised concerns about the narrow carriageway width on Cumberworth Lane within the vicinity of the proposed site access, suggesting that it is not wide enough to allow vehicles to pass. KC HDM officers have noted that the running carriageway width is circa 5.5m within the vicinity of the site access. As confirmed in MfS, this width is sufficient to allow two vehicles to pass, including HGVs passing light vehicles (cars/vans) or cyclists. Therefore, as the proposals maintain the running carriageway width of 5.5m past the site access, the development would not impact on passing traffic at the site access, and as previously mentioned, swept path analysis has been provided to confirm that the council's design refuse vehicle (the largest fleet vehicle) can safely turn to/from the access.
- 10.99 The proposed site access, footway and signing/road marking proposals on Cumberworth Lane have been subject to a Stage 1 Road Safety Audit. This did not raise any significant issues that cannot be addressed at the detailed design stage. The only issue of note that was raised was the location of one of the dropped pedestrian crossing points on Cumberworth Lane that has now been relocated to ensure that adequate pedestrian/vehicle inter-visibility is provided.

- 10.100 In light of the above, the site access proposals and associated works on Cumberworth Lane are considered acceptable, and would provide an improvement over the current arrangements.

*Road safety*

- 10.101 A review of personal injury collisions for the preceding five-year period, (January 2017 to December 2021) has been undertaken in the applicant's Transport Assessment, the findings of which indicate that there have been no collisions resulting in injury in the vicinity of the site access on Cumberworth Lane. The TA concludes that: "This shows that in the study period, there have been no collisions resulting in injury in the vicinity of the site frontage on Cumberworth Lane or at the. It is therefore considered there are no safety concerns nor any problematic safety trends on this section of the local highway network in the vicinity of the proposed development".

- 10.102 KC HDM officers generally agree with the above finding. It is also noted that some local objections have suggested that the Crashmap data included in the TA is incorrect, as there have been other incidents in the area that have not been identified. This is likely to be due to the collision data only including reported incidents that resulted in person injury, as these are the only incidents that are recorded in the DfT data used in Crashmap. As such, KC HDM officers have reviewed the more detailed personal injury collision data available to the council, which confirms that there have been no reported personal injury collisions on Cumberworth Lane within the vicinity of the site or its junction with Wakefield Road within the last five years of available data (noting that there is a time lag on the available data, so it may not include any very recent incidents).

*Public rights of way*

- 10.103 The proposed new footway along the Cumberworth Lane application site frontage would connect to public footpath DEN/61/10, which runs along the northwest boundary of the site from Cumberworth Lane to Leak Hall Lane. This connects to public footpath DEN/61/20, which continues in a northeasterly direction to Gilthwaites Lane, where Denby Dale First School is located. The existing public footpath network offers a dedicated and virtually traffic-free route between the application site and the local first school providing the potential for future residents to undertake journeys on foot. The internal site layout provides two new pedestrian links to DEN/61/10. In response to previous comments from KC HDM officers, the applicant has improved the alignment of the proposed new footpath link in the northern corner of the site. This link would connect the estate road to DEN/61/10 via a 2m wide footpath, with a maximum gradient of 1:20.

- 10.104 The new footpath connections to public footpath DEN/61/10 would be a benefit to the proposed development and to existing and future users of the public footpath, and are welcomed. As noted earlier in this report, movement through the application site would be enabled despite the final (northernmost) parcel not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application. These aspects of the proposed development would help it to integrate with its surroundings, enabling sustainable and active travel. Final details of the footpath links (including drainage, construction specification and surfacing) and their delivery would need to be secured by condition, with public access rights secured via a Section 106 obligation.



### *Site layout*

- 10.105 The proposed site layout comprises a combination of traditional estate roads with footways on both sides, shared surface streets with hard margins and private drives. The overall layout takes the form of a series of cul-de-sacs terminating in service vehicle turning heads.
- 10.106 In response to previous comments provided by KC HDM officers, the site layout has been amended and is now acceptable in principle and is considered to be suitable for adoption (subject to Section 38 team approval at the detailed design stage). The site layout has also been subject to a Stage 1 Road Safety Audit that has not raised any significant issues that cannot be addressed at the detailed design stage.
- 10.107 All junction and forward visibility requirements have been met. These are proposed to be contained within the adoptable highway extents. This includes adequate forward visibility at the bend adjacent to the TPO-protected tree in the northern corner of the site, which is to be protected with a highway verge and marker posts, rather than a footway or hard margin to minimise impact on the tree's root protection area. The site access and internal streets would all have gradients less than 1:20. This includes at the site access junction with Cumberworth Lane, which would have an initial gradient of 1:25 for the first 10m. Therefore, it has been demonstrated that suitable gradients can be provided, in accordance with local guidance.
- 10.108 The site layout proposals are considered acceptable, with final details secured by condition. Officers are satisfied that the council's fifth reason for refusal (under previous application ref: 2022/91911) has been sufficiently addressed.

### *Servicing*

- 10.109 The applicant has provided a full package of swept path analysis to confirm that the council's design refuse vehicle would be able to turn and circulate within the site. To achieve this, localised carriageway widening has been incorporated at bends to ensure that the refuse vehicle could pass parked cars. The comments of KC Waste Strategy (regarding looped layouts, and advising that the council's refuse collection vehicles currently reverse the length of both Leak Hall Lane and Leak Hall Crescent to undertake collections due to insufficient turning heads in those highways) are noted, however it is accepted that a looped layout is not possible at this site, and development at the application site does not provide an opportunity to remedy the existing problems experienced on Leak Hall Lane and Leak Hall Crescent.
- 10.110 Bin presentation points have been identified on the applicant's drawings, to confirm that bins can be presented adjacent to the highway on collection day, without causing obstructions.

### *Parking*

- 10.111 Parking provision across the site must reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership. The council has not set prescriptive parking standards for residential development. However, it is expected that development will provide parking in line with the recommended levels set in

the council's Highway Design Guide SPD, which requires two spaces for 2- and 3-bedroom dwellings, and three spaces for 4-bedroom (or larger) dwellings. Should garages be proposed, they must have an internal dimension of 3m x 6m to be taken into account as available off-street parking.

- 10.112 KC HDM officers previously raised concerns that some of the 4-bedroom dwellings were only proposed to have two parking spaces, and that some of car parking spaces were of insufficient length to accommodate large cars. The layout has therefore been amended to ensure that all car parking spaces are of an adequate size, and for all of the 4-bedroom dwellings that would only have two off-street parking spaces (this applies to 15 of the 23 4-bedroom dwellings), these do not include garages spaces (as these are often not used). For the remaining dwellings, the proposed off-street car parking provision is in accordance with the council's Highway Design Guide SPD recommendations, including suitably-sized garages (proposed for the remaining eight 4-bedroom dwellings).
- 10.113 16 visitor parking spaces have been shown within the proposed adoptable highway, in the form of dedicated laybys and other informal locations that do not block drives, bends or turning heads. This provision is considered to be adequate and is in accordance with the council's Highway Design Guide SPD, which recommends one visitor space per four dwellings.
- 10.114 Sufficient spaces are proposed to reduce the risk of new residents parking on nearby streets or in other inappropriate locations. Where possible, unbroken rows of parking spaces have been avoided, for visual amenity reasons.
- 10.115 Cycle parking is proposed for all dwellings in cycle sheds within secure garden areas that are accessible via external routes. These proposals are acceptable in principle, with the final details to be secured by a recommended planning condition, which would require secure cycle parking that can accommodate a range of cycle types to ensure that it is inclusive.

#### *Sustainable transport*

- 10.116 It is recommended that a Sustainable Travel Fund contribution of £49,335.88 be secured via the necessary Section 106 agreement. Although the calculation of this sum is based on 62 units multiplied by the cost of a bus-only MCard, the contribution would be secured flexibly, so that it could be put towards a range of measures intended to encourage the used of sustainable modes of transport.

#### *Travel planning*

- 10.117 Comprehensive and effective travel planning is required in connection with the proposed development, in compliance with Local Plan policies LP20 and LP51. As the development involves the provision of over 50 dwellings, a Travel Plan is required.
- 10.118 A Framework Travel Plan has been submitted with the planning application, which would need be developed further prior to occupation, and would need to include reference to the Sustainable Travel Fund and associated measures to be agreed. As such, it is recommended that the details of the final Travel Plan be secured via the required Section 106 agreement, and that the Travel Plan be implemented upon first occupation. It is noted that the baseline Travel Plan Target should be to reduce single occupancy car trips by 10%, rather than 5% as suggested in the current Framework Travel Plan.

10.119 A Travel Plan Monitoring Fee would need to be secured as part of the Section 106 agreement. For a development of this scale (classed as a “small scale major residential development”) the fee would be £10,000.00 (£2,000 per year for five years).

#### *Construction management*

10.120 As well as for residential amenity and environmental health reasons, a Construction Management Plan (CMP) would be required in connection with highway considerations. This would need to secure the provision of wheel washing facilities, among other measures.

10.121 A further condition requiring highway condition surveys (carried out before and after construction, and including public footpath DEN/61/10) is recommended.

10.122 No details have been provided in relation to construction access, other than in relation to the potential removal of material from the application site (approximately 4,150 cubic metres to be extracted over eight weeks, which would equate to around 10 loads per day based on 5.5 working days per week and 10 cubic metre loads). For this element of the construction process, it has been indicated that this would take place via the new access on to Cumberworth Lane. Therefore, further details of the construction access arrangements would need to be provided as part of the CMP. This would need to include adequate junction visibility and geometry (to be confirmed by swept path analysis), and measures to ensure the safety of pedestrians walking past the site access (the new footway would need to be provided along the site frontage, at least in a temporary form).

10.123 Local residents have expressed concern that construction access may take place via the private track that carries public footpath DEN/61/10 along the application site’s northwest boundary. However, this would not be acceptable, and construction access would only be acceptable via a suitably-constructed construction access on to Cumberworth Lane.

#### Flood risk and drainage issues

10.124 In relation to flood risk and drainage, the requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, must be addressed. Drainage and flood risk (including provisions for flood routing) should be a key influence on any layout proposed for the application site.

10.125 The allocated site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site’s northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.

10.126 The application site is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy is required. These have been submitted.

- 10.127 It is accepted that surface water cannot be disposed of via soakaways at this site. The proposed surface water drainage system incorporates on-site attenuation in the form of an underground tank at the east end of the application site. Surface water run-off leaving the application site would be restricted to a run-off rate of 5 litres per second before it reaches the east corner of the application site and flows into the existing watercourse that runs along the application site's northeast boundary. The proposed surface water drainage strategy accounts for predicted rainfall events including an appropriate allowance for climate change. The applicant proposes to offer the development's main drainage to Yorkshire Water for adoption.
- 10.128 Flood routing (i.e., surface water flow during exceedance events) has been considered by the applicant. Water would be routed along internal roads to either Cumberworth Lane or towards the proposed attenuation basin and the east corner of the application site.
- 10.129 The applicant proposes to dispose of foul water via the public sewer in Leak Hall Crescent and an existing connection through the neighbouring residential development. The applicant intends to offer the main foul drainage system for adoption by Yorkshire Water.
- 10.130 The Lead Local Flood Authority (the LLFA) support the application, confirming that the proposed connection to watercourse can now be sanctioned as downstream improvements have been carried out. The LLFA have recommended conditions and Section 106 obligations relating to drainage, and these are included in the case officer's recommendation.
- 10.131 Yorkshire Water have not objected to the proposals.
- 10.132 A condition is recommended regarding temporary drainage during the construction phase.

#### Environmental health considerations

- 10.133 The application site is not within an Air Quality Management Area (AQMA) and is not near to roads of concern in relation to air quality. KC Environmental Health have advised that the proposed development does not require an emissions damage cost calculation. Officers in that team have accepted the applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, and these are predicted to be below the national air quality objectives. The applicant's air quality methodology is considered by KC Environmental Health to be acceptable, and no further mitigation measures are required for this development.
- 10.134 For air quality reasons, a condition requiring the provision of electric vehicle charging points for all dwellings is recommended. This condition would require the charging points to be made operational and to be retained thereafter (and, therefore, goes further than the relevant current requirements of the Building Regulations).

- 10.135 Regarding dust, KC Environmental Health have advised that the proposed development does not require a construction dust risk assessment. An adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. An appropriate condition is therefore recommended.
- 10.136 Regarding noise during the remediation and construction phase, works would be restricted to appropriate hours, and the applicant's proposed construction methodology (to the extent it has been detailed to date) is considered acceptable, however temporary acoustic screens would be required.
- 10.137 Cumberworth Lane is a source of traffic noise, and the applicant's acoustic consultant advised that acoustic screening would be required to protect residents of the nearest new dwellings (at the west end of the application site) from that noise. KC Environmental Health subsequently supported the erection of acoustic screening. However, it is considered that such screening would be visually harmful (at a location close to the site entrance), and in any case the applicant has more recently stated that – since those dwellings were moved away from west end of the site – no such screening is in fact required. A condition requiring the erection of such screening is therefore not recommended. Other dwellings within the proposed development are not considered to be at risk of amenity harm in relation to noise.
- 10.138 Notwithstanding the above commentary regarding dust and noise, it is noted that many residents remain concerned regarding the amenity impacts of the proposed site remediation, particularly in relation to the potential removal of approximately 4,150 cubic metres of material from the application site. These concerns are understandable.
- 10.139 To address these concerns, conditions are recommended requiring the submission of management plans for both the extraction and construction phases of development. Both plans would need to specify hours of working, and control noise and vibration, dust and artificial lighting to minimise impacts upon neighbouring residents.

