

Public Document Pack



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

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Wednesday 8 September 2021

Notice of Meeting

Dear Member

Planning Sub-Committee (Huddersfield Area)

The **Planning Sub-Committee (Huddersfield Area)** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 16 September 2021**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

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".

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 Planning Sub-Committee (Huddersfield Area) members are:-

Member

Councillor Terry Lyons (Chair)
Councillor Paul Davies
Councillor James Homewood
Councillor Mohammad Sarwar
Councillor Mohan Sokhal
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bill Armer
Councillor Timothy Bamford
Councillor Donna Bellamy
Councillor Bernard McGuin
Councillor Anthony Smith
Councillor Susan Lee-Richards

When a Planning Sub-Committee (Huddersfield Area) member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

A Gregg
V Lees-Hamilton
R Smith
M Thompson
D Hall
J Taylor

Green

K Allison

Independent

C Greaves

Labour

M Akhtar
E Firth
S Hall
M Kaushik
J Ramsay

Liberal Democrat

PA Davies
J Lawson
A Marchington
A Munro
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

To receive any apologies for absence, or details of substitutions to Sub-Committee membership.

2: Minutes of previous meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 5 August 2021.

3: Declaration of Interests and Lobbying

7 - 8

Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

5: Deputations/Petitions

The Committee will receive any petitions and hear any 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 hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Sub-Committee will receive any public questions.

In accordance with:

- Council Procedure Rule 11 (3) questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
- Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes and any person may ask no more than two questions.

Planning Applications

9 - 10

The Planning Sub 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 no later than 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 13 September 2021.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Richard Dunne on 01484 221000 (Extension 74995).

You will be able to address the Committee virtually. Please include in your email the telephone number that you intend to use when addressing the Committee. You will receive details on how to speak at the meeting in your acknowledgement email.

Members of the public who wish to attend the meeting in person will be required to register by the same deadline outlined above. Measures will be in place to adhere to COVID secure rules, including social distancing requirements. This will mean that places will be limited.

Please note that in accordance with the council's public speaking protocols at planning committee meetings verbal representations will be limited to three minutes.

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda prior to the meeting.

7: Planning Application - Application No: 2021/91384

11 - 54

Erection of 13 dwellings (resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield.

Contact officer: Victor Grayson, Planning Services

Ward(s) affected: Golcar

8: Planning Application - Application No: 2021/91638 55 - 82

Reserved matters application pursuant to outline application no. 2016/91479 (appeal no. APP/Z4718/W/17/3173711) for erection of 22 dwellings Land at Hart Street, Newsome, Huddersfield.

Contact officer: Nick Hirst, Planning Services

Ward(s) affected: Newsome

9: Planning Application - Application No: 2021/91823 83 - 94

Alterations to convert existing basement into two apartments (Listed Building within a Conservation Area) 132, Trinity Street, Huddersfield.

Contact officer: William Simcock, Planning Services

Ward(s) affected: Greenhead

10: Planning Application - Application No: 2020/91055 95 - 106

Variation of conditions 2 and 6 and removal of conditions 5 on previous permission 2019/93524 for provision of 3 parking spaces and landscaping works to provide amenity space 102, Dunford Road, Holmfirth.

Contact officer: Neil Bearcroft, Planning Services

Ward(s) affected: Holme Valley South

Planning Update

The update report on applications under consideration will be added to the web agenda prior to the meeting.

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Contact Officer: Richard Dunne

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HUDDERSFIELD AREA)

Thursday 5th August 2021

Present: Councillor Terry Lyons (Chair)
Councillor Paul Davies
Councillor James Homewood
Councillor Sheikh Ullah
Councillor Harpreet Uppal
Councillor Bill Armer
Councillor Timothy Bamford
Councillor Donna Bellamy
Councillor Bernard McGuin
Councillor Anthony Smith
Councillor Susan Lee-Richards
Councillor Manisha Kaushik

Apologies: Councillor Mohammad Sarwar
Councillor Mohan Sokhal

- 1 Membership of the Sub-Committee**
Councillor Manisha Roma Kaushik substituted for Councillor Mohan Sokhal.
- 2 Minutes of previous meeting**
The minutes of the meeting held on 17 June 2021 were approved as a correct record.
- 3 Declaration of Interests and Lobbying**
Councillor Paul Davies declared that he had been lobbied on application 2021/91682.

Councillor Donna Bellamy declared that she had been lobbied on application 2021/91136.
- 4 Admission of the Public**
All items on the agenda were taken in public session.
- 5 Deputations/Petitions**
No deputations or petitions were received.
- 6 Public Question Time**
No questions were asked.

7 Planning Application - Application No: 2020/91186

The Sub Committee gave consideration to Planning Application 2020/91186 Reserved matters application for erection of 20 dwellings pursuant to outline permission no. 2018/91198 for residential development land at, Westcroft, Honley, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Hamish Gledhill (agent).

Under the provisions of Council Procedure Rule 36 (3) the Sub Committee received a representation from Council Charles Greaves (ward member).

RESOLVED –

Delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:

1. Complete the list of conditions including those contained within the considered report including:
 1. Development in accordance with approved plans
 2. Approval of samples of natural stone and slate to be used for facing materials
 3. Submission and approval of a construction plan for residential amenity is this already on the outline.
 4. Development in accordance with the highway measures set out in the submitted Construction Management Plan.
 5. Development in accordance with the submitted temporary drainage arrangements.
 6. Development in accordance with the submitted Arboricultural Method Statement.
 7. Development in accordance with the submitted Landscape and Ecological Management Plan.
 8. Development in accordance with the submitted Construction Environmental Management Plan.
 9. Detailed design of the adoptable estate road.
 10. Details of bin storage and presentation points.
 11. Details of temporary refuse bin collection arrangements during the period of construction.
 12. Private vehicle parking areas surfaced and drained.
 13. Detailed specification of all new tree and hedgerow planting.
 14. Retention of the new tree and hedgerow planting and details of future maintenance arrangements.
 15. Front boundary wall constructed of natural stone.
 16. Retaining walls faced in material to match the dwellings.
 17. Removal of permitted development rights for extensions and outbuildings.
 18. Scheme for low carbon energy technologies to be incorporated into the development.
2. Include the following the following additional conditions:
 - I. The retention of the hedging to the western boundary and forms of fencing that will allow the passage of wildlife (hedgehogs).

Planning Sub-Committee (Huddersfield Area) - 5 August 2021

- II. Hours of operation be prohibited outside of normal weekday hours, except for Saturday mornings only (to be submitted as part of the matters to satisfy condition 3 outlined above).
3. Secure a Section 106 agreement to cover the following matter:
- Contribution towards sustainable travel measures (Metro Cards) (£10,180).
4. Pursuant to (3) above, 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.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors: P Davies, Homewood, A Smith, Ullah, Uppal and Kaushik (6 votes).

Against: Councillors: Armer, Bamford, Bellamy, Lee-Richards and McGuin (5 votes)

Abstained: Councillor Lyons.

8 **Planning Application - Application No: 2021/91384**

The Sub Committee gave consideration to Planning Application 2021/91384 Erection of 13 dwellings (resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from James Bradley and Lauren Denton (on behalf of the applicant).

RESOLVED –

That consideration of the application be deferred to allow officers to bring back further information to address a number of issues and concerns highlighted by the Sub Committee including: The lack of open space on the development site; loss of trees; inappropriate housing mix; housing not in keeping with the character of the area; and the need for greater dispersing of the affordable housing.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

1. A vote to approve the application

For: Councillors: P Davies, Homewood, Ullah, Lyons and Kaushik (5 votes)

Planning Sub-Committee (Huddersfield Area) - 5 August 2021

Against: Councillors: Armer, Bamford, Bellamy, Lee-Richards, McGuin, and A Smith (6 votes)

Abstained: Councillor Uppal.

2. A vote to defer the application.

For: Councillors: Armer, Bamford, P Davies, Homewood, Lee-Richards, McGuin, Ullah, Uppal, Lyons and Kaushik (10 votes)

Against: (0 votes)

Abstained: Councillors Bellamy and A Smith

9 Planning Application - Application No: 2021/91367

The Sub Committee gave consideration to Planning Application 2021/91367

Change of use from agricultural to storage and processing of timber, improvement of field access, formation of access track and hardstanding and erection of wood store Land east of, Hillock Farm, Dean Road, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Sean Johnson (objector), Diana Wilson (in support), Charlie Batten (applicant) and Philip Smith (agent).

RESOLVED –

1. That the Planning Inspectorate be informed that the local planning authority would have refused the application had its determination remained within its remit for the reason for the following reason:

The application site is within designated Green Belt, whereby as set out in the National Planning Policy Framework (NPPF) new development, subject to certain exceptions, is regarded as inappropriate. Paragraph 150 of the NPPF sets out that the material change of use of land need not be inappropriate, but only where this preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. In this case the development would harm the openness of the Green Belt through the siting of a building, storage of timber, the formation of the access track and the activity associated with the processing of timber on open land. This would also lead to the encroachment of development into the countryside. As such the proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. There are no very special circumstances which clearly outweigh the harm to the Green Belt by reason of inappropriateness and other harm and therefore the proposal would be contrary to the aims of Chapter 13 of the National Planning Policy Framework.

2. That the enforcement action requiring cessation of the use and removal of the associated operational development be suspended until the outcome of the appeal lodged against the non-determination of the application has been concluded

Planning Sub-Committee (Huddersfield Area) - 5 August 2021

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For Councillors: Armer, Bamford, P Davies, Homewood, Lee-Richards, McGuin, A Smith, Ullah, Uppal, Lyons and Kaushik (11 votes)

Against: (0 votes)

Abstained: Councillor Bellamy.

10 Planning Application - Application No: 2021/91136

The Sub Committee gave consideration to Planning Application 2021/91136 Siting of mobile home for use as holiday accommodation, construction of raised platforms, erection of 'Tiki bar' and pergola and formation of vehicular access from Manchester Road with electronic gates and associated hard surfaces Mulberry Brook, Manchester Road, Slaithwaite, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Simon Murphy (applicant) and Laureen Denton (in support).