#### Site contamination and stability

- 10.140 The application site is affected by previous coal mining activities. The applicant's Phase 2 Geo-Environmental Report details intrusive investigations carried out via boreholes at the application site, and describes ground conditions. Three areas of coal were discovered at the application site, together with related voided strata. These seams and voids range from 0.4m to 2.5m in thickness. The applicant has stated that these areas pose a risk to stability as there is insufficient thickness of competent rock cover above the workings to mitigate the risk of instability impacting the surface. Three mine entries also exist at the application site – one towards the southwestern corner of the site (where plot 58 is now proposed), and two towards the application site's northeastern boundary.
- 10.141 There is one closed landfill site within 250m of the application site.

10.142 Paragraph 189 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination (this includes risks arising from former activities such as mining). Paragraph 190 states that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

10.143 Local Plan Policy LP53 states that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that would potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.

10.144 To stabilise the application site, the applicant proposes the following:

- A drill and grout operation which would consist of drilling approximately 300 primary holes and 250 secondary holes which would then be injected with a grout mix to fill and strengthen the voids beneath the site.
- For the three mine entries within the application site, grouting (as described above) and capping with reinforced concrete that is twice the diameter of the entry.
- At the centre of the site, where ground levels would be lowered by up to 2.5m, excavation may be carried out to remove existing mineworkings or seams in full. The need for such excavation would be determined by final levels. Should such excavation be deemed necessary by the applicant, an extraction volume of approximately 4,150 cubic metres is anticipated. However, where this excavation is deemed impractical, the applicant proposes grouting as described above.

10.145 Of note, the above represents a reduced level of intervention in relation to ground works. Under the previous application (ref: 2022/91911), extensive excavation and backfill was proposed – the previous committee report noted that the applicant's submission referred to the extraction of 12,000 tonnes of coal (although in the most recent Planning Statement the applicant has said that 6,000 tonnes were to be extracted).

10.146 The ground works now proposed, including the potential extraction of approximately 4,150 cubic metres of material, are not unusual for a development of this size and nature, at a sloped site where there are existing voids and seams near to the proposed surface level, and where sub-surface space needs to be created for surface water attenuation. As noted in the comments of KC Environmental Health, coal remaining close to the surface of a development site is at risk of combustion, and its removal and covering with inert material may be necessary. At the volume suggested by the applicant, the potential extraction can be regarded as incidental to the residential development of the application site (accordingly, the applicant considers the material to be waste rather than a resource), and the development description

did not need to refer to extraction. However, for sustainability and amenity reasons, the extraction of material from the application site should be minimised as far as is possible. It is also noted that, at this stage, the applicant is not yet certain exactly how much – if any – material would be extracted. A condition is therefore recommended, requiring the submission of detailed information quantifying any such extraction, demonstrating the need for it (as opposed to re-use on site), explaining how it has been minimised, and explaining how its impacts would be mitigated.

- 10.147 The Coal Authority have noted that the proposed grouting could be secured by condition. They have additionally stated that one of the site's three mine entries (shaft 422408-015, located in front of where unit 39 to 42 are now proposed) would be remote from any built development and owing to past excavations is likely to have been removed in its entirety, therefore risks related to it would be low and do not warrant any further intervention.
- 10.148 However, in relation to the site's other two mine entries (422408-002 to the rear of where unit 58 is now proposed and 422408-016 towards the east end of the site where open space is now proposed), the Coal Authority have raised concerns, noting that both require capping at rock head and grouting, and that the applicant's submission suggests that the proposed dwellings would avoid the entries, but not their zones of influence. Whilst the Coal Authority accept that the remedial strategy proposed would effectively nullify the zones of influence, they are unclear as to how the mine entries, together with their treatments (i.e. the caps) would sit within the context of the development. Noting that building over the caps would be contrary to the Coal Authority's adopted policy, they have requested amended information confirming the locations of the mine entries (and their treatments) in relation to the proposed development.
- 10.149 The applicant subsequently submitted drawings providing the requested information. This has been forwarded to the Coal Authority, and although their further comments are awaited, officers are satisfied that the submitted information adequately illustrates that built development is not proposed within the zones of influence of the site's mine entries.
- 10.150 It is recommended that other conditions relating to the remediation of the site's coal mining legacy be applied in accordance with the forthcoming further comments of the Coal Authority. Subject to appropriate details being submitted pursuant to these conditions, it is considered that the applicant's proposals would satisfactorily stabilise the site (in accordance with the NPPF and the Local Plan), rendering it able to accommodate residential development.
- 10.151 Regarding site contamination, KC Environmental Health have advised that the applicant's findings (including in relation to ground gas) are accepted, although further gas monitoring is required. Of note, KC Environmental Health have advised that all remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. The site contamination conditions listed in KC Environmental Health's comments are included in the list of recommended conditions.

### Ecological considerations

- 10.152 The application site is undeveloped, grassed agricultural land, and slopes downhill from north to south. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent).
- 10.153 As noted above, the Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site.
- 10.154 The applicant's Ecological Impact Assessment found that habitats within the application site were of varying ecological value. The majority of the site's grassland was assessed by the applicant to be modified grassland of low distinctiveness. A small area of other neutral grassland was present to the east of site which supports greater species diversity. Scrub habitats and trees on site were found to be of value to local wildlife including breeding birds, invertebrates and mammals such as bats and hedgehog. Sections of hedgerow remaining on site comprise native species and were found by the applicant to be representative of UKBAP priority habitat (where identified to be over 20m in length). One hedgerow (H1) has the potential to meet the ecological criteria for importance under the Hedgerow Regulations 1997, qualifying as species-rich. Ground flora was found to be dominated by coarse grass species and ruderal vegetation including undesirable species such as thistles and nettles. The plant communities at the site were found to be of widespread occurrence and characteristic of the habitats present in the wider area and common nationally. No rare or locally uncommon plant species or invasive species as listed under the Wildlife and Countryside Act 1981 (as amended) were detected by the applicant at the site. The Spanish bluebell hybrid (regarded as a non-native invasive species) was recorded to the northern boundary of site. Bird species observed by the applicant during a site walkover included greenfinch, house sparrow, woodpigeon, starling, wren, dunnock, swift and kestrel, as well as several species that are not of conservation concern.
- 10.155 Several local residents have stated that other species are present at the application site, including deer, toads and owls.
- 10.156 A condition requiring on-site biodiversity enhancements is recommended.
- 10.157 A 10% net biodiversity gain should be demonstrated in accordance with chapter 15 of the NPPF, Local Plan policy LP30, and the council's Biodiversity Net Gain Technical Advice Note. Achieving biodiversity net gain within an application site is the preferred option. If this cannot be achieved within an application site (i.e., where it can be demonstrated that on-site compensation methods have been exhausted), applicants are required to secure off-site compensation. In those situations, as set out in the council's Biodiversity Net Gain Technical Advice Note (paragraph 3.4.1 onwards), applicants will need to demonstrate that sufficient off-site habitat creation or enhancement has been secured to achieve a minimum 10% biodiversity net gain. Off-site compensation can be secured through one, or a combination, of the following:



- Management of land within the control of the developer;
- Purchase of the required compensation value from a habitat bank;
- Payment of a commuted sum to the Local Planning Authority; or
- A combination of all or some of the above.

10.158 In accordance with the council's Technical Advice Note, applicants are encouraged firstly to source and bring forward appropriate sites on which their biodiversity offsetting can occur. These should be reasonably close to the development site and have the potential to establish or enhance in-kind habitats to those due to be lost. For applications submitted prior to biodiversity net gain becoming mandatory (on 12/02/2024), if an applicant is unable to secure a site where adequate biodiversity offsetting can occur then a financial payment to the council, for use to enhance biodiversity on council-managed land, will be required.

10.159 Taking into account site constraints and other demands on space, officers are satisfied that on-site compensation methods have been exhausted. The applicant does not control any further land within the vicinity of the application site where further provision would be deliverable.

10.160 The applicant has submitted a biodiversity metric calculation. This sets out the application site's existing values (i.e., its baseline), as well as the site's post-development values, and the changes (in units and percentages), as follows:

Unit type	Existing (baseline)	Proposed (post-development)	Change in units	Percentage change
Habitat	14.35	9.36	-4.99	-34.75%
Hedgerow	1.14	1.91	+0.77	+66.95%
River	0.14	0.24	+0.1	+68.27%

10.161 Although it is noted that the site's hedgerow and river unit baselines are low, the respective 66.95% and 68.27% increases (which would be achieved on-site) are nonetheless welcomed. A condition securing the delivery of these gains is recommended.

10.162 Regarding the development's impact upon habitat units, in order to compensate for the 34.75% loss, and to achieve a 10% gain, 6.425 habitat units would need to be provided off-site. This can be achieved via a financial contribution of £147,775 (based on a £20,000-per-unit cost, and a 15% administration fee). It is recommended that this be secured via a Section 106 agreement.

10.163 Subject to the biodiversity net gain contribution being secured, and conditions being applied in relation to ecological mitigation and landscaping, it is considered that the proposed development is acceptable in terms of its ecological impact.

### Trees

10.164 Local Plan Policy LP33 is relevant. Tree Preservation Order TPO 17/21/t1 protects an oak tree within the application site. An area of open space is proposed around this tree, and the nearest new dwelling would be unit 39. The applicant's drawings note that earth has been piled up against this tree.

Excess soil will need to be removed, and the applicant has stated that compaction damage within the tree's root protection area would be remediated.

- 10.165 Regarding the development proposed around the tree, the applicant proposes a root protection barrier as part of the creation of the new estate road adjacent to the tree. KC Trees have advised that a "no dig" cellular confinement system will need to be shown on plans and implemented. KC Trees have also expressed concern regarding the location of unit 39 in relation to the tree, and the potential pressure to prune that may follow. However, officers note that the council would have control over an application to carry out any such pruning.
- 10.166 The applicant has submitted Arboricultural Method Statement and Tree Protection Plan, however a condition is recommended requiring the submission of final (amended) versions of these documents.
- 10.167 As noted earlier in this report, in light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

#### Open space

- 10.168 Three areas of publicly-accessible open space are proposed on-site in appropriate locations (namely, around the TPO-protected tree, above the development's attenuation tank (where buildings cannot be erected), and either side of the site proposed entrance). Other, smaller spaces have also been annotated as "POS" in the applicant's drawings.
- 10.169 Limited information has been submitted regarding the purpose, character, equipment and soft landscaping of the on-site open spaces. Therefore, only a basic assessment of the proposals against the council's Open Space SPD is possible at this stage. Open space of various typologies, and a Locally Equipped Area for Play (LEAP), would be required of a residential development of this scale. Until further details of the proposed open spaces are provided, and given that some areas (such as the green space between units 14 and 29) shouldn't be counted towards on-site provision at this stage, a contribution of £120,055 towards off-site open space would be required. This has been calculated in accordance with Local Plan policy LP63, and the methodology set out in the adopted Open Space SPD, and takes into account deficiencies in the Denby Dale ward. Members should be aware, however, that – should the applicant provide further information that would enable more of the proposed open space to be counted towards on-site provision, and/or would clarify that the proposed open space would indeed be of specific typologies – this contribution could be significantly reduced.
- 10.170 Similarly, if acceptable details of an on-site LEAP were to be provided, this element of the contribution would no longer be required. If, however, a contribution towards off-site provision is to be collected, it is noted that four existing play spaces are within 720m of (and a 15 minute walk from) the application site – the children and young people's element of the open space contribution could be spent in those locations, subject to local consultation (including with Members).

10.171 It is recommended that further details of the on-site open space (and the final contribution, as well as an inspection fee of £250) be secured via the necessary Section 106 agreement. Details of the management and maintenance of these spaces would also be secured via the Section 106 agreement.

#### Other planning considerations

10.172 Regarding archaeology, the applicant has submitted an Archaeological Desktop Assessment. The West Yorkshire Archaeology Advisory Service (WYAAS) have noted that the northern part of the application site coincides with part of the presumed extent of a medieval settlement located to the south of Leak Hall. Earthworks identified here were considered to be evidence of medieval buildings and ploughing. This evidence was located in a sub-square field to the south of Leak Hall which is bisected by a trackway.

10.173 WYAAS have further noted that the condition of these archaeological earthworks has been reassessed more recently (in 2012 and 2022). On both occasions the earthworks were not visible due to scrubby growth. The south-western part of the area of interest had been obscured and possibly destroyed by spoil and vehicle movements associated with the construction of new dwellings off Leak Hall Road in the recent past. WYAAS have noted the difficulty of carrying out predetermination geophysical surveys due to the present ground conditions. Geotechnical assessment has identified evidence of coal mining within the site, and this activity is likely to have damaged any evidence of earlier activity.

10.174 WYAAS have recommended a condition be applied, securing a programme of archaeological recording. This may include strip and record excavation, excavation of archaeological trial trenches, and observation of geotechnical and other ground reduction works.

10.175 It is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

10.176 The impact of proposed developments upon the values of existing nearby properties is not a material planning consideration.

10.177 A resident has stated that the application site is the only location in Denby Dale where an air ambulance (helicopter) could land in an emergency. However, officers note that the site is not protected for this purpose via any current planning policies, and alternative landing sites appear to be available in Denby Dale.

## Planning obligations and financial viability

10.178 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement:

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Delivery of 6.425 habitat units off-site.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

10.179 All contributions are to be index-linked.

10.180 Regarding the development's financial viability, the applicant submitted information in support of a claim that the development could not provide any affordable housing or Section 106 contributions. Aspinall Verdi were commissioned by the council to review the applicant's information. While many of the inputs and assumptions used by the applicant in their calculations were found to be reasonable, there was disagreement regarding some matters (particularly in relation to land value, where the applicant do not follow the "Existing Use Value plus premium" approach stipulated by the Government). Aspinall Verdi consequently concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

10.181 On 19/01/2021, in light of the Government's announcement that it will abolish CIL and replace it with a nationally-set infrastructure levy, Cabinet agreed to not adopt the CIL Charging Schedule in Kirklees at this stage.

## Conditions

10.182 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.

10.183 Other conditions are standard, and/or are explained earlier in this report.

## **11.0 CONCLUSION**

11.1 The majority of the application site is allocated for residential development under site allocation HS144, and the principle of residential development at this site is considered acceptable.

11.2 The applicant has satisfactorily addressed the concerns set out in the previous reasons for refusal (ref: 2022/91911), and concerns raised during the life of this application.

11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations, heritage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.

11.4 Given the above assessment and having particular regard to the 62 homes (including 12 affordable homes) that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.

11.5 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. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

## **12.0 CONDITIONS (summary list – full wording of conditions including any amendments / additions to be delegated to the Head of Strategic Investment)**

- Three years to commence development.
- Development to be carried out in accordance with the approved plans and specifications.
- Submission of details of extraction of material from the application site.
- Submission of a Construction (Environmental) Management Plan, including details of engagement with local residents.
- Submission of a Construction Environmental Management Plan (biodiversity).
- No extraction or construction traffic to access the application site via the track to the north.
- Provision of site entrance and visibility splays prior to works commencing, and works to Cumberworth Lane.
- Submission of highway condition surveys (pre- and post-development, including public footpath) and remediation details.
- Submission of details of temporary drainage.
- Submission of details of temporary waste collection.
- Submission of details of internal adoptable roads.

- Submission of details of links to public footpath.
- Cycle parking provision to be provided within the site.
- Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
- Provision of waste storage and collection.
- Submission of details of any highway retaining structures.
- Implementation of drainage strategy.
- Submission of flood routing details.
- Submission of details of watercourse enhancements.
- Site to be developed by separate systems of drainage for foul and surface water on and off site.
- Submission of details of parking surface treatments.
- Submission of an Intrusive Site Investigation Report (Phase II Report).
- Submission of Remediation Strategy.
- Implementation of Remediation Strategy.
- Submission of Validation Report.
- Implementation of grouting.
- Submission of a noise report specifying measures to be taken to protect future occupants of the development from noise, and details of ventilation.
- Submission of air quality assessment and details of mitigation measures.
- Submission of details of crime prevention measures.
- Submission of details of external materials.
- Submission of details of electricity substation(s).
- Submission of details of boundary treatments.
- Submission of details of air source heat pumps (appearance, noise and maintenance).
- Submission of details of external lighting.
- Submission of full landscaping scheme, including details of open space and playspace.
- Delivery of 66.95% increase in hedgerow units and 68.27% increase in river units.
- Submission of a Biodiversity Enhancement Management Plan.
- Submission of a Tree Protection Plan and Arboricultural Method Statement.
- No removal of vegetation during bird nesting season.
- Implementation of a programme of archaeological recording.
- Removal of permitted development rights.
- Control of accretions to elevations fronting highways, open space and green belt.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92191>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

**Date: 16-May-2024**

**Subject: Planning Application 2023/93503 Outline application for residential development of 82 dwellings and associated works, with layout and access as considerations Land off, Roslyn Avenue, Netherton, Huddersfield, HD4 7EW**

#### APPLICANT

Richard Morton, KCS  
Development Ltd

#### DATE VALID

12-Dec-2023

#### TARGET DATE

12-Mar-2024

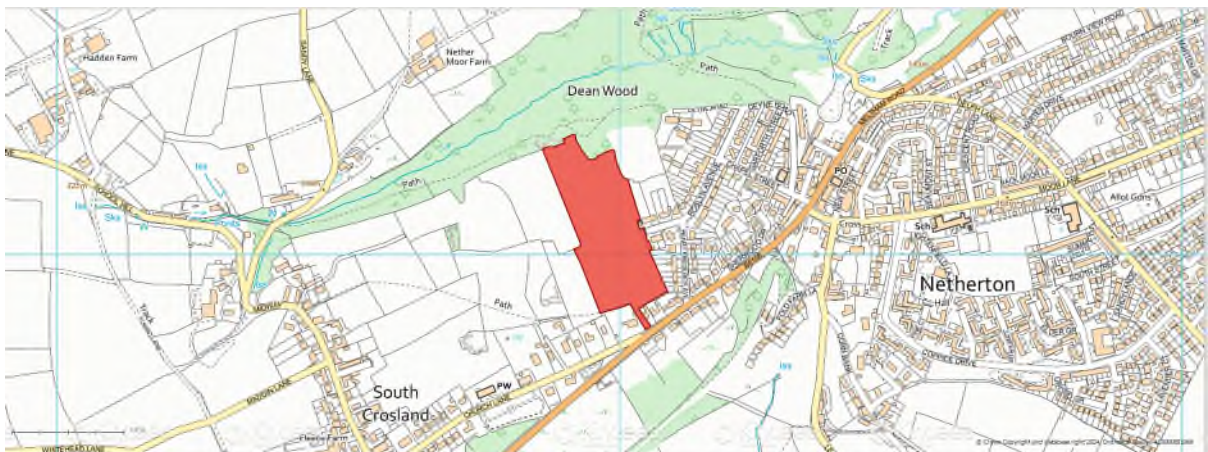
#### EXTENSION EXPIRY DATE

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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**

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**Electoral wards affected:** Crosland Moor and Netherton Ward

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

**Affordable Housing:** 16 units (20%) to consist of 9 Affordable Rent (55%) and 7 Intermediate Dwellings (45%), including 4 First Homes (25%).

**Public Open space:** Delivery of the on-site Public Open Space, a £1,000 inspection fee, and an off-site contribution to local Public Open space of £74,695.

**Education:** £134,748 towards education requirements arising from the development

**Sustainable travel:** £72,943 towards Sustainable Travel measures (including £41,943 for sustainable travel fund (such as metrocards), £21,000 towards bus stop improvements (on Meltham Road), and £10,000 towards travel plan monitoring).

**Management and maintenance:** Management and maintenance of on-site Public Open Space in perpetuity, drainage features in perpetuity (unless adopted by Yorkshire Water), and Biodiversity Net Gain measures for a minimum of 30 years.

**Footpath:** Maintenance of public access to footpath along diverted claimed footpath route in perpetuity.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION**

1.1 This is an application for outline planning permission, with layout and access as considerations, for a residential development of 82 dwellings.

1.2 This application is brought to the Strategic Planning Committee in accordance with the Delegation Agreement, due to a significant number of public representations being received that are opposed to the officers' recommendation.



- 2.1 The application site has an area of circa 3.51ha and is roughly rectangular in shape. The site is approximately 4km to the south-west of Huddersfield town centre and 2.8km east of Meltham centre.
- 2.2 The site is on the edge of Netherton, with predominantly residential development to the east and south along with the Beaumont Arms public house to the south. To the north is Dean Wood. Dean Wood includes an area of ancient woodland, which forms the site's north-west boundary. The ancient woodland is also protected by a Tree Preservation Order (HU1/49/w10). The woodland on the north-east boundary is not ancient woodland, nor falls within the TPO. To the north-east also is a council owned playing pitch. To the west of the site is open Green Belt land which is separated from the site by a low dry-stone wall and broken hedgerow with occasional small trees.
- 2.3 The site consists of a single large grassland field. Topography falls from north to south. A field gate on the east boundary leads onto Roslyn Avenue. Public Right of Way (PROW) HUD/228/10 runs through the south of the site, adjacent to the southern boundary. The PROW leads into the adjacent Green Belt land and connects Henry Frederik Avenue, to the east of the site, to South Crosland, to the west.
- 2.4 The application site also includes the curtilage of no. 404 Meltham Road (an area of 0.04ha). This is to allow the routing of surface water drainage, via gravity, to the combined sewer on Meltham road.

### **3.0 PROPOSAL**

- 3.1 Outline permission is sought for the residential development of 80 units. The application includes the considerations of access and layout. Other matters (namely appearance, landscaping, and scale) are reserved for later consideration.
- 3.2 The proposal also includes a schedule of accommodation that is for consideration as part of this application. The following housing mixture is proposed:
- **1 and 2 bed:** 39 units (48%)
  - **3bed:** 29 units (35%)
  - **4bed+:** 14 units (17%)
- 3.3 Dwellings would be a mixture of terraced, semi-detached, and detached units, each with off-road parking, gardens, and some hosting garages. A block of six 1bed apartments is also proposed. Unit heights, designs, and materials fall under the reserved matters (scale / appearance) although drawings that feature indicative elevations, principally to demonstrate the site's levels, have been provided. These indicative details show two storey dwellings with typical modern Pennine vernacular designs.
- 3.4 Retaining walls would be necessary throughout the site although level details are currently indicative. These are typically identified as being between up to 0.5m to 2.0m, however two sections of wall between 2.0m – 3.0m are proposed. Levels would be fully assessed as part of the reserved matters of landscape and scale.

- 3.5 Vehicular access into the site would be via Roslyn Avenue (replacing the existing field gate). The new estate road would consist of a central looped section with branching cul-de-sacs. The streets would be tree lined.
- 3.6 A surfaced footpath is proposed to accommodate the route of PROW HUD/228/10. Furthermore, footpaths would be provided through the southern area of POS for access, connecting the new road to the PROW. Footpaths are also proposed to the north, into Dead Wood, and north-east, into the adjacent council owned open space (terminating at the site boundary).
- 3.7 Landscaping is a reserved matter, however within the remit of layout and therefore part of this application, areas to be kept open are shown (with specifics, such as the type of planting and treatment of the open spaces forming the reserved matter of 'landscaping'). This includes an area of open space to the north (doubling as a buffer zone from Dean Wood's section of ancient woodland) and the southern portion of the site which would host open space, a play area, and the attenuation tank. A landscaped buffer zone would also be present along the west boundary of the site.

#### **4.0 RELEVANT PLANNING HISTORY**

##### **4.1 Application Site**

The application site has no planning history.

##### **4.2 Surrounding Area**

*Dean Wood, Nethermoor Road*

2024/90068: Dead or Dangerous Tree(s) to TPO HU1/49 – Noted

*former railway goods yard, adj, Fold Farm, Netherton Fold*

2019/92361: Erection of 19 dwellings – Granted

2021/94065: Variation condition 2 (plans) on previous permission 2019/92361 for erection of 19 dwellings – Granted

2021/94606: Variation condition 2 (plans and specification) on previous permission 2019/92361 for erection of 19 dwellings – Granted

2022/92365: Variation condition 2 (plans) on previous permission 2019/92361 for Erection of 19 dwellings – Granted

*400, Meltham Road*

2021/91797: Erection of detached garden room & store – Granted

##### **4.3 Enforcement History**

None on site nor any relevant within the area.

## **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 A pre-application enquiry referenced 2018/20213 was submitted by Redrow in May 2018 (with Johnson Mowat as agent). The pre-application sought feedback and advice from the LPA on a proposal for 72 dwellings. The pre-application pre-dated the adoption of the Kirklees Local Plan (Feb 2019), but was submitted while the Kirklees Draft Local Plan was at an advanced stage.
- 5.2 Officers advised that, upon adoption of the Local Plan (assuming no material changes), the principle of residential development on a housing allocation would be acceptable. However various technical issues were raised for consideration, including the need to retain the southern PROW, the woodland to the north, and issues regarding drainage. Subsequently Redrow did not progress with the site.
- 5.3 A second pre-application enquiry, referenced 2023/20431, was submitted by the current applicant (KCS Development) in April 2023 (with Johnson Mowat again as agent). The pre-application also sought feedback on a proposal for 72 dwellings. The layout of the pre-application enquiry was largely similar to that of the current application, although notable differences were evident in the northern portion of the site (adjacent to the woodland).
- 5.4 In response to the pre-application enquiry, officers expressed concerns that the density of the proposal was too low and that the housing mixture lacked 1- and 2-bed dwellings. Therefore, it was considered that the pre-application proposal would not make an effective and efficient use of the housing allocation and it was advised that a higher density and more appropriate mixture be sought. In terms of other material considerations, officers provided commentary on various considerations. On these matters no prohibitive issues were identified, although advice was offered to ensure compliance with relevant policies.
- 5.5 The current application was received in November 2023. Officers were pleased to see that many aspects of the pre-application advice offered to the applicant had been considered and implemented into the updated proposal. This included a higher density and an increase in 1 and 2-bed units, along with layout amendments. However, through a detailed review, the formal consultation process, and public representation, it was evident certain concerns and technical matters remained to be addressed. This included, but was not limited to, continued refinement to the layout and access arrangements, and progressing technical matters relating to highways and drainage. Negotiations on securing a policy compliant S106 package were also undertaken.

## **6.0 PLANNING POLICY**

- 6.1 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<sup>th</sup> February 2019).

[Kirklees Local Plan \(2019\) and Supplementary Planning Guidance / Documents](#)

6.2 The application site comprises all of Housing Allocation HS18 within the Kirklees Local Plan. Allocation HS18 has an indicative housing capacity of 132 dwellings and a gross area of 3.53ha. The application site also includes 0.04ha of unallocated land, this being the land associated with no. 404 Meltham Road (for drainage purposes).