RESOLVED –

1. That planning permission be refused for the following reason:

The development, consisting of a mobile home, decking, pergola, fencing, access and concrete driveway, has urbanised what was previously an open and green garden, thereby causing significant harm to the openness of the Green Belt as well as the visual amenities of the Green Belt and the character and appearance of the wider area. As such, the development constitutes inappropriate development in the Green Belt and there are no very special circumstances which clearly outweigh the harm caused by inappropriateness and other harm. The development is therefore contrary to Policy LP24 (a) of the Kirklees Local Plan and Chapter 13 of the National Planning Policy Framework.

2. That authority be delegated to the Head of Planning and Development to proceed with enforcement action requiring cessation of the use and the removal of the associated operational development.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For Councillors: Armer, Bamford, P Davies, Lee-Richards, A Smith, Ullah and Lyons and (7 votes)

Against: Councillors: Bellamy, Homewood, Uppal and Kaushik (4 votes)

Abstained: Councillor McGuin,

Planning Sub-Committee (Huddersfield Area) - 5 August 2021

11 **Planning Application - Application No: 2021/91682**

The Sub Committee gave consideration to Planning Application 2021/91682 Change of use from dwelling house (Class C3) to residential care home (Class C2) Wall Nooks, Wall Nook Lane, Cumberworth, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Natalie Dossor, Lewyn Diveney Clegg (on behalf of Mike Keegan), Lisa Lane, Mick Crowther and Yvonne Chaplin (objectors); and Julian Bolitho (agent).

Under the provisions of Council Procedure Rule 36(3) the Committee received representations from Councillors Donald Firth and Nigel Patrick.

RESOLVED –

That approval of the application and the issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained in the Committee report, as set out below:

1. Development to commence within 3 years.
2. Development to be in accordance with submitted plans.
3. Use as C2 for up to 5 young persons.
4. Parking spaces created prior to being brought into use.
5. Permeable surfacing for parking space.
6. Electric vehicle charging point.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows:

For: Councillors: P Davies, Homewood, A Smith, Ullah, Uppal, Lyons and Kaushik (7 votes)

Against: Councillors: Armer, Bamford and Bellamy (3 votes).

Abstained: Councillors Lee-Richards and McGuin

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

Planning Sub-Committee/Strategic Planning Committee

Name of Councillor

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 27th February 2019).

National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th 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;
- 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 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 sub-committee have been made in accordance with the above requirements.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2021/91384 Erection of 13 dwellings (resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield

APPLICANT

Dax Bradley, Brierstone
LTD

DATE VALID

15-Apr-2021

TARGET DATE

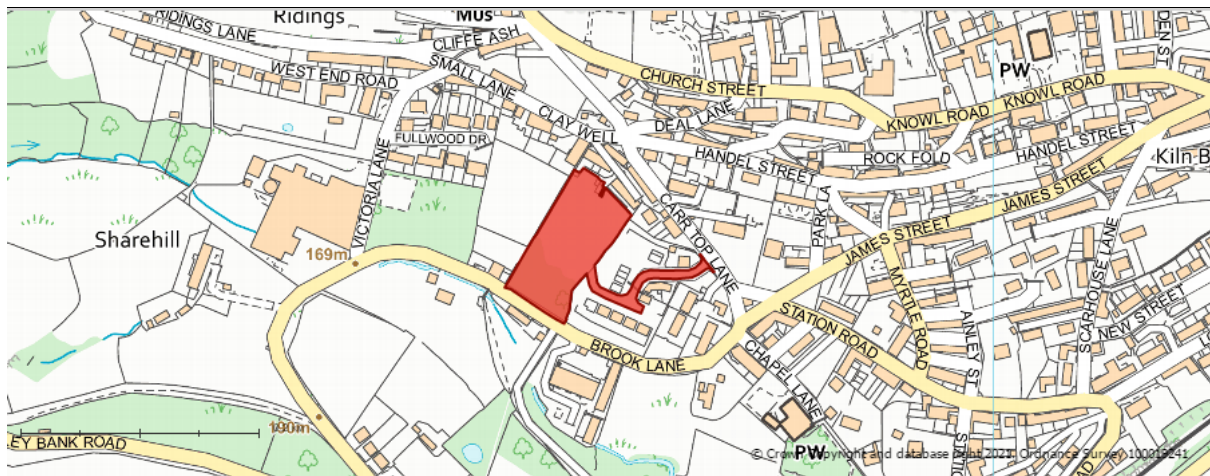
15-Jul-2021

EXTENSION EXPIRY DATE

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

Ward Councillors consulted: Yes

Public or private: PUBLIC

RECOMMENDATION:

Approval of the application is again recommended, as set out in the previous committee report, including below, but subject to a revision to the open space contribution as set out below in this supplementary report, and with the addition of a condition related to sustainable energy technologies.

Members are asked to consider the commentary in this supplementary report, in particular the Legal Officer's advice relayed at section 12 regarding the potential award of costs at appeal.

Suggested reasons for refusal are set out in full for use in the event that Members are minded to refuse the application for all or some of those reasons.

1.0 INTRODUCTION:

1.1 This supplementary report relates to application 2021/91384, which is an application for full planning permission for a residential development of 13 dwellings.

1.2 That application was considered by the Huddersfield Sub-Committee on 05/08/2021. At that meeting, a vote to grant planning permission was not carried. Members then resolved to defer their decision to allow officers to draft a further report relating to the matters of concern raised by Members, and to provide suggested reasons for refusal for further consideration.

1.3 This supplementary report includes the requested reasons for refusal, as well as an update on relevant matters, and commentary on the implications of refusal of planning permission.

1.4 The previous committee report is appended to this supplementary report.

2.0 UPDATES TO PREVIOUS COMMITTEE REPORT:

2.1 The previous committee report included inconsistent information regarding the proposed unit size mix. At paragraph 3.3 a mix of eight 3-bedroom and five 4-bedroom units was referred to, whereas the breakdown provided at paragraph 10.43 referred to a mix of nine 3-bedroom and four 4-bedroom units. For the avoidance of doubt, the following breakdown correctly details what was considered under the previous committee report:

- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
- Unit 2 – detached, 4-bedroom, integral garage – 166sqm

- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 111sqm
- Unit 7 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 10 – terraced, 3-bedroom – 111sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 12 – detached, 4-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

- 2.2 Further to paragraph 8.3 of the previous committee report, further comments had been received from the Lead Local Flood Authority (LLFA), confirming that outstanding queries regarding drainage calculations, flood routing and temporary drainage arrangements had been satisfactorily addressed. Conditions were again recommended by the LLFA.
- 2.3 As noted in the committee update issued on 04/08/2021, references (in the previous committee report) to the NPPF at paragraph 10.56, to reflect the changes made in July 2021, should read as paragraph 110 (was paragraph 108) and paragraph 111 (was paragraph 109).
- 2.4 The committee update issued on 04/08/2021 also included information related to financial viability, repeated here in the following paragraphs.
- 2.5 Further to paragraph 10.107 of the committee report, the applicant's more detailed information regarding abnormal development costs was summarised as follows:
- 1) Demolition and site clearance: £7,275
 - 2) Foundation abnormalities: £80,100
 - 3) Tree protection works: £1,850
 - 4) Retaining structures: £336,390
 - 5) Cut/fill and import material: £27,490
 - 6) Surface water attenuation: £74,978
 - 7) Knotweed treatment: £46,340
- TOTAL: £574,423
- 2.6 The council's consultant (Align) have an in-house quantity surveyor, who reviewed the above costs. Align advised that items 1, 3, 5 were reasonable. Parts of item 4 (relating to underbuild, concrete retaining walls, sheet piling and pre-cast concrete stairs) were also considered reasonable, as were parts of item 6 (relating to oversized pipes, attenuation tank and hydrobrakes). Officers concurred and recommended that they be accepted as inputs.
- 2.7 Regarding item 2 (foundation abnormalities), Align advised that further details would be required. Regarding certain components listed under item 4, Align advised that the applicant's rate of £100 per metre (for stone facing) appeared high (in the absence of a further breakdown), and that the applicant's figure for tanking should not be accepted, as the figure has been priced per plot, whereas each plot is likely to have a different cost. Under item 6, Align queried the £10,718.10 for each of the four oversized manholes. Regarding item 7, while the eradication of invasive species can be accepted in principle as an

abnormal cost, Align queried whether the most expensive eradication option should be accepted, when cheaper options had been priced.

- 2.8 Given the above queries regarding some of the applicant's abnormal costs and given the earlier officer advice (in the previous committee report) regarding Benchmark Land Value, the position set out at paragraph 10.110 of the committee report remained applicable. It was not accepted that the proposed development was unviable, and it was again recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

3.0 UPDATES SINCE SUB-COMMITTEE MEETING OF 05/08/2021:

- 3.1 The following further consultee responses have been received:

KC Ecology – Given the proposed retention of the building with potential for roosting bats, provided the proposed measures (to avoid impacts to roosting and foraging bats) are secured via condition, the proposals are considered acceptable in this regard and impacts to European Protected species would be avoided. All proposed ecological and bat mitigation measures must be fully incorporated into the scheme and shown to scale on all relevant plans and drawings. The applicant's updated biodiversity metric calculations are now considered to be accurate, however the results indicate an overall loss in habitat units of -2.21 or a net loss of 40.35%. This is not in accordance with Local Plan policy LP30 or the NPPF. Therefore, as no compensation for this loss has been provided within the submitted report, options to provide a 10% net gain for biodiversity will need to be explored.

- 3.2 At the time of writing this supplementary report, no appeal against the non-determination of the application had been lodged.

- 3.3 Following the sub-committee meeting of 05/08/2021, officers contacted the applicant team to discuss possible amendments to help address Members' concerns.