6.3 Site allocation HS18 identifies the following constraints relevant to the site:

- Potentially contaminated land
- Site is in an area that affects the setting of Castle Hill
- Deanwood Local Wildlife Site lies to the north of the site

6.4 Site allocation HS18 identifies the following “Other site-specific considerations”:

- Access to be gained from Roslyn Avenue.
- A minimum of 20m buffer will be required to the north of the site due to the proximity of Deanwood Local Wildlife Site.
- Where the site is steeper soakaways may not be advisable.

6.5 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space
- **LP65** – Housing allocations

6.6 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council;

*Supplementary Planning Documents*

- Affordable Housing and Housing Mix SPD (2023)
- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)

- Open Space SPD (2021)

#### *Guidance documents*

- Kirklees Interim Affordable Housing Policy (2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets® Principles for the West Yorkshire Transport Fund

#### National Planning Guidance

6.7 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20<sup>th</sup> July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> March 2014, 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 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.8 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

#### Climate change

6.9 The Council approved Climate Emergency measures at its meeting of full Council on the 16<sup>th</sup> of January 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.

6.10 On the 12<sup>th</sup> of November 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *The applicant's statement of community involvement*

7.1 The application is supported by a Statement of Community Involvement (SCI) which outlines the public engagement the applicant undertook prior to their submission to the LPA. The following is a summary of the engagement undertaken:

- Ward members notified in September 2023 that KCS were looking to progress work on the site.
- A consultation letter containing the details of the proposed application and site plan was delivered to 368 properties in close proximity to the application site in November 2023. The letter provided a copy of the site layout plan and detailed information on the proposals for the site. The leaflet encouraged any comments regarding the proposed design and layout of the proposals to be submitted directly to KCS Development (via email or post). An electronic copy of the letter and proposed site layout was sent to Ward Councillors to make them aware of the consultation being undertaken and again allow for an opportunity to provide any comments or queries which they have.

7.2 In response to the public consultation undertaken, the applicant received nine responses (and five requests for more details that did not offer an opinion). One representation was in support of the proposal, with the others raising the following concerns:

- Ecology
- Flood Risk and Drainage
- Highways
- Open Space
- Housing Mix
- Capacity of local facilities is inadequate, inc. schools and doctors.

All responses were considered by the applicant and received a direct response to queries raised.

### *Public representation*

7.3 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.4 The end date for public comments was 01.02.2024. In total 96 public comments were received. The following is a summary of the comments made:

### Highways

- There is a well-used route through the site, running along its east boundary from south to north, connecting the site's southern PROW to the ancient woodland. While the route itself is not a PROW (although some claim it is) it is valuable to local residents for access to the woodland and should be preserved.
- The applicant's trip generation figures are inaccurate due to there being a high number of bungalows in the area (which are presumed to be occupied by more elderly and less children) and because the distance to nearest High School being greater than average and therefore more car journeys to drop off children are likely.
- The applicant's highway surveys were undertaken on a single, mid-week day. This is inadequate.
- The local road network, all the way to Lockwood, is oversaturated with vehicles. Constraints, such as the viaducts, prevent the issues being easily resolved. This leads to long queues along Meltham Road, but also nearby roads such as Blackmoorfoot Road. More traffic, particularly cumulative with other developments in the area, will exacerbate these issues.
- Meltham Road is very busy at rush hour, either requiring long queues or taking a 'rat run' through South Crosland. The area cannot accommodate the additional vehicle movements associated with the development.
- There are schools in the area and the Henry Frederick Avenue and Meltham Road junction is crossed by children: traffic lights should be provided to make crossing safer.
- The submission does not accurately represent the typical parking and congestion on Henry Frederick Avenue, which is far busier than indicated. The road is often down to a single lane, due to residents and attendees to the Beaumont Arms, and more traffic in the area will cause safety issues. The road is used by busses and may be inaccessible to emergency vehicles due to parked cars and traffic. The road also has many potholes. Chapel Street, the other potential route to the site, has similar issues to Henry Frederick Avenue.
- Henry Frederick Avenue cannot accommodate the HGV movements that would be needed during construction. Construction will also damage the road; how will this be avoided?
- A single point of access into the site is inadequate. If the road is blocked (such as a broken-down car), how will residents enter / leave or emergency services access the site?
- PROW HUD/228/10, which runs along the site's south and connects to Henry Frederick Avenue. It appears to be intended as a primary route into the site. It currently cannot be accessed by less mobile individuals, is narrow, and at risk of crime. It should be improved.
- The pavements along Henry Frederick Street are mossy and not suitable for access into the site.
- There are insufficient visitor parking spaces.
- How will access to nearby cycle routes be provided and the PROW should be upgraded to a bridleway.

### Amenity and design

- The field is an important open space used by the community, used for physical and mental well-being as well as dog walking.
- The proposal would erode the separation between settlements and the established character of Netherton as a village.
- The proposed layout is cramped and unattractive.
- The proposal will cause overlooking, overbearing, and overshadowing of neighbouring properties.

### Ecology and Trees

- The proposal will cause light and air pollution that will harm the ancient woodland as a habitat.
- The buffer zone to the ancient woodland is inadequate to protect the trees and the habitat. Roots will be affected and drainage into the woodland harmed. Inadequate consideration and mitigation have been given, nor enhancement works.
- The ancient woodland is also protected by a Tree Preservation Order which further prevents harm to the trees.
- Flytipping into the woodland will be caused by new residents.
- Insufficient surveys have been undertaken, and the proposal fails to accommodate natural corridors.
- The field is home to various animals and plants. Its removal via development will harm local species and the biodiversity of the wider area.
- The proposal will harm the ancient woodland.
- Inadequate details on ecological mitigation and enhancements have been provided for the application to be considered. Specific details should be secured prior to determination and conditioned.

### Drainage and flood risk

- Inadequate consideration has been given to flood risk and drainage. The site is steep and water will pour downhill into existing houses. The proposal fails to consider climate change / global warming impacts. The proposal will result in the flooding of neighbouring properties and roads.
- The local sewers are unable to take more water. They fail annually and often overflow via manholes on the road. Adding more water into them will result in flooding.
- The assessment focuses narrowly on the site, with minimal consideration of regional drainage and flood risk implications. A more comprehensive study is necessary to fully understand and mitigate the potential risks associated with this development.
- If this application is approved the Council should be liable to any damage caused from flooding (or other) to nearby dwellings.
- Concerns over the siting of the proposed attenuation tank and the safety impacts it may cause due to proximity to neighbouring properties.
- The proposal includes a huge septic tank which will smell and the pumping station will make noise.
- The proposal includes a drainage pipe connecting to Meltham Road. There are concerns that this pipe may leak or cause subsidence to nearby properties.



## Other

- Concerns that the application was not advertised for an adequate period of time.
- Concerns over disruption during the construction process.
- The field has been used by the air ambulance in the past, an opportunity which will be lost.
- The proposal does not include enough affordable homes as 20% of 82 is 16.4. Also, there are too many 3 and 4bed units. Smaller units are needed.
- Development should be focused around Huddersfield / Dewsbury and their train stations, to improve connections to Leeds / Manchester.
- The land is used for agriculture that produces food and jobs.
- The proposal does not include enough Public Open Space compared to other nearby developments. Also, the POS will be on steep land.
- The proposal does not include electric vehicle charging points or solar panels.
- The ground is contaminated by radon, which risks the health of future residents and those in the area.
- Questions whether the POS areas and play park will be accessible by all, or just residents. It is also unclear who will be responsible for its management and maintenance.
- Woodfield Park is cited in the proposal as being a local amenity: this is incorrect, it is private land with no automatic public right of access.
- Nearby schools are beyond a reasonable walking distance with no bus service towards them. This will either force more vehicles on the road with parents driving students, or students walking on unfit paths / routes towards the schools.
- Local services are at (or are near) capacity. This includes nearby schools, dentists, and doctors.
- The proposal should contribute towards the constriction of the next phase of the Meltham Greenway.
- There is no demand in the area for houses, with houses on Rightmove being lowered in price. Consideration should be given to cumulative impacts to development taking place elsewhere in Netherton.
- Brownfield development and vacant homes should be prioritised over greenfield.
- Additional traffic in the area will cause air pollution.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

K.C. Highways: No objection following receipt of further details that were requested subject to conditions and a S106 agreement relating sustainable travel contributions and retention of footpaths being open to the public.

K.C. Lead Local Flood Authority: No objection following receipt of further details that were requested subject to conditions and a S106 agreement relating to management and maintenance of drainage infrastructure.

## 8.2 Non-statutory

K.C. Conservation and Design: No objection to the principle of the development, nor the submitted details pursuant to layout or access, particularly in regards to impacts on local heritage assets and Castle Hill. Further consideration on appropriate design would however be needed at the Reserved Matters stage (scale, appearance, and landscape).

K.C. Crime Prevention: No objection subject to conditions relating to crime mitigation measures at Reserved Matters stage.

K.C. Ecology: No objection subject to conditions and a S106 agreement relating to management and maintenance of habitat areas.

K.C. Environmental Health: No objection to the proposal, subject to conditions relating to various environmental health matters, including contamination, air quality, and noise pollution.

K.C. Waste: No objection subject to conditions.

K.C. Landscape: Advice offered. While some concerns have been raised, given that Landscape is a reserved matter, not all details may be sought at this time. Amendments have been made, where necessary, to demonstrate that suitable landscaping arrangements may be brought forward at Reserved Matters stage.

K.C. Public Health: Initial concerns were expressed; however further details were provided in response. Public Health considered these to be acceptable and offered no objection to the proposal and requested no conditions.

Yorkshire Water: No objection subject to conditions.

West Yorkshire Archaeological Advice Service (WYAAS): On receipt of further details, no objection subject to condition.

Natural England: No comments received.

The Forestry Commission: No comments received.

## 9.0 MAIN ISSUES

- Principle of development
- Sustainable development and climate change
- Urban design
- Residential amenity
- Highway
- Drainage and flood risk
- Impact on the Ancient Woodland and Ecology
- Planning obligations
- Other matters
- Representations

## 10.0 APPRAISAL

### Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

*The council's five-year housing land supply and the land allocation (housing allocation)*

- 10.2 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).
- 10.3 As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites and delivery of housing has fallen below the 75% HDT requirement it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11. This paragraph triggers a presumption in favour of sustainable development. For decision making this means:

*"Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

- 10.4 The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. Nonetheless, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.
- 10.5 The site falls within a housing allocation, reference HS18, within the Kirklees Local Plan Allocations and Designations document (2019). Therefore, LP65 is applicable and states:

*The sites listed below [the housing allocations] are allocated for housing in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.*

As a policy ‘most important for determining the application’, LP65 should be considered against paragraph 11 of the NPPF and, in light of the council’s lack of a five-year housing land supply, is therefore deemed ‘out of date’. Thus, the presumption in favour of sustainable development is activated in the consideration of this application.

*The quantum of development*

- 10.6 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land. LP7 requires development to achieve a net density of at least 35 dwellings per ha (dph), where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. LP11 of the Local Plan requires consideration of housing mixture. These requirements are built upon within the Council’s Affordable Housing and Housing Mix SPD (March 2023).
- 10.7 Having due regard to the site’s various constraints, including requiring a buffer zone to the ancient woodland, the retention of PROW HUD/228/10, and landscaping to the Green Belt’s boundary, the site has a net developable area of 2.83ha. The proposal for 82 dwellings therefore has a development density of 29dph. This is broadly in line with the Local Plan’s expectation for 35dph and is deemed appropriate for the site, giving regard to its topography, proximity to the Green Belt, and being a new edge to the settlement of Netherton.
- 10.8 Progressing to the housing mixture, LP11 seeks that proposals provide a representative mixture of house types for local needs. This is expanded upon and detailed within the Council’s Affordable Housing and Housing Mix SPD (March 2023). While scale and appearance are reserved matters, a housing schedule that details the proposal’s unit types and sizes have been provided for consideration now. The below is the SPD expectation for market units against that proposed. Note that this excludes the proposal’s affordable housing provision, which is considered separately in paragraph 10.107:

	<b>SPD Expected Mixture (Huddersfield South)</b>	<b>Proposed Market Mixture</b>
<b>1 and 2beds</b>	30 – 60%	27 units (42.5%)
<b>3beds</b>	25 – 45%	25 units (37.5%)
<b>4beds +</b>	15 – 35%	13 units (20%)

The proposal’s housing mixture (for market units) comfortably falls within the expectations of the SPD. Furthermore, the proposal includes a reasonable mixture of detached, semi-detached, and terraced units, as well as two bungalows and six apartments. This represents a diverse and attractive offer of varied housing which is welcomed.

10.9 To summarise, the site is a housing allocation in the Local Plan, with the proposal is considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the Council's targets at a time of need. Therefore, the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

#### Sustainable development and climate change

10.10 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.

10.11 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

10.12 The application is supported by a Climate Change Statement. It noted that the application is at outline stage, with many elements of climate mitigation being relevant to the appearance and specific design of dwellings. Nonetheless, at this time, the applicant notes the following aspects of the proposal:

- Sustainable and best practice construction techniques will be utilised, including measures such as the local sourcing of materials from manufacturers with certified environmental management systems. The Applicant intends to use local labour during the construction works.
- Design of dwellings to ensure habitable rooms allow sufficient natural light into the room and all dwellings will have access to private gardens and garden areas will be fully accessible for disabled occupants, where possible.
- Implementation of robust procedures to minimise construction waste including measures to share soil and aggregate waste and reduce dust, fumes, discharge and any other form of pollution on site in line with best practice.
- Provision of onsite POS and pedestrian and cycle provision and links to ensure delivery of easily accessible and high-quality amenity areas and greenspace and promote healthy communities and active travel.
- A Travel Plan to be adopted to promote sustainable modes of travel.
- The applicants are dedicated to taking proactive measures to reduce the consumption of energy and natural resources and thus helping mitigate climate change. In order to do this, various measures are implemented in the fabric specification of buildings and construction methods.

- 10.13 Regarding the social infrastructure currently provided and available in Netherton (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and ageing population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.
- 10.14 Subject to further details that would be submitted at Reserved Matters stage it is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area, its proximity to local facilities, and the measures related to transport that can be put in place by developers. Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

#### Urban Design

- 10.15 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the Council's Housebuilders Design Guide and National Design Guide.
- 10.16 The site is an undeveloped greenfield site historically used for agriculture which is visually attractive, with views into the site achievable from near and far vistas. Historically the site was within the Green Belt but was removed as part of the Local Plan. In allocating the site through the Local Plan process, careful consideration was given to the loss of these attributes, and to the wider visual and landscape impacts of development at this site. In commenting about the site's removal from the Green Belt, the Inspector stated:

*the site is well contained by built development and field boundaries. Development would not extend any further west than existing housing on Church Lane, and would be seen in this context. Although the development would narrow the gap between Netherton and South Crosland, a clear physical gap would remain, and strong new defensible Green Belt boundaries could be provided by existing trees and field boundaries.*

- 10.17 While principally relating to Green Belt loss, the inspector's comments establish context for the visual impact of developing the site. The site is on the edge of the urban environment, transitioning into an open rural setting with good opportunities for a strong and defensible Green Belt boundary. Nonetheless, as a sloped site on a valley side the development would be visible from short- and long-distance vistas. Inevitably, the development of the site from greenfield to a residential estate would be transformative and would have impacts upon the appearance of the environment; therefore, a carefully-considered design is required.

- 10.18 The application is in outline, with only layout and access as considerations. The matters of appearance, scale, and landscaping are reserved for a subsequent Reserved Matters application. While specific details are not available for consideration, officers must consider whether any prohibitive reasons exist why appropriate details could not be provided later.
- 10.19 First considering layout, which is a material consideration for this application, Local Plan policy LP24 states that a proposal's layout should respect and enhance the character of the townscape, heritage assets and landscape.
- 10.20 Netherton has varied character areas which gives the settlement no dominant architectural features. It has a patchwork of development from different eras and hosts a varied mixture of detached, semi-detached, and terraced units. However, typical traits include the use of stone and is a high-density layout, with dwellings fitting to the challenging topography, although dwellings cutting across contours is not uncommon. Heights are predominantly two storeys, with bungalows evident and no prominent examples of three-storey buildings. Dwellings predominantly have a typical relationship with the highway, fronting onto it, although examples of private drives with units set away from the highway are evident. The proposed development would be most closely related to the western portion of Netherton (which is separated from the rest of the settlement by Meltham Road) which epitomises these aspects of the larger settlement.
- 10.21 The proposed development would consist of a typical modern estate road, with a primary central loop with branching cul-de-sacs and private drives. The new dwellings would be arranged around this network in a standard fashion and would be well-spaced in relation to space about dwellings, both within the site and to neighbouring properties.
- 10.22 The submitted details of layout include house types. This is considered in terms of size mix (i.e., no of beds) and local need in paragraph 10.8. In terms of form, the units would be a mixture of terraced, semi-detached and detached, across eight house types, including two bungalows, as well as one block of six apartments. As noted, the area has a mixture of house forms that are mixed into each other, which the proposal would replicate so as not to appear incongruous. While the area is predominantly made of dwellinghouses, the apartment block would not be unduly prominent in its location and is not expected to be incongruous in its setting. Final design details would be provided at reserved matters stage, but officers are satisfied the site can accommodate the proposed modest divergent form of dwelling.
- 10.23 The northern and southern sections of the development follow the contours of the land, which is welcomed. The central section partly cuts across the contours, however this is necessitated by the narrowness of the site: to attempt to perfectly follow the contours in this portion of the site would necessitate numerous branching roads that would be an inefficient use of land and likely to be unattractive. As noted above, crossing contours is not atypical for the area and is not deemed a fundamental cause for concern over the proposed layout, although this matter will need to be considered further at reserved matters stage to ensure a suitable design response (scale, appearance, and landscape).

- 10.24 Parking spaces would be an appropriate mix of to the front and to the side of units, with most units having some form of front garden, preventing overly dominant hard surfacing to the front of units. An attractive use of street trees is shown indicatively, with adequate space allows for to ensure they may be delivered, although full details of such landscaping would be submitted at landscape stage. The location of the main POS to the south makes the best use of the site's topography and restrictions, while also avoiding placing dwellings in the area adjacent to most third-party dwelling. A landscape buffer area has been provided along the western boundary, with dwellings also set back. This is an attractive transition which, along with anticipated tree-planting and confirmation of boundary details (to be confirmed at Reserved Matters) would make for a strong defensible boundary to the adjacent Green Belt. Likewise, the northern buffer zone to the ancient woodland will result in a transition that contributes to the attractiveness of the development.
- 10.25 Overall, the submitted layout is considered acceptable from a design perspective. Netherton has varied design elements, however as noted previously, certain consistent design fundamentals that the proposal would respect. The proposed layout would enable the development to harmonise into the existing environment, respecting both the existing built and natural landscape.
- 10.26 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. However, indicative elevations (within the indicative section plan) have been provided. Existing dwellings in the area have varied designs and are from different eras, although are typically based upon traditional Pennine architecture. The indicative designs include modern Pennine vernacular dwellings that are expected to harmonise well into the patchwork of Netherton. As such there are no concerns that attractive designs for the dwellings and external areas which harmonise with the area could not be achieved as part of a subsequent Reserved Matters submission, although a full and detailed assessment would be required at that time.
- 10.27 Considering the development's landscaping, full specifications (i.e., planting specifications and boundary treatments) would be provided at the reserved matters stage. However, officers welcome that substantial portions of the site have been set aside as Public Open Space and would contribute to an attractive natural environment through the development. 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 (landscape). The proposed access road has been designed with street trees in mind, the provision of which is expected at Reserved Matters (landscape) stage.
- 10.28 Summarising the assessment of urban design, it is acknowledged that the proposed works would notably change the character and appearance of the site and wider area, while being visible from long vistas within the valley and the opposite valley side. Nonetheless, while an outline proposal with only layout as a consideration, the details provided for consideration at this stage are considered to be designed to a high standard. There are no concerns that adequate details relating to the scale, appearance, and landscaping or the proposal could not be provided at Reserved Matters stage. The proposal would represent an attractive continuation of the site's residential context,



while appropriately transitioning to the rural landscape to the east. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the Kirklees Local Plan.

### *Historic Environment*

- 10.29 Policy LP35 confirms that development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm. Sections 66 and 72 of Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty in respect of listed buildings and conservations in exercising planning functions. In considering whether to grant planning permission for development which affects a heritage asset or it's setting the LPA should have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
- 10.30 There are forty-nine listed buildings within 1km of the Proposed Development Area, however the vast majority of these would be precluded from being impacted upon by the development by virtue of distance, topography, and existing built development. To the south-west of the site, along Church Lane, is a small group of Grade II listed buildings: the vicarage, school and Holy Trinity Church, the roofline of which would be visible from the site. The heritage value of these buildings is considered to be their architectural form, being quality examples of 19th century design.
- 10.31 To the north and west is open land, with fields and open space leading towards the South Crosland Conservation Area circa 250m from the site. The South Crosland Conservation Area does not have an area appraisal; however, its heritage significance is deemed to come from its traditional architecture and setting as a rural settlement.
- 10.32 Based on the information submitted, the layout of the development will not harm the setting of the South Crosland Conservation Area due to the distance from it and the topography between them. The indicative site layout shows a small landscape buffer at the western edge of the site which is welcomed, with the existing dry-stone walls retained and made good. The site is visually severed from the Conservation area due to previous development and mature trees between the two areas. The impact on the nearby listed buildings (the school, church and vicarage) is also low due to the topography, mature trees obscuring the church, and a landscape buffer to the west and south of the proposal site.
- 10.33 Considering the above, the proposal would have a neutral impact upon the identified heritage assets (listed buildings and conservation area) and no concerns are raised.
- 10.34 In the distance (circa 3.3km) to the north-east is Castle Hill, a Scheduled Monument with the Grade II listed Victoria Tower built on the plateau. The proposal site is within the Castle Hill Setting Study area as identified in the Local Plan allocation, which requires a heritage impact assessment to be produced to assess the impact of the development on the setting of Castle Hill. This document has been provided as part of this outline application for 82 dwellings.

- 10.35 As Castle Hill is such a prominent feature within the landscape, it is visible from afar and therefore any modern development being introduced into its environs will have a slight impact on its setting. However, it is a considerable distance away and there is extensive existing urban development between the application site and the scheduled monument. Based on the available information (layout), the proposed development is not expected to be unduly prominent from any significant view towards the monument, nor would the development dominate views out from the monument. Therefore, officers are satisfied that the impact would be negligible. A well-designed scheme with the proposed layout and submitted indicative building design, scale and landscape details, will ensure that the development respects the surrounding built environment and blends into the landscape, thereby minimising any impact on this setting.
- 10.36 The above assessment is, however, based on the available information. Specifically, this proposal is an outline submission with only layout and access for consideration. While there are no fundamental concerns that the reserved matters of appearance, scale, and landscaping would inevitably prejudice the significance of the identified heritage assets, it cannot be ruled out: a condition for an updated Heritage Impact Assessment, to support a reserved matters application for the details of scale, appearance, and landscaping, is therefore considered necessary.
- 10.37 The site has been identified as being of potential archaeological interest by West Yorkshire Archaeological Advice Service (WYAAS) and a pre-determination archaeological survey undertaken. This identified that most of the site hosts no areas of interest, although one area of interest was identified in the south-east corner. WYAAS are satisfied that this should not preclude determination of the application, subject to the imposition of a condition requiring a programme of archaeological works to investigate and record any archaeological remains disturbed, which officers agree to.
- 10.38 In summary, due regard has been given to the heritage significance of nearby heritage assets. Based on the available details at this outline stage, officers are satisfied that the development would have a neutral impact on all identified heritage assets. Giving due regard to Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 and the general duty it imposes in respect of listed buildings, the requirements of Chapter 16 of the NPPF, and LP35 of the Kirklees Local Plan, officers are satisfied that the proposal complies with these policies.

#### Residential Amenity

- 10.39 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.40 Neighbouring properties border the site to the east, on Roslyn Avenue and Henry Frederik Avenue, and south, on Meltham Road. Existing dwellings mostly back onto the site, although those on Roslyn are side-on.

- 10.41 Given that scale and appearance are reserved matters, full details of the proposals are not under consideration at this time. Scale and appearance dictate the height and window locations of dwellings, which are necessary to fully assess matters such as overbearing, overshadowing, and overlooking. However, layout details are under consideration, and these establish separation distances. Furthermore, due regard can be given to whether any prohibitive issues exist that would prevent appropriate and reasonable details for scale and appearance coming forward.
- 10.42 All separation distances to third party dwellings notably exceed the minimums outlined within the Housebuilders Design Guide SPD, namely 21m between facing rear habitable room windows and 12m between habitable room windows and a blank / side facing wall of original buildings (i.e., excluding extensions). Dwellings on Roslyn Avenue have sides towards the site, with distances in excess of 10m between existing units and new plots. Dwellings on Henry Frederick Avenue are in excess of 35m of the nearest plots, and those on Meltham Road are over 70m away. The SPD requires due regard be given to whether topographical differences necessitate a greater distance than the minimum: with landscape (which includes ground treatment) and scale as reserved matters, the exact impact of levels cannot currently be assessed. Nonetheless, given the identified sizable separation distances officers are satisfied there are no prohibitive concerns relating to levels.
- 10.43 Regarding noise pollution, residential uses adjacent to each other are considered compatible and there are no concerns of noise pollution from dwellings. However, the proposal does include the provision of a Local Equipped Area of Play (LEAP). Guidance seeks a minimum of 20m between the activity zone of a LEAP and the habitable room facade of dwellings: this would be achieved (for both existing and proposed dwellings).
- 10.44 Boundary treatments fall under the reserved matter of 'landscape'. Based on the currently available information, officers are satisfied that there are no prohibitive reasons why an attractive and appropriate boundary strategy could not be delivered on that which would protect the amenity of existing residents and ensure a high quality of amenity for new residents (as well as being attractive).
- 10.45 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative note regarding hours of noisy construction work is recommended.
- 10.46 In summary, officers are satisfied that the development, with details of layout assessed, would not materially prejudice the amenity of existing neighbouring dwellings. While scale, appearance, and landscaping (inc. boundary treatments) are reserved matters, due regard has been given to these considerations and officers are satisfied that no prohibitive reasons exist why acceptable details could not be provided. Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.