- 3.4 On 02/09/2021 the applicant submitted amended drawings, showing two of the terraced dwellings (units 7 and 10) reduced in size and redesigned. This has resulted in an amended unit size mix comprising two 2-bedroom units, six 3-bedroom units and five 4-bedroom units. This improved unit size mix is summarised below, and is considered under section 5 of this supplementary report.

- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
- Unit 2 – detached, 4-bedroom, integral garage – 166sqm
- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 129sqm
- Unit 7 – terraced, 2-bedroom – 108sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 10 – terraced, 2-bedroom – 108sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 12 – detached, 4-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

- 3.5 The applicant also submitted an amended layout plan, reflecting the above changes to units 7 and 10.
- 3.6 On 01/09/2021 the applicant submitted a plan of the site's protected woodland, requesting that this area (measuring 1,952sqm) be counted as on-site open space in connection with the proposed development.
- 3.7 A further Planning Statement was also submitted by the applicant, in response to the concerns raised by Members at the sub-committee meeting of 05/08/2021.
- 3.8 The submission of the above-mentioned amended drawings did not necessitate public reconsultation.
- 3.9 Following the sub-committee meeting of 05/08/2021, discussion continued regarding the financial viability of the proposed development. A further report was issued by the council's viability consultant (Align) on 26/08/2021 (rev C).

4.0 OPEN SPACE:

- 4.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's lack of on-site open space.
- 4.2 An assessment of the proposed development's open space provision was provided in paragraph 10.50 of the previous committee report. In that report, it was stated that on-site provision of most types of open space would not be suitable for this sloped site, and that a financial contribution of £29,123 would instead be required. It was also recommended that an additional contribution be secured in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 4.3 Of note, a small area of open space was to be provided at the adjacent site to the east under permission ref: 2017/91173. A subsequent application to develop a further three dwellings on this space was refused by the council (ref: 2018/92848) but was subsequently allowed at appeal (ref: APP/Z4718/W/19/3229696), with the appeal Inspector referring to the same Local Plan policies that remain applicable today. That adjacent development is therefore being implemented with no on-site open space.
- 4.4 Had all applications for the development of the three sites on this hillside (allocated sites HS153, HS158 and HS157) been submitted after the adoption of the Local Plan and within a narrower timeframe, the council could have applied its masterplanning policies and required a co-ordinated approach to the provision of open space across the three sites. However, given that permissions for residential development were granted from 2015 onwards (beginning with the outline permission ref: 2015/90507 for what is now allocated site HS157), given the appeal decision regarding site HS157, and given that the development of site HS157 is now nearing completion, such a co-ordinated approach across the three sites has not been possible. Furthermore, it must be noted that opportunities for on-site provision on this hillside are limited due to the slope of the three sites, the presence of protected

trees, and other constraints that limit the available space. These considerations informed the officer's recommendation to accept financial contributions towards off-site provision in respect of the current application.

4.5 As regards where such contributions would be spent, the two nearest appropriate locations are at Two Furrows Recreation Ground and Wellhouse. These are both within the 720m recommended maximum walking distance from the application site. The suitability and accessibility of these two sites are assessed as follows:

- Two Furrows – Located northwest of the application site, in the Golcar ward, on Manor Road, adjacent to Golcar Junior Infant and Nursery School. Approximately 220m from the site's northwest corner (as the crow flies), however the most direct walking route would be approximately 280m (via footpath COL/56/40, Clay Well, Deal Lane, crossing Church Street to access Manor Road), involving an ascent of approximately 25m. This route includes steps, road crossings and lanes lacking footways, making it unsuitable for people using pushchairs, and less than ideal in terms of pedestrian safety.
- Wellhouse – Located south of the application site, in the Colne Valley ward, on Lower Wellhouse Road. Approximately 380m from the site's southwest corner (as the crow flies), however the most direct walking route would be approximately 460m (via footpath COL/56/40, crossing Brook Lane, footpaths COL/56/10 and COL/56/30, and crossing Lower Wellhouse Road), involving a descent of approximately 25m followed by an ascent of approximately 40m. This route includes steps, road crossings, a length of road lacking a footway, and another road with narrow footways, making it unsuitable for people using pushchairs, and less than ideal in terms of pedestrian safety.

4.6 The above walking routes to the two open spaces will be mapped in a slide to be presented to Members at the sub-committee meeting.

4.7 Of the two open spaces considered above, Two Furrows is clearly the more accessible, but nonetheless has shortcomings in terms of ease and safety of access.

4.8 As noted above, on 01/09/2021 the applicant submitted a plan of the site's protected woodland, requesting that this area (measuring 1,952sqm) be counted as on-site open space in connection with the proposed development. This is indeed possible in accordance with the council's Open Space SPD. Given the nature of this space, it would be regarded as Natural and Semi-Natural Open Space (using the definitions of typologies set out in the council's SPD), and the proposed provision would assist in addressing known deficiencies in the Golcar ward of this open space typology. Public access into the woodland is not necessary for it to be counted as on-site open space.

4.9 With this on-site provision now proposed, the financial contribution towards off-site open space provision (as set out in paragraph 10.50 of the previous committee report) has been recalculated. A contribution of £22,948 would be required.

4.10 A lack of on-site open space was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Furthermore, Members are advised to take note of what was allowed at appeal at the adjacent site (where the appeal Inspector accepted an absence of on-site provision, with reference to the same Local Plan policies that are applicable today). Regard should also be had to the applicant's recent proposal to count the application site's woodland as on-site open space, and to the acceptability of these 1,952sqm being counted as Natural and Semi-Natural Open Space. In light of these considerations, it is not recommended that permission be refused in relation to open space provision.

4.11 However, should the sub-committee be minded to proceed with refusal on open space grounds, the following reason for refusal wording is suggested:

1) The proposed development, due to its lack of suitable on-site open space, would not provide adequate, usable outdoor space for its residents, and would not sufficiently mitigate its impacts. The proposed development is therefore contrary to policies LP4, LP24, LP47 and LP63 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

5.0 RESIDENTIAL UNIT SIZE MIX:

5.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's unit size mix. All units were proposed to have three or four bedrooms.

5.2 An assessment of the proposed unit size mix was provided at paragraph 10.44 of the previous committee report, where it was noted that this aspect of the proposals was unfortunate. A more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and could have helped to avoid visual monotony across the site. The previous committee report recognised this aspect of the proposed development as a shortcoming that attracts negative weight in the balance of planning considerations, but did not recommended that planning permission be withheld on these grounds.

5.3 Regarding relevant planning policy, LP11 in the Local Plan requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. This includes consideration of provision for those with specialist needs. For schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. Furthermore, Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of unit sizes are not set out in the policy).

- 5.4 The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that, across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.
- 5.5 At the adjacent site, 2-, 3-, 4- and 5-bedroom dwellings have been developed.
- 5.6 As noted above, on 02/09/2021 the applicant submitted amended drawings, showing two of the terraced dwellings (units 7 and 10) reduced in size and redesigned. This has resulted in an amended unit size mix comprising two 2-bedroom units, six 3-bedroom units and five 4-bedroom units. This revised mix is considered to be an improvement on the mix previously considered by Members.
- 5.7 Of note, following this recent amendment to the unit size mix, all of the proposed dwellings would still comply with the Government's Nationally Described Space Standards (March 2015, updated 2016).
- 5.8 The proposed development's unit size mix was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve a scheme entirely comprised of 3- and 4-bedroom dwellings at this site under application ref: 2019/90925. Furthermore, Members are advised to take note of the recently-amended unit size mix, which now includes two 2-bedroom units.
- 5.9 However, should the sub-committee be minded to proceed with refusal on unit size mix grounds, the following reason for refusal wording is suggested:

2) The proposed development, due to its preponderance of larger (three- and four-bedroom) units, would not sufficiently meet known housing need or sufficiently contribute towards creating mixed and balanced communities. The proposed development is therefore contrary to policies LP5 and LP11 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

6.0 CHARACTER:

- 6.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact on the character of Golcar. It was not confirmed which specific aspects of the proposed development were considered to be harmful to the character of Golcar, however given the comments were made in relation to "old Golcar", it is understood that the concerns related to design and conservation matters, and the relationship between the application site and the historic village core.
- 6.2 An assessment of design and conservation matters was provided at paragraphs 10.14 to 10.37 of the previous committee report. This included a summary (at paragraphs 10.17 and 10.18) of those qualities of the Golcar Conservation Area that contribute towards the area's character.

6.3 It is acknowledged that development of the allocated site will inevitably be transformative. A certain quantum of development would be required to make residential development of the site viable, and a development of significantly fewer units (allowing a greater part of the site to be retained as undeveloped, soft landscaped space) is unlikely to be brought forward here.

6.4 The proposed development's impact upon the character of Golcar was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same proposals under application ref: 2019/90925, however should the sub-committee be minded to proceed with refusal on character grounds, the following reason for refusal wording is suggested:

3) The proposed development, due to its [Members to advise] would result in [Members to advise] and would cause unacceptable harm to the character of the village of Golcar. The proposed development is therefore contrary to policies LP24 and LP35 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

6.5 Of note, for the above reason for refusal to be completed (and to enable this reason to be defended at appeal, if necessary), Members will need to advise what specific aspects of the proposed development are of concern (Members might wish to consider – for example – the density of development, its layout, materials, degree of tree cover, or other aspects relevant to design and conservation). Members will also need to advise what specific aspects of the character of Golcar would be harmed by these aspects of the proposed development.

7.0 DRAINAGE:

7.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact in relation to drainage, and specifically surface water run-off from the site.

7.2 Of note, subject to conditions and adequate management/maintenance provisions, the relevant consultees (the Lead Local Flood Authority and Yorkshire Water) did not object to the proposed development and the applicant's drainage strategy. Paragraphs 10.69 to 10.77 of the previous committee report provided an assessment of flood risk and drainage matters.