- 10.47 The sizes of the proposed residential units are a material planning consideration. While scale is a reserved matter, layout is a consideration with the applicant providing building footprints and a schedule of accommodation for assessment. Thus, proposed floor spaces are known and accessible. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.48 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	Number of units	Proposed (GIA, m <sup>2</sup> )	NDSS (GIA, m <sup>2</sup> )
Type 1A (1bed)	6	52	39
Type 2A (2bed)	28	72	70
Type 2B (2bed)	4	79	70
Type 2C (2bed)	1	62.7	61
Type 3A (3bed)	8	86.5	84
Type 3B (3bed)	20	95.8	84
Type 3C (3bed)	1	78.2	74
Type 4A (4bed)	14	100	97

- 10.49 All the proposed units exceed the NDSS minimums. All the dwelling houses would have outdoor amenity space, including private gardens of a size commensurate to the host dwelling. The 1bed apartments would not have dedicated private garden space, however this is not atypical for apartment units. Furthermore, the apartments are located very close to the POS area to the south, with the site being within close distance to many country walks with high amenity value. As appearance is a reserved matter, window size / locations are currently unknown, and outlook and natural light levels cannot yet be determined. Nonetheless, there are no prohibitive reasons why appropriate arrangements could not be provided at application stage, with units being appropriate separation distances to one another and the proposed retaining walls.
- 10.50 A sizable area of Public Open Space would be provided on site and would contribute to the amenity of future and existing nearby residents. This proposed space includes circa 3000sqm of accessible amenity grassland, as well as an equipped play area and park spaces (details to be secured via condition) and 4189 sqm of natural / semi-natural land. While this provision is noted and will contribute towards enhancing resident's amenity (and the aesthetics of the site), as set out in the council's Public Open Space SPD, public open space is divided into five typologies. The proposal overprovides

on amenity grassland and natural / semi-natural, while under providing other typologies, including parks and recreation space (with that shown on plan not accepted): therefore, an off-site contribution of £74,695 to cover the typologies not fully provided on site, to be spent improving open space in the area, remains necessary. Such facilities so improved will be accessible by future residents, further contributing to the amenity value of residents.

- 10.51 The northern POS is adjacent to what appears to be a historic quarry within the ancient woodland. This includes a sheer drop. In the interest of ensuring an appropriate POS area, a method of fencing / screening is needed. This would need to be carefully designed, as it would be within the ancient woodland's zone of influence. Details of this, and other boundary treatments to the woodland (ancient and otherwise) to be provided at reserved matters (landscape) stage may be secured via condition.
- 10.52 The proposed dwellings are far enough from Meltham Road to prevent concerns of it as a potential source of noise pollution. The public house the Beaumont Arms backs onto the applicant site's southern boundary, with its outdoor seating area also adjacent to the boundary. The nearest dwelling is more than 70m from the Beaumont Arms and 60m of its outdoor area: these distances are likewise considered sufficient to prevent concerns of harmful noise pollution, with no specific noise management or mitigation required. As noted previously, there are no concerns over the proximity of new dwellings to the proposed play area.
- 10.53 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

#### Highway

- 10.54 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.55 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

*Traffic generation and the local network*

- 10.56 Access has been applied for as a consideration as part of this application. Furthermore, consideration may be given to the traffic generation of 80 dwellings.
- 10.57 First considering traffic generation, the application's assessment has been made against a maximum of 82 units. In agreement with Highways Development Management a bespoke trip rate has been utilised: this was to ensure that the trip rates used were representative of existing trip rate in the local area and to verify the trip rates obtained from the TRICS database. Using this methodology provides a higher trip rate than using generic TRICS trip rates and provides for a robust basis for assessment. Based on this, the following traffic generation has been identified from the proposal:

	<b>Arrival</b>	<b>Departure</b>	<b>Two-way</b>
<b>AM Peak</b>	20	26	46
<b>PM Peak</b>	30	19	49

- 10.58 The impact of these additional movements has been considered on the local network, including the Roslyn Avenue / Henry Fredrik Avenue junction and the Henry Frederick Avenue / Meltham Road junction. The assessment undertaken demonstrates that the junctions will continue to operate within capacity following the introduction of development traffic, although due regard must be given to the suitability of each junction.
- 10.59 The junction of Roslyn Avenue / Henry Frederick Avenue is relatively wide and does not include any road markings to define the priority route through the junction. The applicant has proposed to provide give-way markings at the junction (across the Henry Frederick Avenue arm). These proposed road marking improvements are acceptable in principle and have been subject to a Stage 1 Road Safety Audit that has not identified any issues with their design. The provision of these improvements may be secured via condition.
- 10.60 Development traffic accesses the wider highway network at the Henry Frederick Avenue / B6108 Meltham Road, which includes hatched junction markings to improve junction visibility from the minor arm. The applicant has confirmed in their Transport Assessment that 2.4x43m+ visibility splays are available at the junction, which are required based on the 30mph speed limit, and overall, this junction is considered appropriate with no improvements needed.
- 10.61 Concerns have been raised over the suitability of Henry Frederick Avenue as a primary through-route into the development, due to the amount of on-street parking present which narrows the carriageway. The applicant was requested to undertake on-street parking surveys to determine whether any mitigation measures may be required on Henry Frederick Avenue, including the introduction of localised no waiting restrictions. Parking observations were undertaken at 5:30am (when most residents will be at home) on Wednesday 14th and Thursday 15th June 2023. These surveys confirmed that there were up to 10 cars/vans parked on Henry Frederick Avenue, with the Transport Assessment suggesting there is available capacity for circa 21 cars. Highways Development Management have also independently checked the on-street parking opportunities that exist on Henry Frederick Avenue and identified scope to park circa 14 cars/vans on the west side of the street alone without blocking any drives. Therefore, the parking capacity identified by the applicant is considered to be a conservative estimate.

- 10.62 Based on the above findings, there is currently no need to provide any 'no waiting' restrictions on Henry Frederick Way; and the development will not increase parking on Henry Frederick Way as adequate development parking is provided within the site (see further comment relating to development parking below).
- 10.63 The Transport Assessment includes an assessment of road traffic collision data on the local highway network over the latest 5-year period, and confirms that there are no patterns or trends within the study area, with no injury related incidents recorded on Roslyn Avenue or Henry Frederick Avenue, including the junction with Meltham Road.
- 10.64 Concluding on the above, officers are therefore satisfied that the proposal's traffic generation would not have an adverse impact upon the local highway network.
- 10.65 Regarding traffic during the construction period, given the scale and nature of the development officers recommend a Construction Management Plan (CEMP) be secured via condition. This is to ensure the development would not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences, and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is recommended accordingly.

*Point of access, internal highway layout, and parking*

- 10.66 The proposed access point onto Roslyn Avenue and the internal road layout has been reviewed by K.C. Highways who consider it to be acceptable. It is deemed to comply with the standards of the Highway Design Guide SPD. Furthermore, there is no prohibitive reason preventing a road scheme for adoption being brought forward at Section 38 stage. Full technical details of the new access road, to an adoptable standard, would be secured via condition.
- 10.67 All dwellings would have a level of dedicated off-road parking in accordance with the Highway Design Guide SPD. The provision of this may be secured via condition. However, this is subject to the dwellings that include garages having minimum internal dimensions of 3x6m, which will need to be demonstrated when the detailed design of the dwellings is considered at the reserved matters stage (scale).
- 10.68 In terms of visitor parking, the Highways Design Guide recommends one per four dwellings. This amounts to 21 dedicated spaces, which has been proposed. Furthermore, the visitor parking spaces are well spaced around the site, which is welcomed.
- 10.69 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several shared private drives are proposed – each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste

collection areas would be secured by recommended conditions. All units are shown to have adequate space for the storage of three waste bins in their rear gardens.

- 10.70 Given the scale of the development, which would likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse collection services would not access roads prior to adoption or while construction work continues, therefore appropriate arrangements must be considered and implemented.

*Public Rights of Way and pedestrian connectivity*

- 10.71 Footpath HUD/228/10 runs along the southern boundary of the site, which is proposed to be improved with a crushed stone surface with timber edging. Links to this PROW are proposed from the estate road footways, which include a 2m wide stepped route with tarmac surfacing and a 2m wide ramped route with crushed stone surfacing, connecting to the existing PROW at the southeast and southwest corners of the site respectively. These links are acceptable in principle and are welcomed. Final details of the footpath links (including drainage, construction specification, surfacing etc.) and their delivery will need to be secured by condition, with public access rights maintained thereafter secured via the S106 agreement.
- 10.72 Footpath HUD/223/40 runs to the north of the site, through Deanwood. It is not adjacent to the site, being circa 50m away. There is currently an informal desire line path connecting the site to the PROW, through part of the woodland. It is proposed to provide a formalised link from the highway to this existing desire line within the site, but it is not proposed to formalise the connection outside of the red-line, all the way to the PROW. This is on ecological and arboricultural grounds, as, due to the challenging topography through the woodland, the provision of such a path would be a notable engineering operation that would likely impact upon the trees and area as a habitat. There would also be issues of this woodland being outside the ownership of the applicant (being council owned).
- 10.73 In addition to the above point of connection, a further link has been proposed from the section of estate road between plots 38 and 39, to link the site to the council owned recreation land located immediately to the north-east of the site boundary.
- 10.74 Both of the abovementioned links are proposed to be 2m wide, with a crushed stone surface and timber edging. Suitable gradients have also been demonstrated for these routes (e.g. no steeper than 1:12). Final technical construction details of both footpath links and their delivery will need to be secured by condition, with public access rights maintained thereafter secured via a S106 obligation.

*Sustainable Travel*

- 10.75 LP20 of the Kirklees Local Plan states 'The council would support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and would accept that variations in opportunity for this would vary between larger and smaller settlements in the area.'



- 10.76 The site is allocated in the Local Plan for residential development. The accessibility of the site was assessed as part of this process and is considered a sustainable location, being on the edge of an existing settlement. The supporting Transport Assessment includes a review of the facilities that are within walking and cycling distance of the site; this confirms that there is a range of local facilities that are accessible by foot and by cycle. A condition for cycle storage facilities, per unit, is recommended to promote cycling as a viable alternative method of travel.
- 10.77 The main bus stops to the site are located on Meltham Road, circa 350m walk from the centre of the site. The stops are served by the 321, 324, 354 & 355 services, which provide frequent services between Meltham and Huddersfield (4 buses per hour to/from Huddersfield). There are also (unsigned) stops on Roslyn Avenue and Henry Frederick Avenue for the 354/355 services that travel along these roads. West Yorkshire Combined Authority Metro has been consulted and have confirming the following:

*The site is an allocated site and benefits from relatively good public transport access, notably via the 324 bus service that is a core service between Meltham and Huddersfield. The linear nature of the site inevitably means that parts of the site are more accessible than other parts, but we are encouraged to see that the layout of the site incorporates footpath access to the south eastern corner of the site which leads to Meltham Road.*

*Meltham Road is likely to be the main public transport access point. Ideally, we would like to see the provision of bus shelters but the footpath widths and proximity of the stops to existing dwellings mean shelters may not be deliverable. However, we do suggest that real time information enabled bus stop poles should be installed at stops 19220 and 19219. The cost of this would be £10,500 per stop.*

Officers support the above recommendation, and the applicant has agreed to a S106 contribution of £21,000 towards the bus stops.

- 10.78 West Yorkshire Combined Authority Metro has also advised that a contribution of £41,943, be secured towards sustainable travel incentives to encourage the use of sustainable modes of transport. The fund can be used to purchase a range of sustainable travel measures, such as discounted Metro Cards (Residential MetroCard Scheme) for all or part of the site. This has been discussed and agreed with the applicant, also to be secured via S106.
- 10.79 The applicant has submitted a draft travel plan to support the application. This identifies possible measures to influence the behaviour towards more sustainable methods of travel. These include providing up-to-date information on measures such as bus timetables, where to access up-to-date real time bus times, local car share schemes, the potential impact of working from home opportunities and the impact of online shopping in reducing travel. These core principles are welcomed and demonstrate that sustainable travel measures may be implemented at the site. However, a more detailed final travel plan would be required via condition. A Travel Plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, to ensure the effective implementation of the Travel Plan, and this would be secured via a Section 106 as part of this outline application.

### *Highway, conclusion*

- 10.80 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions and the planning obligations specified above, it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users and that any significant impacts from the development on the transport network can be appropriately mitigated. The development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

### Drainage and flood risk

- 10.81 The application is supported by a Flood Risk Assessment that includes a surface water drainage strategy. This has been reviewed by K.C. Lead Local Flood Authority (LLFA).
- 10.82 First considering flood risk, the site is wholly within Flood Zone 1. A watercourse runs (east to west) through Dean Wood, circa 90m north of the site, although the intervening topography and level differences between the site and watercourse prevents any risk of flooding onto the site associated with the watercourse.
- 10.83 Considering surface water arrangements, the applicant has followed the drainage hierarchy in reaching their proposed discharge point. Due to ground conditions and topography, infiltration has been ruled out. The topographical and level differences prohibit discharging to the northern watercourse. It is therefore intended to discharge, via gravity, to the Public Combined Water Sewer on Meltham Road (south of the site). Attenuation is to be provided via a subterranean attenuation tank, with the capacity and other features designed such that there is no external flooding for the 1 in 30-year event, and all flows are retained on site for up to the 1 in 100-year event plus climate change. The discharge is to be restricted to 5l/s, resulting in 46% reduction in existing greenfield runoff (9.38l/s). These arrangements have been reviewed by the LLFA and are supported, subject to full technical details being provided via condition.
- 10.84 The applicant has submitted a flood water exceedance event plan which demonstrates how water would flow in the unexpected event that the surface water drainage system fails. This would direct water into the highway, away from dwelling houses and avoiding their domestic curtilages wherever possible. No flood water would be directed towards 3rd party dwellings. Most water would be re-directed onto Roslyn Avenue or towards Henry Frederick Street via PROW HUD/228/10.
- 10.85 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.