7.3 As recently demonstrated at the adjacent site to the west (where, following the removal of vegetation, complaints were received regarding water entering adjacent land), surface water run-off is certainly a relevant consideration at these three hillside sites. However, with appropriate provisions (including conditions relating to temporary drainage during construction, to avoid the problems that have occurred at the site to the west), it is considered that the application site can be developed without causing unacceptable impacts in relation to drainage and flood risk.

7.4 Drainage matters were not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Furthermore, relevant technical consultees have not objected to the proposed development on flood risk and

drainage grounds. Members are also advised to take note of Government guidance regarding the award of costs at appeal, and the potential for an appellant to argue that vague, generalised or inaccurate assertions (unsupported by objective analysis) have been made regarding a proposal's impact.

- 7.5 However, should the sub-committee be minded to proceed with refusal on drainage grounds, the following reason for refusal wording is suggested:

4) In the absence of adequate supporting information relating to flood risk and drainage, it has not been demonstrated that the proposed development does not pose unacceptable flood risk and risks to public safety. The proposed development is therefore contrary to policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

8.0 TREES:

- 8.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact in relation to trees.

- 8.2 As noted at paragraph 10.80 of the previous committee report, the applicant proposes the retention of group G14 and trees T12 and T24. Almost all other trees would be felled (or, it is understood, have already been felled). This represents a significant loss of trees from the site and is regrettable.

- 8.3 However, the previous committee report went on to explain why the proposed losses are considered acceptable, subject to adequate replacement being secured by a recommended condition, to ensure compliance with Local Plan policies LP24i and LP33. The report also addressed the concerns of the council's Arboricultural Officer. It is noted again that development of the allocated site will inevitably be transformative, and that major development at this allocated site would not be possible without a significant loss of trees.

- 8.4 Impacts in relation to trees were not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Members could, however, make reference to the revised NPPF (July 2021), which – at paragraph 131 – now states that existing trees should be retained wherever possible (although it is noted that policy LP33 already had similar wording related to trees of significant amenity, and was applicable in March 2020).

- 8.5 Should the sub-committee be minded to proceed with refusal on tree impact grounds (contrary to officers' recommendations), the following reason for refusal wording is suggested:

5) The proposed development, due to it necessitating the removal of trees and its impacts on trees to be retained, would result in unacceptable loss of and harm to trees of significant amenity value, and would reduce the degree of tree coverage at this hillside. The proposed development is therefore contrary to policies LP24 and LP33 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

9.0 GREENFIELD DEVELOPMENT:

- 9.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the proposed development of a greenfield site.
- 9.2 The application site is allocated for residential development, and no residential development could take place at this site without the use of at least some previously-undeveloped (greenfield) land. No part of the application site is brownfield land.
- 9.3 Paragraphs 10.1 to 10.7 of the previous committee report assessed the principle of development, and provided information regarding the process of allocating the site for development in the Local Plan.
- 9.4 Of note, the site was designated as Provisional Open Land in the since-superseded Unitary Development Plan.
- 9.5 Members are reminded that outline planning permission for residential development has previously been granted for this site (application ref: 2017/93719), and that the principle of developing greenfield land was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members considered application ref: 2019/90925. Given the site allocation, the previous decision, and the previous resolution, it is not recommended that permission be refused in relation to the principle of developing greenfield land. Refusal of permission on these grounds would effectively be an assertion that no development at this greenfield site would be acceptable, which would be inconsistent with the council's decision to allocate the site, and its decision and resolution in relation to previous applications.
- 9.6 Should Members be concerned regarding matters related to the principle of developing this greenfield site (such as the loss of trees from the site, the lack of greenery within the proposed development, the design of the proposed development, and/or the impact of the proposed development upon the character of Golcar), it is advised that these concerns would be better conveyed via the suggested reasons for refusal set out earlier in this supplementary report.

10.0 FINANCIAL VIABILITY

- 10.1 As noted above, following the sub-committee meeting of 05/08/2021, discussion continued regarding the financial viability of the proposed development. A further report was issued by the council's viability consultant (Align) on 26/08/2021 (rev C). This reflected Align's acceptance of the applicant's evidence regarding abnormal build costs, and included a summary of the profit outcomes of various scenarios where different affordable housing provisions and Section 106 contributions are secured. Assuming £78,486 of Section 106 contributions, Align found that 25.8% profit (on sales) would be achieved with no affordable housing provided. The provision of one intermediate unit would bring the developer's profit down to 20.3%, and the provision of one affordable/social rent unit would result in a profit of 18.8%. Any greater affordable housing provision would take the developer's profit to a level below the 15-20% range referred to in the council's Viability Guidance Note: two affordable/social rent units would result in a profit of 13.6%, and a policy-compliant provision (of two affordable/social rent units and one intermediate unit) would result in a profit of 8.9%.

- 10.2 The applicant has not accepted Align's latest findings, and has argued that build cost information submitted during the life of the application should be taken into account (and that this would result in profit outcomes illustrating worse viability than Align's figures suggest). There is also outstanding disagreement regarding the appropriate Benchmark Land Value.
- 10.3 The applicant has also stated that, following the sub-committee's decision to defer its decision, the applicant's option to secure favourable financing (which, the applicant says, enabled the applicant to agree to the full affordable housing and Section 106 requirements, shortly before the previous sub-committee meeting) has expired. The applicant has therefore reverted to the position that the site cannot support Section 106 contributions or affordable housing.
- 10.4 This is not accepted. Notwithstanding the findings of Align (that the proposed development can provide at least some affordable housing and Section 106 contributions, while delivering an adequate profit for the developer), there is no evidence currently before the council to suggest that the favourable financing previously available to the applicant could not be secured again. Furthermore, even if it were convincingly demonstrated that the current iteration of the proposed development was truly unviable, it would then be appropriate for the applicant team to work with officers, to establish whether amendments (to unit numbers, sizes and house types, for example) could improve viability and could enable a fully policy-compliant scheme (or a scheme closer to full compliance) to be brought forward.
- 10.5 Given these considerations, and having regard to paragraph 58 of the NPPF (which states that the weight to be given to a viability assessment is a matter for the decision maker), it is again recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

11.0 OTHER CONSIDERATIONS:

- 11.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the distribution of affordable housing within the proposed development. Notwithstanding the commentary provided at paragraph 10.54 of the previous committee report, pepper-potting of the required affordable housing can indeed be secured, although it is noted that – due to the size of the proposed development, and its layout – the three affordable dwellings will inevitably be located relatively close to one another in any arrangement.
- 11.2 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the number of recommended conditions. It was implied that this suggested an unusually large number of issues were unresolved.
- 11.3 The 30 conditions recommended in the previous committee report are not unusual for a development or a site such as this. Some other major developments may well be subject to fewer conditions, however those sites are unlikely to be subject to all of the constraints and considerations that apply to the current application site. For example, not all development sites are adjacent to trees that require protection during works, not all include a derelict

building that needs retaining, and a potential bat presence does not apply to all sites. The number of recommended conditions does not indicate an unacceptable number of unresolved issues at the current application site. It is also noted that Government guidance states that planning permission should not be refused on grounds capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.

- 11.4 Having considered this supplementary report, should Members now be minded to grant planning permission in accordance with the previous officer recommendation (as amended), a condition related to sustainable energy technologies (as discussed at the committee meeting of 05/08/2021) can be applied.
- 11.5 If, however, Members are minded to refuse permission, careful consideration must be given to the need for consistency in planning decisions, and the risks involved in deviating from previous decisions. While such a deviation would not be unlawful (there is no planning legislation that requires planning decisions to adhere to earlier resolutions), there is an expectation placed upon the council to act reasonably in the execution of its duties as the local planning authority. Of note, the five suggested reasons for refusal set out in this supplementary report relate to matters that were not deemed to be reasons for refusal by the sub-committee in March 2020, when Members resolved to approve essentially the same proposals under application ref: 2019/90925. New policies and guidance documents have been adopted and published since March 2020, however the key changes therein relate to matters such as biodiversity and climate change, and not to the matters of concern raised by Members on 05/08/2021. Furthermore, relevant considerations on the ground (at the application site and its surroundings) have not significantly changed since March 2020.
- 11.6 Reference must be made to the Government's guidance regarding the type of behaviour that may give rise to an award of costs against a local planning authority at appeal. The Government has stated (in Planning Practice Guidance paragraph: 049, reference ID: 16-049-20140306) that examples of unreasonable behaviour include:
- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - failure to produce evidence to substantiate each reason for refusal on appeal;
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and
 - not determining similar cases in a consistent manner.
- 11.7 Members will also be aware that the refusal of planning permission, and a subsequent appeal, brings with it a risk of an appeal Inspector taking a different view (to the council) regarding financial viability, and/or regarding what conditions and Section 106 obligations would be required in the event of an appeal being allowed.

12.0 LEGAL ADVICE AND IMPLICATIONS OF REFUSAL

12.1 As advised in section 11 above, an appeal Inspector can make an award of costs in the event that unreasonable behaviour has resulted in unnecessary costs being incurred. This award can be made either upon the request of the appellant, or upon the appeal Inspector's own volition.