- 10.86 Foul water from the proposed development would discharge to the existing combined sewer on Rowley Lane. Due to being at a higher level, this would necessitate a foul water pump. This proposal has not attracted an objection from Yorkshire Water and is considered acceptable.
- 10.87 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the Kirklees Local Plan.

#### Impact on the Ancient Woodland and Ecology

- 10.88 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.89 The application site is immediately adjacent to Lepton Great Wood, a registered ancient woodland (and protected by a TPO). Ancient woodland is an area wooded continuously since at least 1600 AD and is an irreplaceable habitat. They are valuable natural assets important for:
- wildlife
  - soils
  - carbon capture and storage
  - contributing to the seed bank and genetic diversity
  - recreation, health and wellbeing
  - cultural, historical and landscape value
- 10.90 The NPPF states that “development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>63</sup> and a suitable compensation strategy exists” (paragraph 180(c)).
- 10.91 For non-statutory, local designations, the woodland is (partly) both a Local Wildlife Site and Wildlife Habitat Network within the Kirklees Local Plan. Regarding Local Wildlife Sites, policy LP30 states:

*Proposals having a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland, Veteran Tree or other important tree, would not be permitted unless the benefits of the development can be clearly shown to outweigh the need to safeguard the local conservation value of the site or feature and there is no alternative means to deliver the proposal. In all cases, full compensatory measures would be required and secured in the long term*

Wildlife Habitat Networks connect designated sites of biodiversity and geological importance and notable habitat links within the district, such as woodlands, watercourses, natural and semi-natural areas. The identification of the Wildlife Habitat Network is intended to protect and strengthen ecological links within the district. When considering a Wildlife Habitat Network, Local Plan policy LP30 states development would be required to:

*(iii) safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;*

*(iv) establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and*

- 10.92 For the avoidance of doubt the site is not a Site of Special Scientific Interest (SSSI).
- 10.93 Considering the test of the NPPF, due regard must be given to whether the proposal would result in the 'loss or deterioration of the ancient woodland'. Substantial concerns have been raised through local representations over the impact on the ancient woodland, with parties claiming that the development would indeed result in a loss and/or deterioration.
- 10.94 Officers do not consider that the proposal would result in a direct loss of the ancient woodland. The proposed development includes a 15m buffer zone between the woodland and proposed garden / roads and 20m between the woodland and houses (please remember that not all woodland along the north falls within the ancient woodland designation). No trees within the ancient woodland would be removed as part of the application. Therefore, there would be no direct loss to the woodland. A condition for an Arboricultural Method Statement and Protection Plan, to provide specific details on how these trees will be protected during construction works, is recommended.
- 10.95 Regarding the risk of deterioration, or indirect loss, the principal consideration is the increase in human habitation (brought about by the proposed development) close to the woodland. Greater habitation would mean more footfall and access into the woodland, with human interaction in the woodland being a potential concern.
- 10.96 However, it must be acknowledged that the woodland is already accessed by a significant number of people. The woodland is publicly open, with Footpath HUD/223/40 running through the centre of the ancient woodland along with several informal desire lines (including through the application site), which connect the Public Rights of Ways. While the new units would be closer than most existing homes, this proposal is considered to represent a nominal increase in dwellings compared to the wider area, which would not represent a material change within a reasonable walking distance of the woodland. It should be noted that the development includes an area of public open space to be created through the site. The POS would contain open areas for informal play and dog walking, as an alternative to using the woods.
- 10.97 Further to the above, officers recommend two conditions. The first requires information boards to be installed at the two new links to the north-east of the site, into the ancient woodland and neighbouring council open land (which would provide an alternative route into the ancient woodland) within the site on the approach to the woodland. This would advise walkers to keep to the paths, with similar details to the information pack (details to be approved via condition). The second is that residents are provided with an information pack that would be provided to residents detailing how to respect the ancient woodland, including 'things to avoid' and details of local ecology. These conditions would assist in ensuring all new and future residents would be informed of the value and vulnerability of the woodland.

- 10.98 In conclusion regarding the proposal's impact on the woodland as both a designated ancient woodland and covered by a TPO, while it must be acknowledged that a degree of harm would be inevitable through introducing more people into the vicinity, officers consider that the harm would be minimal and would not amount to material deterioration of the ancient woodland, nor result in its loss.
- 10.99 With regards to the trees outside of the ancient woodland and TPO to the north-east of the site, selective pruning has been proposed in the AIA to several trees. The work proposed is only to gain clearance from two potential properties and would not affect the overall aesthetics of the trees or impact on their health if it is carried out to BS3998 standards. The works are very minor and wouldn't change the overall landscape as it currently appears. Gardens would back up to this non-protected woodland, but a 15m buffer zone between dwellings and the woodland would be provided. Considering this buffer zone which will result in dwellings having well-proportioned and open gardens, and that the woodland is due north of the dwellings therefore not interfering with sunlight, officers are satisfied that there would be no likely conflict between the trees and future residents in the future. The above-mentioned Arboricultural Method Statement and Protection Plan would need to extend to these trees as well, to demonstrate how they would be protected during construction.
- 10.100 Considering the ecological value of the site itself, the application is supported by an Ecological Impact Assessment which has been reviewed by K.C. Ecology. The habitats at the site are considered to be of little ecological value, being largely dominated by species poor modified grassland, which is routinely grazed by sheep. There are some small pockets of habitats of greater ecological value, however, these are considered to be of no more than site level importance. With regards to faunal groups, the EcIA details that the proposed development would bring about an overall enhancement for a number of protected species, through the planting of hedgerows and integration of habitat boxes throughout the site.
- 10.101 No invasive plant species were identified within the survey work undertaken.
- 10.102 K.C. Ecology accepts the methodology and conclusion of the submitted EcIA and are satisfied that the proposal would not cause material harm to local habitat or species. Nonetheless, officers consider it reasonable to condition an up-to-date survey of the area be provided at Reserved Matters stage (specifically landscaping), to ensure due regard is given to protected species. Reserved Matters may be received up to 3 years after an Outline is granted and development commenced up to 2 years after the Reserved Matters is approved, so this approach is considered a reasonable precaution. Furthermore, a condition for a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) is recommended, to ensure construction activity is managed in an appropriate way that causes no undue harm to local habitat and species. Likewise, a condition for an external lighting strategy, to ensure no harm through lighting, particularly towards the ancient woodland, is recommended.

10.103 A Biodiversity Net Gain calculation has been undertaken using the DEFRA Metric v3.1. The submitted metric (dated 17th October 2022) states that the development would result in 11.71% net gain in habitats and a 2465.61% net gain in hedgerows. This level of net gain is welcomed (without needing an off-site contribution) and ensures that the development would be able to provide an enhancement over the current situation. Several other enhancement measures can also be incorporated into the scheme in order to ensure that provisions for protected species are realised, post-development. A condition for an Ecological Design Strategy, to detail the net gain and other ecological improvement delivery, is recommended along with their management and maintenance being secured within the Section 106 agreement, for a minimum of 30 years.

10.104 In conclusion, the proposal would not result in the loss or result in a material deterioration of the Dean Wood ancient woodland, subject to the recommended conditions. Furthermore, there would be no harmful impact on local species and, through the provision of a 10% ecological net gain (minimum) on site the habitat would be enhanced. This ensures that the Dean Wood's function as a Local Wildlife Site and Wildlife Habitat Network would be maintained and/or enhanced. As such the proposal is considered to comply with the objectives of policy LP30 of the Kirklees Local Plan.

Planning obligations

10.105 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

*Affordable Housing*

10.106 LP11 of the Local Plan and the Council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 80 units would be 16 units.

10.107 The Council seeks the tenure of affordable dwellings to be 55% affordable rent and 45% intermediate, or nine and seven units respectively in this case. National policy also requires that 25% of affordable homes are First Homes (a type of immediate tenure), which would be four in this case. Furthermore, the Council's Affordable Housing and Housing Mix SPD sets our expectations for affordable housing unit size and mixture. Falling within the Huddersfield South sub-area, the SPD seeks the following mix

	<b>Affordable Rent</b>	<b>Intermediate</b>
<b>1- and 2-bed</b>	40 – 79%	40 – 79%
<b>3-bed</b>	0 – 19%	20 – 39%
<b>4bed+</b>	20 – 39%	0 – 19%

The applicant has offered:

	<b>Affordable Rent</b>	<b>Intermediate</b>
<b>1- and 2-bed</b>	6 (66%)	5 (inc 3 first homes) (71%)
<b>3-bed</b>	2 (22%)	2 (inc 1 first home) (28%)
<b>4bed+</b>	1 (11%)	none

10.108 The total number of affordable units proposed and the affordable / intermediate ratio complies with the SPD expectations, which is welcomed. The offer does fall outside of the SPD in regards to 3-bed and 4-bed+ affordable rent, however it is a minimal departure (the difference of 1 dwelling) and on balance raises no concerns. All other provisions of the offer would comply with the policy expectations.

10.109 Policy also seeks to ensure that the affordable units are indistinguishable from market homes. The proposed affordable units are drawn from the same housing types elsewhere across the site and would be built to the same quality. In terms of locations, officers are satisfied that the units have been adequately spread through the site to avoid affordable homes being unduly consolidated.

10.110 Overall, the proposed affordable housing offer is considered acceptable and achieves the objections of LP11 and the Council's Affordable Housing and Housing Mix SPD.

#### *Public Open Space*

10.111 In accordance with LP63 of the Kirklees Local Plan new housing developments are required to provide public open space or contribute towards the improvement of existing provision in the area.

10.112 The proposal includes 8683sqm of on-site Public Open Space, with an offsite contribution of £74,695 (plus a £1,000 on-site POS inspection fee) agreed. While 'landscape' is a reserved matter, the applicant has requested that the defined areas and their sizes be considered as part of this application. This is achievable, as sufficient details are provided, although officers dispute the area proposed as 'parks and recreation'. The landscape details would principally relate to technical matters, such as planting schedules and treatment of open areas: the landscape details submitted at the reserved matters stage would need to adhere to typologies secured at this time, bar the omission of the 'park and recreation' as shown, which may be managed via condition.

#### *Education*

10.113 K.C. Education has reviewed the capacity at nearby schools, namely Netherton Infant and Nursery School, South Crosland CE, and Moor End Academy. A contribution of £134,748 towards these schools has been identified by K.C. Education, which has been agreed with the applicant.

### *Highways (sustainable travel)*

10.114 As detailed in paragraphs 10.75 - 10.79, a total of £72,943 has been calculated towards improving sustainable travel methods. This is broken down as:

- Sustainable Travel Fund (i.e., towards Mcards): £41,943
- Bus stop upgrades (real time displays): £21,000
- Travel Plan monitoring fee: £10,000

10.115 As detailed within paragraphs 10.72 – 10.74, two link paths are proposed into the ancient woodland and neighbouring council recreation ground. To promote pedestrian movements, a clause requiring that these links are kept permanently open and are managed / maintained appropriately is also required in the S106.

10.116 The applicant has agreed to these obligations.

### *Management and Maintenance*

10.117 Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on the site. This includes arrangements for the management and maintenance of drainage infrastructure (prior to adoption by a statutory undertaker) and Public Open Space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

### Other Matters

#### *Air quality*

10.118 The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed by K.C. Environmental Health in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance.

10.119 The site is not within an Air Quality Management Area, nor near to any roads of concern. The report concludes that future pollutant concentrations at the proposed development site are likely to be below the national air quality objectives in relation to Nitrogen Dioxide (NO<sub>2</sub>), and Particulates (PM<sub>10</sub> and PM<sub>2.5</sub>) and therefore “not significant” in accordance with IAQM guidance. It considers that the site is suitable for its proposed residential end use. Notwithstanding this, in accordance with WYLES guidance, all developments are required to incorporate measures to mitigate air quality harm. Those proposed are:

- The provision of Electric Vehicle Charging Points (EVCP)
- Travel Plan to be provided
- Improve pedestrian links to bus stops, and enhance the local bus stops with a sustainable travel fund.
- Pedestrian links through the site to promote walking in and around the area.



- 10.120 These mitigation measures are welcomed and are incorporated into the proposal, as is detailed elsewhere within this report, bar the provision of EVCP. Under recent building regulation changes, it is now mandatory that new dwellings include an EVCP and therefore planners do not seek to require them by condition (to avoid doubling of legislation).
- 10.121 Due regard has also been given to air pollution during the construction phase, principally regarding dust generated by construction. This is of particular importance for this site, both due to the typical consideration of proximity to existing residents, but also the closeness to Lepton Great Wood. The report concluded that there is the potential for air quality impacts because of fugitive dust emissions from the site, from earthworks, construction and track-out. The report goes on to say that these impacts are considered to be temporary and short term and can be controlled by the implementation of good practice dust control mitigation during construction, the implementation of which may be secured via condition.
- 10.122 Subject to the recommended conditions, officers are satisfied that the proposal would not harm local air quality, nor would new residents suffer from existing poor air quality, in accordance with policy LP51 of the Kirklees Local Plan.

#### *Contamination*

- 10.123 In accordance with LP53, as a major residential development consideration of ground contamination is required. Furthermore, Council records indicate the site as being potentially contaminated due to historic use. The application is supported by Phase 1 (desktop) Contaminated Land report which has been reviewed by K.C. Environmental Health.
- 10.124 The report concludes that further Phase 2 site specific investigation is needed to determine what, if any, remediation may be needed on the site. K.C. Environmental Health generally agrees with the report and its conclusion, although technical concerns on the proposed methodology for the Phase 2 have been raised and made available for the applicant. Nonetheless, K.C. Environmental Health and officers are satisfied that there are no fundamental concerns regarding contamination, subject to conditions being imposed relating to further investigation and remediation / validation as required. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

#### *Crime Mitigation*

- 10.125 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regard to home security, rear access security and boundary treatments. Where these fall within the remit of planning, they predominantly relate to the Reserved Matters of Landscape (i.e., boundary treatment). A condition is therefore recommended requiring details of lighting and crime mitigation to be provided and Landscape stage. With this secured, it is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24(e).

## *Minerals*

- 10.126 The site is within a wider mineral safeguarding area (Sandstone). Local Plan policy LP38 therefore applies. This states that surface development at the application site would only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it. The proposal is therefore not considered to conflict with LP38.

## *Training and apprenticeships*

- 10.127 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.

## Representations

- 10.128 The following are responses to the matters raised within the public representations received, which have not been previously addressed within this assessment.

## Highways

- There is a well-used route through the site, running along its east boundary from south to north, connecting the site's southern PROW to the ancient woodland. While the route itself is not a PROW (although some claim it is) it is valuable to local residents for access to the woodland and should be preserved.

**Response:** The route in question is not a PROW, nor are there any recorded claims at this time. While the current route would be affected by the development, the proposal will still enable walkers to access the Ancient Woodland from Roslyn Avenue and Henry Frederick Avenue via the existing southern PROW.

- The applicant's trip generation figures are inaccurate due to there being a high number of bungalows in the area (which are presumed to be occupied by more elderly and less children) and because the distance to nearest High School being greater than average and therefore more car journeys to drop off children are likely.
- The applicant's highway surveys were undertaken on a single, mid-week day. This is inadequate.
- The local road network, all the way to Lockwood, is oversaturated with vehicles. Constraints, such as the viaducts, prevent the issues being

easily resolved. This leads to long queues along Meltham Road, but also nearby roads such as Blackmoorfoot Road. More traffic, particularly cumulative with other developments in the area, will exacerbate these issues.

- Meltham Road is very busy at rush hour, either requiring long queues or taking a 'rat run' through South Crosland. The area cannot accommodate the additional vehicle movements associated with the development.
- Nearby schools are beyond a reasonable walking distance with no bus service towards them. This will either force more vehicles on the road with parents driving students, or students walking on unfit paths / routes towards the schools.

**Response:** The applicant's methodology for their trip generation has been reviewed and accepted by K.C. Highways. Cumulative impacts of the development were considered at Local Plan stage and as part of this application's assessment. As detailed in paragraphs 10.56 – 10.65, K.C. Highways are satisfied that the local road network may accommodate the additional traffic without a severe impact.

- There are schools in the area and the Henry Frederick Avenue and Meltham Road junction is crossed by children: traffic lights should be provided to make crossing safer.
- The proposal should contribute towards the constriction of the next phase of the Meltham Greenway.

**Response:** Contributions and/or conditions for a development must be 'relevant to the development to be permitted'. The proposed development is not considered to warrant such an intervention.

- The submission does not accurately represent the typical parking and congestion on Henry Frederick Avenue, which is far busier than indicated. The road is often down to a single lane, due to residents and attendees to the Beaumont Arms, and more traffic in the area will cause safety issues. The road is used by busses and may be inaccessible to emergency vehicles due to parked cars and traffic. The road also has many potholes. Chapel Street, the other potential route to the site, has similar issues to Henry Frederick Avenue.

**Response:** This relates to an existing situation that the proposal would not exacerbate as the development is considered to have adequate parking for residents and visitors: there is no reasonable expectation that future residents or their visitors to the new development will park on Henry Frederick Avenue (or Chapel Street). Regardless, existing or new residents parking on the road should do so in a way that does not block the flow of traffic. Blocking the highway is illegal under the Highways Act 1980 and is a matter for the police.

K.C. Highways have commented:

*It is noted that some local residents who have commented on the proposals have suggested that more cars park on Henry Frederick Avenue than have been shown in the applicant's surveys. This includes a number of objections that have included photos that suggest circa 14+ cars/vans parked on-street. Whilst it is acknowledged that there will be daily variations in the level of on-street parking, no evidence has been provided that demonstrate that more than 21 cars park on street (e.g. the streets theoretical capacity as identified in the Transport Assessment).*

- Henry Frederick Avenue cannot accommodate the HGV movements that would be needed during construction. Construction will also damage the road; how will this be avoided?

**Response:** There are no fundamental reasons why the site cannot be accessed by construction traffic. Conditions are proposed for both a Construction Management Plan and Highway Condition Survey to manage these considerations.

- A single point of access into the site is inadequate. If the road is blocked (such as a broken-down car), how will residents enter / leave or emergency services access the site?

**Response:** A single point of access is considered acceptable for the scale of the development. A single broken-down car is highly unlikely to close off the road.

- PROW HUD/228/10, which runs along the site's south and connects to Henry Frederick Avenue. It appears to be intended as a primary route into the site. It currently cannot be accessed by less mobile individuals, is narrow, and at risk of crime. It should be improved.

**Response:** Given the constraints of the PROW in this section, being very narrow and between two third-party land ownerships, it is not feasible to be improved as part of this development. Given there is alternative routes into the site to insist upon it would not be reasonable or necessary.

- The pavements along Henry Frederick Street are mossy and not suitable for access into the site.

**Response:** The management and maintenance of the existing highway network is outside the remit of the planning application.

- How will access to nearby cycle routes be provided and the PROW should be upgraded to a bridleway.

**Response:** Connection to nearby cycle routes will be via the existing network. It is considered outside the scale and scope of this application, nor required necessary on planning grounds, to provide new conditions or alter the existing PROW to a bridleway.

### Ecology and Trees

- Flytipping into the woodland will be caused by new residents.

**Response:** This is speculation and outside of the remit of this application.

## Drainage and flood risk

- The local sewers are unable to take more water. They fail annually and often overflow via manholes on the road. Adding more water into them will result in flooding.

**Response:** Yorkshire Water were consulted on the application and offer no objection; they raise no such comment that their network cannot accommodate additional connections.

- The assessment focuses narrowly on the site, with minimal consideration of regional drainage and flood risk implications. A more comprehensive study is necessary to fully understand and mitigate the potential risks associated with this development.

**Response:** The scope and methodology of the Flood Risk Assessment has been considered and found to be acceptable by the Lead Local Flood Authority, who are satisfied that the proposal would not lead to a flooding risk.

- If this application is approved the Council should be liable to any damage caused from flooding (or other) to nearby dwellings.

**Response:** This is outside the remit of this application and does not form a material planning consideration.

- Concerns over the siting of the proposed attenuation tank and the safety impacts it may cause due to proximity to neighbouring properties.
- The proposal includes a huge septic tank which will smell and the pumping station will make noise.

**Response:** An exceedance event flood routing strategy has been provided. This shows the anticipated routing of surface water, in the unlikely event that the drainage system and/or attenuation tank fails. At the southern section of the site, this shows that the water is expected to follow the PROW and discharge onto Henry Frederick Street, avoiding the curtilage of neighbouring properties. The attenuation tank is for storing and slowing discharging surface water (i.e., rainwater) and is not a septic tank (i.e., foul water), therefore not a source of odour. Foul water will discharge directly to the combined sewer via gravity.

- The proposal includes a drainage pipe connecting to Meltham Road. There are concerns that this pipe may leak or cause subsidence to nearby properties.

**Response:** The technical design will be reviewed by the Lead Local Flood Authority and, if the applicant wishes for it to be adopted, Yorkshire Water, although the applicant would be liable to ensure it is installed correctly and safely.

## Other

- Concerns that the application was not advertised for an adequate period of time.

**Response:** several representations were received stating this, before the publicity period commenced. Thereafter publicity was undertaken in accordance with statutory requirements as detailed in paragraph 7.3.

- Concerns over disruption during the construction process.

**Response:** There would inevitably be some temporary disruption to nearby residents during construction. A Construction Environmental Management Plan is recommended to be condition, to ensure construction is managed as reasonably as possible to ensure no undue impacts.

- The field has been used by the air ambulance in the past, an opportunity which will be lost.

**Response:** This does not form a material planning consideration.

- The proposal does not include enough affordable homes as 20% of 82 is 16.4. Also, there are too many 3 and 4bed units. Smaller units are needed.

**Response:** For affordable units, it is standard practise to round to the nearest whole, therefore 16.4 equals 16 affordable units. Consideration of housing mixture has been undertaken in paragraph 10.8.

- Development should be focused around Huddersfield / Dewsbury and their train stations, to improve connections to Leeds / Manchester.

**Response:** The siting of housing allocation was considered at Local Plan stage to respond to local housing needs.

- The land is used for agriculture that produces food and jobs.

**Response:** Consideration of a site agricultural value, including whether it comprising best and most versatile land, was considered at Local Plan stage when allocating sites. In allocating the site, there was concluded to be no unacceptable impact.

- The proposal does not include enough Public Open Space compared to other nearby developments. Also, the POS will be on steep land.
- Questions whether the POS areas and play park will be accessible by all, or just residents. It is also unclear who will be responsible for its management and maintenance.
- Woodfield Park is cited in the proposal as being a local amenity: this is incorrect, it is private land with no automatic public right of access.

**Response:** Each application is assessed on its own merits. The proposed Public Open Space, which would be open to all members of the public and not just future residents, is considered acceptable for the scale of the

development. The POS is expected to be managed and maintained by a resident's association and/or management company.

- Local services are at (or are near) capacity. This includes nearby schools, dentists, and doctors.

**Response:** There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Regarding schools, an education financial contribution has been secured.

- There is no demand in the area for houses, with houses on Rightmove being lowered in price. Consideration should be given to cumulative impacts to development taking place elsewhere in Netherton.

**Response:** This is outside the scope of this application to consider and is not a material planning consideration. The applicant has been assessed against material planning considerations and found to be acceptable.

- Brownfield development and vacant homes should be prioritised over greenfield.

**Response:** Local and national planning policies does not prioritise brownfield over greenfield, or vice versa. It is outside the remit of planning to force the occupation of vacant properties.

## 11.0 CONCLUSION

11.1 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.

11.2 The site is allocated as a housing allocation within the Local Plan. While the density of development is below that expected by the Local Plan, there are reasonable justifications for this shortfall which accord to policy LP7's expectation of such densities 'where appropriate'. Furthermore, the houses that would be provided are acceptable in terms of size mixture and would reply to local need. Therefore, the principle of development is found to be acceptable.

11.3 Considering the local impacts, the proposal is made in outline; however, access and layout are considerations. The access arrangements, via Roslyn Avenue, are deemed to be acceptable and would not result in severe highway impacts. The internal layout of the proposal is acceptable and would result in a high quality of development while preserving the amenity of neighbouring occupiers. The considerations of scale, appearance, and landscaping are reserved matters, although no prohibitive reasons have been identified as to why adequate details could not be provided subsequently.

11.4 Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal. Furthermore, it would provide an enhancement to local affordable housing, providing 16 affordable units, and open space, with on-site and off-site contributions to enhance local facilities, in line with policy requirements. Education contributions would also be secured to mitigate the impacts of the proposal.

11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

## 12.0 CONDITIONS

### **Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development**

- Reserved Matters submission and timeframes.
- Development to be carried out in accordance with the approved plans and specifications.
- Updated Heritage Impact Assessment to be provided at Reserved Matters (scale, appearance, and landscape) stage.
- Archaeological surveys to be undertaken.
- Technical details of play equipment to be provided.
- Details of boundary treatment between site and Dean Wood to be provided at Reserved Matters (landscape) stage.
- Finished floor levels to be provided at Reserved Matters (scale, appearance, and landscape) stage
- Construction Environmental Management Plan (C(E)MP) (also referred to as a Construction Management Plan) to be provided prior to commencement and adhered to.
- Technical specifications of internal access road to be approved and adhered to.
- Technical specifications of access arrangements to be approved and adhered to.
- Technical details of improvement to Roslyn Avenue / Henry Frederick Avenue junction to be approved and adhered to.
- Each dwelling's parking spaces to be provided prior to occupation
- Highway Condition Surveys and Remediation to be undertaken
- Technical details of PROW and link connection surfacing to be provided and adhered to.
- Full travel plan to be provided.
- Cycle storage details per unit.
- Reserved Matter (Landscape) to include treatment of PROW details.
- Reserved Matters (landscape) details to be in accordance with approved Public Open Space Typology plan (minus parks and recreation area).
- Private drive communal bin stores to be provided.
- Construction phase waste collection strategy.
- Full technical details of the proposed swale to be provided.
- Full technical details of surface water drainage system to be provided.



- Surface water flood routing plan to be provided and implemented.
- Details of temporary surface water drainage to be provided.
- Arboricultural Method Statement and Tree Protection Plan to be provided and adhered to.
- Updated Ecological Impact Assessment to be provided at Reserved Matters (landscape) stage.
- Ecological Design Strategy to be provided.
- Constriction Environmental Management Plan: Ecology (CEMP: Biodiversity) to be provided.
- Provision of details of the proposed information boards at link paths, and their provision.
- Provision of details of the ancient woodland information pack and their distribution.
- Details of landscape to include lighting and crime mitigation strategy.
- Development done in accordance with proposed Dust Mitigation Strategies.
- Contaminated Land Investigation (Phase 2, Remediation, Validation stages).

## **Background Papers**

### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/93932>

### Certificate of Ownership

Certificate B signed.

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