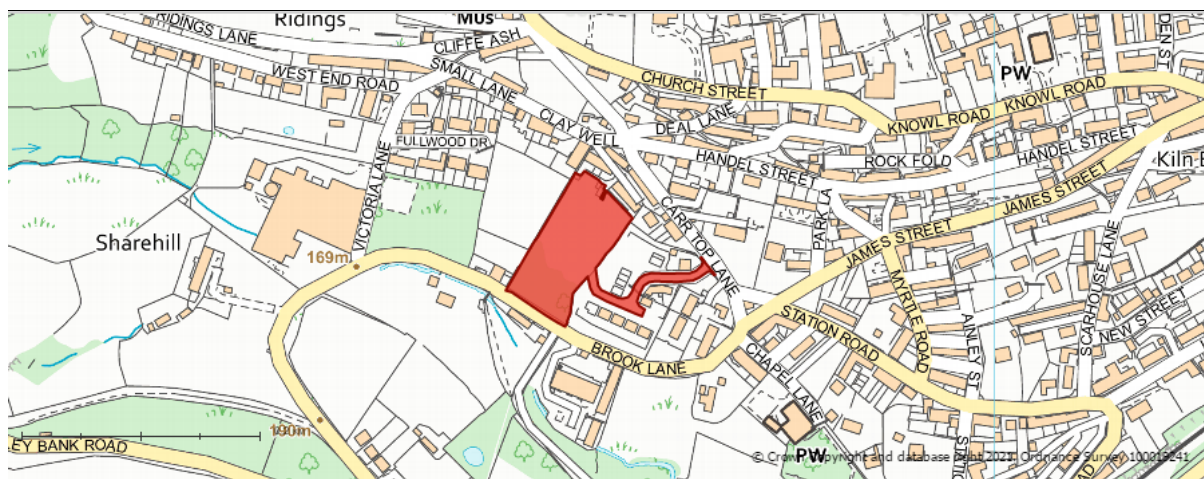
12.2 Having assessed the likely potential for such an award, it is considered that only suggested reason 3 (at paragraph 6.4 above, relating to the impact of the proposed development upon the character of Golcar) would be likely to not attract a costs award, as the assessment of character impact is subjective. The other suggested reasons for refusal (regarding drainage, unit size mix, open space and trees) could be said to have been reasonably addressed by conditions, the applicant's recent amendment to the unit size mix, and on-site provision of open space.

13.0 CONCLUSION:

13.1 Officers again recommend approval as per the previous committee report, included below, subject to a revision to the open space contribution as set out above, and with the addition of a condition related to sustainable energy technologies. Members are, however, invited to consider whether they are still minded to refuse permission in light of the above commentary and recent amendments to the proposals, and to consider the five suggested reasons for refusal.

PREVIOUS COMMITTEE REPORT

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

Ward Councillors consulted: Yes

Public or private: PUBLIC

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development 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 – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
- 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.

6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.

7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

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 is an application for full planning permission, for a residential development of 13 dwellings.

1.2 The application is presented to the Huddersfield Sub-Committee as it relates to a site larger than 0.5 hectares in size and has attracted a significant volume of representations.

1.3 The application is a resubmission of application ref: 2019/90925, which the Huddersfield Sub-Committee resolved to approve at its meeting of 19/03/2020. That application was, however, subsequently refused on 26/03/2021 as the applicant had not completed the required Section 106 agreement.

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises site allocation HS158 (allocated for housing) and the estate road that serves the development under construction to the east. Although section 4 of the submitted application form states that the site is 0.39 hectares in size, the application site red line boundary includes a larger area, and in this report a site area of 0.74 hectares is used. This figure was also used when the previous application (ref: 2019/90925) was considered.

2.2 The site is within the Golcar Conservation Area. To the north of the site is a terrace of five Grade II listed cottages at 17-25 Clay Well, and the Grade II listed former factory/warehouse and dwellings at 27-29 Clay Well. To the southwest is a Grade II listed group of back-to-back buildings at 54, 54A, 56 and 58 Brook Lane. Undesignated heritage assets within and close to the site include footpaths, dry stone walls and field patterns.

2.3 The site slopes downhill from north (approximately 190m AOD) to south (approximately 170m AOD). No buildings exist within the site’s boundaries other than a derelict stone building at the north end of the site. The site has previously been in agricultural use, and is previously-undeveloped (greenfield) land. Parts of the site are overgrown with self-seeded trees and shrubs, giving the site a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. Tree Preservation Order 06/15/w1 protects the woodland within the southern

part of the site, and the conservation area status of the site bestows protection on other trees. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site.

- 2.4 A public footpath (COL/56/40) runs along the site's west boundary.
- 2.5 Land immediately to the west and east is also allocated for housing (site allocations HS153 and HS157).

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 13 dwellings.
- 3.2 A new estate road is proposed as an extension to the estate road of the adjacent development (Hillcrest View, currently nearing completion), continuing north-westwards across the site and meeting the public footpath that runs along the site's western edge.
- 3.3 Dwellings would be arranged along this new estate road, provided as five detached houses, a pair of semi-detached houses, and in two short terraces. Eight 3-bedroom and five 4-bedroom dwellings are proposed. 12 of the proposed dwellings would have 3-storey elevations to one side, 2-storey elevations to the other. Natural stone walls and natural slate roofs are proposed.
- 3.4 No publicly-accessible open space is annotated on the applicant's drawings.
- 3.5 All dwellings would have off-street parking. Nine of the proposed dwellings would have integral garages.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/90925 – Full planning permission refused 26/03/2021 for the erection of 13 dwellings. Reason for refusal:

The proposed development, due to its lack of on-site affordable housing and open space, lack of related financial contributions to address these requirements off-site, and lack of a financial contribution towards education provision, would not sufficiently meet known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. Furthermore, with insufficient measures to encourage the use of sustainable modes of transport, to ensure land and infrastructure is managed, and to ensure access is provided to adjacent land, the proposed development would not be sustainable, would not sufficiently mitigate risk in relation to drainage and maintenance, and would not ensure development of adjacent land is enabled and that a connected, permeable neighbourhood would be created. This would be contrary to Kirklees Local Plan policies LP4, LP5, LP7, LP11, LP20, LP24, LP27, LP28, LP47, LP49 and LP63, and chapters 5, 8, 9, 11, 12 and 14 of the National Planning Policy Framework.

- 4.2 2017/93719 – Outline planning permission granted 14/03/2018 for residential development with details of point of access only.

- 4.3 95/90501 – Outline planning permission refused 31/03/1995 for approximately 23 residential dwellings.
- 4.4 94/93595 – Outline planning permission refused 10/01/1995 for approximately 23 residential dwellings.
- 4.5 The adjacent site to the west was granted outline planning permission for residential development (with details of access) on 14/03/2018 (ref: 2017/93638).
- 4.6 The adjacent site to the east was granted outline planning permission for residential development on 09/09/2015 (ref: 2015/90507), and reserved matters approval for a 19-unit scheme was subsequently granted at appeal on 14/11/2019 (refs: 2018/92848 and APP/Z4718/W/19/3229696). That scheme is currently under construction.

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

- 5.1 During the life of the current application, the applicant submitted new, amended or corrected documents including a biodiversity metric calculation and report, a Preliminary Ecological Appraisal and three versions of a Bat Mitigation Strategy, arboricultural information, swept path diagrams, flood risk and drainage information, construction management information, plans and elevations, a Design and Access Statement, a Transport Statement, a financial viability appraisal and related information, Phase I and II reports, and three versions of a Derelict Building Proposals document.

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 27/02/2019).

Kirklees Local Plan (2019):

- 6.2 Site allocation HS158 relates to 0.64 hectares (gross) / 0.43 hectares (net, excluding the mixed deciduous woodland), sets out an indicative housing capacity of 14 dwellings, and identifies the following constraints:
- Part of the site contains Habitats of Principal Importance.
 - Public right of way runs along the western boundary of the site.
 - The site is within a Conservation Area.

- 6.3 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
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
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
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:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Affordable Housing SPD (2008)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)
- Golcar Conservation Area (character appraisal) (undated)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

6.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has

pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

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

National Planning Policy and Guidance:

- 6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant 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 materials.

- 6.8 Since March 2014 Planning Practice Guidance for England has been published online.

- 6.9 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development, as a development within a conservation area, and as a development that would affect the setting of a listed building and a public right of way.

7.2 The application has been advertised via three site notices posted on 12/05/2021, an advertisement in the local press dated 30/04/2021, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 03/06/2021.

7.3 28 representations were received from occupants of neighbouring properties. The following is a summary of the points raised:

- Greenfield land should not be developed. Green spaces needed for exercise and mental health reasons. Brownfield sites should be developed instead. A proper plan is needed for Kirklees, instead of the current free-for-all. New houses have already been built recently in nearby locations.
- Previous refusal should be upheld.
- If council is minded to approve, fewer units should be proposed.
- Allotments should be reintroduced.
- Proposed development would be unsustainable.
- Harm to setting of adjacent listed buildings. Most nearby buildings are Grade II listed.
- Proposed dwellings not in keeping with local area. New yellow stone inappropriate. Windows do not match those of existing buildings. Development would be an eyesore.
- Harm to character, appearance and nature of historic village. Nature of village has been changed by recent developments.
- Site is within a conservation area.
- Objection to demolition of washhouse, which is part of area's local history.
- Bisecting ginnel with a path or road to Fullwood Drive would harm the village and its historic ginnel trail.
- Loss of trees, woodland cover and shrubs. Contrary to Golcar Conservation Area appraisal. Applicant already cleared site.
- Loss of wildlife habitat, contrary to Kirklees Biodiversity Strategy. Impact on bird, bats and insects. Bats roost in wash house. Newts are present. Protected and notable species present in the area. Site's habitats already destroyed, contrary to requirements for prior surveys. Badgers may have been driven away. Site should be restored to its original state.
- Japanese Knotweed present on site.
- Existing drainage system unable to cope. Yorkshire Water have had to carry out works. Natural springs exist at the site. Loss of vegetation and covering land with hard surfaces would adversely affect drainage.
- Run-off and mud from existing site blocked drains on Brook Lane. Streams regularly appear from hillside into Brook Lane after rain. Proposed development would cause similar problems.
- Houses would lack garden space.

- Increased noise and disturbance, during construction and following occupation.
- Dust during construction.
- Builders of adjacent site have made a mess. Untidy piles of cleared vegetation have been left on the site. Temporary fencing and portable toilet left on site.
- Increased odours.
- Loss of privacy at 5 to 25 Clay Well.
- Loss of natural light if fencing erected behind units 6, 7 and 8.
- Overlooking of properties on Carr Top Lane and of Heritage Mill.
- Loss of outlook.
- Loss of views from neighbouring properties.
- Four- and five-bedroom houses not needed. Recent developments have not alleviated perceived housing problem.
- Proposed dwellings would not be affordable. Affordable first-time buyer homes needed.
- Highways concerns. Increased traffic and congestion. Additional pressure at bottle neck in Milnsbridge. Lanes lack footways, are heavily parked, and have deteriorated in condition. Danger to pedestrians, including people with disabilities and schoolchildren. Serious accident will occur. Carr Top Lane is busy, single-track, and is a rat run. Existing problems are worse in winter.
- Objection to through-route to Fullwood Drive.
- Inadequate parking provision.
- Inadequate local public transport provision.
- Residents of the development are unlikely to cycle.
- Village is becoming overcrowded.
- Schools are full and health services are stretched. Inadequate medical and dental provision.
- Impact on property values.
- Viability claims not accepted.
- Council appears more interested in council tax revenue.
- Adjacent development has already resulted in damage to neighbouring dwelling.
- No objection to proposal, other than in relation to traffic.

7.4 Responses to the above comments are set out later in this report.

7.5 Amendments made, and additional information submitted, during the life of the application did not necessitate public re-consultation. Local re-consultation is not normally considered necessary when technical supporting information is submitted by applicants.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 KC Highways Development Management – Proposed development is acceptable in highways terms, subject to conditions. Proposed layout is of a similar design to the adjacent scheme. Proposed development, including forward visibility and gradients, must be in accordance with the Highway Design Guide SPD – this will be addressed at conditions stage. Adequate tracking for an 11.85m refuse collection vehicle has been demonstrated.

Adequate off-street parking would be provided for a development of this scale. Conditions recommended regarding surfacing and drainage of parking areas, details of internal adoptable roads, details of waste storage and collection, and highways structures. All new storm water attenuation tanks/pipes/culverts with internal diameter/spans exceeding 0.9m must be located off the adoptable highway where possible.

- 8.3 KC Lead Local Flood Authority – No objection, but clarification regarding on-site storage required. Conditions recommended regarding detailed drainage, flood routing and temporary drainage. Maintenance and management arrangements need to be secured.

8.4 Non-statutory:

- 8.5 KC Ecology – Ecological Impact Assessment not necessary (as other documents have been submitted), subject to outstanding bat issue being resolved. Proposal to carry out further bat surveys at a later date prior to demolition is not acceptable – surveys are required at application stage, prior to determination. Given that the bat surveys are yet to be completed, and given that multiple bat roosting crevices and spaces are present in the derelict building and no detailed mitigation proposals have been provided, there is not sufficient information available to enable the council to ensure it has fulfilled its obligations regarding protected species on the site. Applicant's biodiversity net gain report identifies a loss of 2.3 habitat units (-41.98%). With no mitigation proposed, proposals are not compliant with Local Plan policy LP30ii or the Biodiversity Net Gain Technical Advice Note. Corrections needed to applicant's biodiversity net gain calculation.

- 8.6 KC Education – No comment, as the development is for less than 25 units, and the education Section 106 policy is not triggered.

- 8.7 KC Environmental Health – Phase I report satisfactory. Phase II report inadequate, therefore four conditions required to address land contamination. Condition recommended, requiring construction management proposals (including restrictions on hours) to be adhered to. Condition recommended to secure provision of electric vehicle charging points. Condition recommended regarding dust suppression. Advice provided regarding site contamination, dust and construction noise.

- 8.8 KC Highway Structures – Condition recommended requiring details of retaining walls and structures. Condition recommended requiring details of surface water attenuation within the highway (to be applied if LLFA have conditioned details of a storm water attenuation facility). Attenuation features with internal diameters or spans exceeding 0.9m must be located off the adoptable highway.

- 8.9 KC Landscape – £29,123 contribution required towards off-site open space provision. Golcar ward is deficient in all open space typologies. 13 dwellings triggers need for green space (except in relation to allotments) and Local Area for Play. Existing facilities in the area are within 720m walking distance. Concern regarding loss of TPO-protected trees, and shading of proposed gardens. Street trees required. Query as to whether sustainable urban drainage scheme is proposed. Landscaping details required. Links to public right of way required.

- 8.10 KC Public Health – Application falls outside Health Impact Assessment requirements.
- 8.11 KC Strategic Housing – 20% affordable housing provision required. On-site provision is preferred. In the Kirklees Rural West area there is a significant need for affordable 1- and 2-bedroom homes, as well as 1- and 2-bedroom affordable homes specifically for older people. Three affordable units (two affordable rented, one intermediate) would be sought from the proposed development. Affordable units should be distributed evenly throughout the development, and indistinguishable from market housing.
- 8.12 KC Trees – Proposals not supported, as they do not meet the requirements of Local Plan policies LP24i or LP33. A protected woodland exists within the site, and there is a protected tree on the site's southeast boundary. Golcar Conservation Area provides protection to all trees over 75mm diameter. Concern as to how levels would be achieved to enable construction of dwellings. Proposed development would result in considerable loss of trees – this should be minimised. Mitigation for tree loss, and details of landscaping, should be provided. Concern regarding shading of proposed dwellings, particular at units 1, 2, 3, which may result in future pressure to prune and fell trees, including those in the protected woodland. Parts of the protected woodland should not be incorporated into private curtilages. Categorisation of trees T7 and T8 is not understood, these trees should not be felled, and the estate road close to them should be redesigned as a private driveway requiring more tree-friendly construction. Root pruning of tree T24 acceptable.
- 8.13 KC Waste Strategy – Proposed bin stores are of a suitable size and would be accessible, however further details are required. Manoeuvring space for refuse vehicle appears tight, and information required regarding manoeuvring from Carr Top Lane and through Hillcrest View. Condition recommended regarding temporary refuse collection.
- 8.14 West Yorkshire Police Designing Out Crime Officer – Support development in principle, subject to crime prevention advice being incorporated. Details of boundary treatments, lighting, door and window security, and cycle/motorcycle security required. Further advice provided regarding access, boundary treatments, landscaping, lighting and other matters relevant to crime prevention.
- 8.15 Yorkshire Water – No objection to submitted flood risk assessment, which states that foul water will discharge to the public combined sewer, sub-soil conditions do not support the use of soakaways, the site is remote from a watercourse, and that surface water would discharge to public sewer via storage at a restricted discharge rate of 5 litres/second.
- 8.16 Yorkshire Wildlife Trust – Details of habitat creation and Ecological Design Strategy required. Clarity required regarding bat mitigation. Preliminary Ecological Appraisal would benefit from being updated to an Ecological Impact Assessment.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and landscaping
- Ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations and financial viability
- Other matters

10.0 APPRAISAL

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.
- 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 site comprises site allocation HS158 (allocated for housing), to which full weight can be given. It is also noted that outline planning permission for residential development has already been granted at this site (ref: 2017/93719, granted 14/03/2018, now expired), and that the previous application for this site (ref: 2019/90925) was the subject of a committee resolution to approve.
- 10.4 The site is not designated as Urban Green Space or Local Green Space in the Local Plan, but is greenfield land, and was previously in agricultural use and designated as Provisional Open Land in the superseded Unitary Development Plan. Allocation of this and other greenfield sites by the council 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 development on greenfield land was also demonstrated to be necessary in order to meet development needs.
- 10.5 The 13 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan.

- 10.6 An Ordnance Survey map dated 1955 annotated part of the site as “Allotment Gardens”, however that use has ceased, and aerial photographs do not show any cultivation in recent years (unlike at the land to the west, where some cultivation was evident in 2012). At the time the 2017 outline application for this site was considered, limited weight was attached to this previous use of part of the site. Officers noted that the site was privately owned, and that refusal of planning permission would not have resulted in local demand for allotments being met, as the council has no authority to allocate private allotments to people on the council’s waiting list.
- 10.7 The site is within a wider mineral safeguarding area relating to sandstone. 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 c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Sustainability and climate change

- 10.8 The current application was submitted prior to the council’s adoption of the Planning Applications Climate Change Guidance document, and the applicant’s submission documents do not explain how the proposed development would help to address or combat climate change effects. It is noted, however, that relevant Local Plan policies are nonetheless applicable.
- 10.9 Measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents) and electric vehicle charging would be secured by condition, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable.
- 10.10 Drainage and flood risk minimisation measures will need to account for climate change.
- 10.11 The application site is a sustainable location for residential development, as it is relatively accessible and is at the edge of an existing, established settlement relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.
- 10.12 Golcar has pubs, convenience shops, a post office, a pharmacy, churches, schools, a library, eating establishments, the excellent Colne Valley Museum, and other facilities, such that many of the daily, 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.
- 10.13 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.

Design and conservation

- 10.14 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide and the council's Housebuilders Design Guide SPD.
- 10.15 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the council to pay special attention to the desirability of preserving or enhancing the character and appearance of the Golcar Conservation Area when determining this application.
- 10.16 The site and its context have a relatively high degree of townscape, landscape and heritage sensitivity, due to the site being located within the Golcar Conservation Area, its hillside location, and its visibility from the other side of the subsidiary valley that runs northwest-southeast between Golcar and Wellhouse.
- 10.17 The relevant conservation area character appraisal defines Golcar as a large, closely-knit hillside village of picturesque quality and special architectural and historic interest. The appraisal notes that the settlement's location on the steep hillside above the valley of the River Colne (and the subsidiary valley) gives it a highly dramatic setting, reminiscent of an Italian hill village. The subsidiary valley is identified as a defining influence on the character of the village, as is the village's organic form and limited formal planning. Important vistas north-eastwards from the bottom of the subsidiary valley and Albion Mill are also noted, and the appraisal suggests that when Golcar is viewed from here the natural landscape appears to frame the village. The hillside's green space is identified as a buffer that prevents the settlements of Golcar and Wellhouse from merging, thus protecting the character and setting of both areas. Tree coverage is identified as quintessential to Golcar's character, and panoramic views of the settlement reiterate the importance of trees to Golcar, creating extra interest, depth and character in the area. The surrounding landscape makes a vital contribution to the character and setting of Golcar, the topography creating a panorama not apparent in other areas. Steep slopes and footpaths, stone steps and narrow lanes with homogeneous vernacular stone architecture characterise the settlement. Golcar has several dry stone walls defining fields, open spaces and earlier boundaries, all of which impart character. Golcar's early settlement pattern is still visible, the urban grain of the conservation area is characterised by small linear plots, and there are few detached properties.
- 10.18 Another notable aspect of the Golcar Conservation Area is the orientation of many of its buildings. Within the conservation area, many streets including Ridings Lane, West End Road, Small Lane, Handel Street and Church Street follow the contours of the hillside, so that where the slope runs north-south, these streets run east-west, and the buildings on these streets are similarly aligned in accordance with the topography. This pattern of development is particularly noticeable from public vantage points including along Copley Bank Road on the other side of the subsidiary valley between Golcar and Wellhouse. Although some buildings within the conservation area do not follow this pattern of development, and have massing that stands perpendicular to the contours of the hillside, these are exceptions, and the predominant pattern

(which influences the character of the conservation area) is of buildings that are aligned with the east-west streets. Paragraph 5.2 of the council's Housebuilders Design Guide SPD notes that the "general character of the towns and villages of Kirklees is typified by stone-built properties closely following the hillside contours", and Golcar provides a notable example of this.

- 10.19 Of note, although three dwellings set perpendicular to the site's slope were granted planning permission at the adjacent site (refs: 2018/92848 and APP/Z4718/W/19/3229696), the majority of dwellings in that 19-unit scheme would be more respectful of the hillside's predominant pattern of development. The orientation of existing buildings on this hillside was referred to in the committee reports for applications refs: 2017/93719, 2017/93638 and 2019/90925.
- 10.20 In response to advice from officers provided under the previous application for this site (ref: 2019/90925), the applicant amended the proposals (under that application) so that they would be more reflective of the adjacent patterns of massing and orientation. The same layout has been resubmitted under the current application.
- 10.21 The proposed three-storey elevations are considered acceptable. Southwest-facing three-storey elevations already exist nearby at 41 and 43 Carr Top Lane and elsewhere on this hillside, and three-storey elevations have been erected at the adjacent site to the east (as per permission refs: 2018/92848 and APP/Z4718/W/19/3229696).
- 10.22 The proposed development is considered to be sufficiently reflective of the predominant patterns of development on this hillside. The proposed massing and grain would be an acceptable response to the site's context. Although the relevant character appraisal notes that there are few detached properties within the conservation area, the proposed five detached dwellings are considered acceptable, given their location, the surrounding trees to be retained, and the terraced and semi-detached dwellings proposed as part of the same development.
- 10.23 Although the application site's challenging topography would necessitate some levelling to enable the creation of development platforms and the provision of acceptable gradients along the proposed estate road, this would be relatively limited, and changes in levels would be largely accommodated through the use of differing front and rear elevation heights (most south-facing elevations would have three storeys, while most north-facing would have two), reducing the need for excavation and retaining walls. This is considered to be an appropriate response to the site's challenges, as developers are normally expected to work with a site's existing topography, rather than radically reshape it.
- 10.24 Local Plan policy LP5 (regarding masterplanning) is relevant to this application, not least because land immediately to the east and west is also allocated for housing. Local Plan policy LP7 is also relevant, and states that, to ensure the best use of land and buildings, proposals must allow for access to adjoining undeveloped land so it may subsequently be developed. Paragraph 6.41 of the Local Plan states that the council will continue to positively support measures to ensure the best use of land and buildings,

including through the application of relevant policies to ensure land is not sterilised for development.

- 10.25 Although the adjacent allocated site to the west (ref: HS153) can be accessed from Fullwood Drive (as was approved by the Council under outline permission ref: 2017/93638), access from the east (via Hillcrest View and Carr Top Lane) would be preferable in highways terms, as traffic would not have to negotiate the gradients and other challenges of Victoria Lane. Highways Development Management officers have previously confirmed that the Hillcrest View / Carr Top Lane junction can indeed accommodate the expected traffic of allocated sites HS153, HS158 and HS157.
- 10.26 To address these concerns, and to help avoid creating a ransom strip scenario, the proposed estate road would extend to the site's western edge (where it would meet the adjacent public footpath), and would need to be built to an adoptable standard. In addition, an appropriate obligation (to be secured via a Section 106 agreement) is recommended, requiring to applicant to allow vehicular, cycle, pedestrian and construction access to site ref: HS153 without unreasonable hindrance.
- 10.27 With regard to crime prevention, it is noted that units 6 to 12 would partly complete a perimeter block with 5 to 25 Clay Well. Limiting exposure of rear gardens to public access in this way would reduce opportunities for unauthorised access and burglary. There would, however, be parts of the proposed development where garden fences abut the adjacent public footpath (COL/56/40) – here, careful design of boundary treatments and defensive planting will be necessary. Units 5 and 6 would present several windows (including windows of habitable rooms) to the adjacent footpath, which would provide welcomed natural surveillance of this north-south route. Other than the woodland area that forms the southern part of the site, no outdoor areas would be outside garden curtilages, so that there would be no ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping. A condition related to crime and anti-social behaviour prevention measures is recommended. The recommended condition relating to boundary treatments would require security measures to be designed into the proposals, along with measures to limit the visual impact of boundary treatments at this highly-visible hillside site within the Golcar Conservation Area.
- 10.28 Off-street car parking is proposed in front or side driveways, and/or in integral garages. With appropriate landscaping, the proposed car parking would not have an overdominant or otherwise harmful visual or streetscape impact.
- 10.29 Regarding materials, section 7 of the applicant's application forms indicates that natural stone with grey mortar would be used for the walls of the dwellings, that natural blue slate roofs are proposed, and that grey UPVC windows and grey GRP doors would be used. Subject to details (and samples, if necessary) being submitted at conditions stage, and having regard to the materials approved at the adjacent site to the east, this palette of materials is considered acceptable for this site within the Golcar Conservation Area.
- 10.30 The route and gradients of the proposed development's estate road would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs will need to be designed to direct any surface water flow away from building thresholds. The Lead Local Flood Authority

have recommended a condition requiring details relevant to flood routing in exceedance events.

- 10.31 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.
- 10.32 With 13 units proposed in a site of 0.74 hectares, a density of only 18 units per hectare would be achieved. It is noted, however, that the site area (0.74 hectares) includes the estate road through the adjacent development, and the protected woodland in the southern part of the site. Subtracting these areas, under the previous application (ref: 2019/90925) the applicant asserted that the developable area is only 0.49 hectares (which, with 13 units proposed, results in a density of approximately 27 units per hectare), however it is reasonable to also note the site's other constraints and exclude other areas from this calculation – the site's challenging topography limits the site's developable space, and adequate spacing needs to be maintained between the new dwellings and the existing properties to the north on Clay Well. The proposed development must also take its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and the character and appearance of the Golcar Conservation Area, and it must again be noted that tree coverage is quintessential to Golcar's character. Furthermore, the proposed number of units (13) is close to the indicative site capacity figure (14) for site allocation HS158, and the number of units (14) indicatively shown on drawings submitted under the previous application for outline planning permission (ref: 2017/93719).
- 10.33 With all these matters taken into account, although the proposed density falls short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, it is recommended that the proposed quantum of development, and its density, be accepted.
- 10.34 A derelict building exists within the application site red line boundary. This stands opposite the gap between 15 and 17 Clay Well to the north. It is not a listed building, however it is within the Golcar Conservation Area. A resident has stated that it is over 200 years old, and was the wash house which was used by the residents of the adjacent cottages. The applicant has submitted a Derelict Building Proposals document which states that the derelict building would be retained and made safe. This is welcomed – although it is considered that the derelict building does not make a significant positive contribution to the character and appearance of the Golcar Conservation Area or the settings of nearby listed buildings, the retained building would at least play a role in illustrating the history of this part of Golcar, and how land and buildings were used. The retained building would be included in the rear garden / curtilage of plot 9. A condition is recommended, requiring details of the retention, making safe and maintenance of the derelict building.
- 10.35 The applicant's Design and Access Statement asserts that the proposed development would not cause harm to local heritage and character due to its design and materiality. Officers concur. It is considered that the proposed

development would not cause harm to the Golcar Conservation Area, and Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant sections of Local Plan policy LP35 would be complied with.

- 10.36 Similarly, given the acceptable design (including scale, grain, orientation and materials) of the proposed dwellings, it is considered that the proposed development would not harm the significance (including the setting) of the nearby listed buildings at 17-29 Clay Well and 54, 54A, 56 and 58 Brook Lane. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act (which requires the council to have special regard to the desirability of preserving the setting of adjacent listed buildings) and the relevant sections of Local Plan policy LP35 would therefore be complied with.
- 10.37 Additionally, and in light of the above assessments, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP35 and LP24, would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide and the council's Housebuilders Design Guide SPD.

Residential amenity and quality

- 10.38 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.
- 10.39 Acceptable separation distances are proposed between the proposed dwellings and existing neighbouring properties. Having regard to the site's topography, the proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook. Although distances of less than 21m would be maintained between the rear elevations of units 9 to 12 and 5-15 Clay Well, this is considered acceptable due to the significant difference in levels – the eaves of the proposed units would be lower than the ground floor level of the existing dwellings to the north.
- 10.40 In terms of noise, although residential development would increase activity and movements to and from the site (and passing the already-occupied units at Hillcrest View, as wells as existing dwellings on Brook Lane and James Street), given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. It is not accepted that odours from the completed development would adversely affect neighbour amenity. The proposed residential use is not inherently incompatible with existing surrounding uses.
- 10.41 Although the applicant submitted construction management information during the life of the current application (in an attempt to avoid the need for a relevant pre-commencement condition), this is not complete, and it is not considered adequate. A condition requiring the submission and approval of a Construction Management Plan (CMP) is therefore 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 and temporary drainage arrangements would need to be included in the CMP. An informative regarding hours of noisy construction work is recommended.

10.42 The quality of the proposed residential accommodation is also a material planning consideration.

10.43 The applicant proposes:

- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
- Unit 2 – detached, 4-bedroom, integral garage – 166sqm
- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 111sqm
- Unit 7 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 10 – terraced, 3-bedroom – 111sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 12 – detached, 3-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

10.44 All units would have three or four bedrooms. This is unfortunate, as a more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and would have helped to avoid visual monotony across the site. Furthermore, it is noted that Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of unit sizes are not set out in the policy). While this aspect of the proposed development is a shortcoming that attracts negative weight in the balance of planning considerations, it is not recommended that planning permission be withheld on these grounds.

10.45 Although the Government's Nationally Described Space Standards (March 2015) 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.

10.46 All 13 units would comply with this guidance, which is welcomed.

10.47 All of the proposed dwellings would benefit from dual aspect, which is welcomed. All would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.

10.48 All dwellings would have WCs at their entrance level, providing convenience for visitors with certain disabilities. All units would have ground floor bedrooms, ground floor habitable rooms that could be converted to bedrooms, or garages

that could potentially be converted to bedrooms (involving external alterations), which could help enable members of households with certain disabilities to remain resident.

- 10.49 All of the proposed dwellings would be provided with adequate private outdoor amenity space.
- 10.50 Regarding open space, it is accepted that on-site provision of most types of open space would not be suitable for this sloped site. A financial contribution would instead be required. This would be based on the 13 units currently proposed (having regard to local provision, and any on-site provision that could be offered by the applicant – it is noted that, in some cases, woodland can provide some of the attributes of open space), with an additional contribution required in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation. Based on the 13 units proposed, and with no details of publicly-accessible open space annotated on the applicant's drawings, a contribution of £29,123 would be required. Of note, under the previous application (ref: 2019/90925), an open space contribution of £78,486 was quoted by KC Landscape, however that figure was arrived at using the earlier £2,300-per-dwelling formula that has since been superseded by the more nuanced calculation method set out in the council's Open Space SPD.
- 10.51 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping, boundary treatment and management. Details of improvements (and the proposed pedestrian connection) to the adjacent public footpath would also be required.

Affordable housing

- 10.52 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 would be required, although this can be flexible. 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.
- 10.53 To comply with policy LP11, three of the proposed 13 units would need to be affordable, as 20% of 13 units is equivalent to 2.6 units. Three affordable units represents a policy-compliant 23% provision. In accordance with the 55%/45% tenure split detailed above, two of these units would need to be for social or affordable rent, and the other would need to be intermediate. Given on-site provision is preferred, it is recommended that three of the proposed development's units be secured as affordable housing via a Section 106 agreement. Financial viability considerations relevant to this provision are considered later in this report.
- 10.54 Given the size of the proposed development (and given that only three affordable units are required), it is accepted that opportunities for pepper-potting affordable housing around the site are limited. All units would be of an appropriate design, all would have three or four bedrooms, and the same

materials and similar detailing is proposed for all dwellings, which would help ensure the affordable units would not be visually distinguishable from the development's market units.

Highway and transportation issues

- 10.55 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.
- 10.56 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 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.
- 10.57 Vehicular access would be provided via the adjacent site to the east. The estate road of that development (Hillcrest View, currently nearing completion) would be extended into the current application site, continuing northwestwards across the site and meeting the public footpath that runs along the site's western edge. This is considered appropriate. Given the extent of the application site red line boundary, no vehicular through-route to Fullwood Drive is (or could be) proposed. The applicant has demonstrated adequate tracking and turning space for an 11.85m refuse vehicle along the proposed extended estate road.
- 10.58 The applicant's Transport Statement predicts trip generation of approximately seven two-way vehicle movements in the morning peak hour and approximately eight two-way movements in the evening peak hour. This approximately equates to one vehicle emerging onto Carr Top Lane every 15 minutes. This is not considered significant in the context of local highway capacity. The concerns of residents regarding existing congestion are noted, however the local highway network nonetheless would not be severely impacted by the anticipated number of additional vehicle movement.
- 10.59 The cumulative traffic impacts of development are also a material consideration. Members will be aware of residential developments that have recently been completed (or are nearing completion) in the area, including:
- Weavers Chase (off Leymoor Road) – 96 units.
 - Century View (Swallow Lane) – 19 units.
 - Hillcrest View (Carr Top Lane) – 19 units.

- 10.60 In addition to the above, further permissions have been granted (or are being sought) for developments at Parkwood Road (totalling 27 units) and Swallow Lane. The site directly to the west of the current application site (land off Fullwood Drive) is also allocated for residential development.
- 10.61 In their representations, several residents have referred to traffic and congestion on the local road network (including at Milnsbridge), and have stated that problems have increased in recent years.
- 10.62 The applicant's Transport Statement does not address cumulative traffic impacts, and it would be disproportionate to require the developer of a 13-unit scheme to provide a such an assessment covering all potentially-affected junctions (including those at Milnsbridge). It would also be unreasonable to expect a development of this size to include mitigative measures relating to traffic largely generated by existing and recent developments. While the concerns of residents are noted, it is again noted that the allocation of this site (and those sites listed above) followed a rigorous assessment of their suitability for development, and that the Local Plan (including its site allocations) was found to be an appropriate basis for the planning of the borough by the relevant Inspector. Also of note are the low predicted numbers of additional vehicle movements associated with the proposed development, and the fact that development at this site is unlikely to put significant additional pressure on a single route or junction – residents of this development would have a number of potential routes available to them (when accessing Huddersfield, the A62 or M62), such that the traffic impacts of the development are likely to be reasonably well dispersed. It can, in turn, be concluded that the proposed development's contribution towards cumulative impacts would similarly be limited.
- 10.63 Although not assessed in the applicant's Transport Statement, it is considered that pedestrian, cyclist and public transport trips are also likely to low and can be accommodated by the existing pedestrian and public transport infrastructure. Pedestrian infrastructure surrounding the site is mixed, with several local streets lacking footways, however a footway exists on the south side of Carr Top Lane and the southeast side of James Street, and residents of the proposed development would be able to make use of public footpath COL/56/40, to which a pedestrian connection is proposed. This connection would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e, and is welcomed. Appropriate adjacent boundary treatments, landscaping, and details of the pedestrian connection can be secured to ensure the usability and attraction of the footpath is not significantly reduced.
- 10.64 A development of this size would not normally trigger a need for the submission and implementation of a Travel Plan, however it is recommended that measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) be secured via Section 106 obligations.
- 10.65 Regarding the proposed development's internal arrangements, detailed drawings and specifications would need to be submitted, and compliance with the council's Highway Design Guide SPD would need to be demonstrated, at conditions stage. As per the comments of KC Highway Structures, a condition

relating to details of any highway retaining walls and structures is recommended.

- 10.66 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highway Design Guide SPD. Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.67 Storage space for three bins would be required for all dwellings. Further details of waste collection, including details of management and measures to ensure any waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. This would also consider the visual impact of waste storage arrangements within the development.
- 10.68 A further condition is also recommended, requiring details of temporary waste storage and collection arrangements for any dwellings that would become occupied prior to completion of the development.

Flood risk and drainage issues

- 10.69 The site is within Flood Zone 1. The site slopes downhill from north to south. The nearest watercourse is located to the south of the application site, on the other side of Brook Lane. A combined public sewer runs north-south beneath the adjacent site to the east.
- 10.70 A site-specific Flood Risk Assessment (FRA) was submitted by the applicant during the life of the current application. This notes that site investigation is yet to be undertaken but suggests that infiltration is unlikely to be appropriate as a means of disposal of surface water, due to the nature of the underlying bedrock strata. The FRA also notes that connection to the nearest watercourse would require construction through third party land, and the FRA concludes that this rules out watercourse connection as a means of disposal of surface water. The FRA goes on to recommend that surface water flows from the site (post-development) be disposed of via the existing combined public sewer at an attenuated rate of 5 litres per second. Attenuation would be provided in the form of pipes, manholes and two hydrobrakes.
- 10.71 It is accepted that infiltration is not appropriate for this site, due its gradient. It is also noted that there is no known existing watercourse close to the site to which surface water could be discharged without having to negotiate Brook Lane and pass through third party land. The principle of disposing surface water to the combined sewers, therefore, is considered acceptable. Yorkshire Water have not raised an objection to this surface water disposal proposal.
- 10.72 The Lead Local Flood Authority (LLFA) have not objected to the proposed development, but have raised queries regarding the volume of and annotations relating to on-site attenuation. These matters can be addressed via details to be submitted at conditions stage, if they are not addressed by the applicant sooner. Of note, and in accordance with the comments of KC Highway Structures and KC Highways Development Management, the detailed drainage scheme to be submitted at conditions stage may need to

amend the current proposals (which include 1,200mm diameter pipes) so that the development's estate road can be considered for adoption.

- 10.73 Details of flood routing are provided in the applicant's FRA. These suggest that surface water can be directed away from the proposed dwellings, however the LLFA have requested more details of flood routing during exceedance events. Again, this information can be provided at conditions stage.
- 10.74 The LLFA have also recommended a condition regarding temporary construction-phase drainage, and have provided advice on what provisions should be made. Measures to be secured at conditions stage should address residents' concerns regarding run-off onto Brook Lane.
- 10.75 Foul water from the proposed development would discharge to the existing combined public sewer to the east of the application site at an unrestricted rate. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.76 It is noted that the adjacent allocated site to the west (ref: HS153) may be similarly unsuitable for infiltration or connection to an existing watercourse, and that a connection across the current application site to the above-mentioned existing combined sewer may be necessary. In the interests of masterplanning and ensuring development of adjacent land is enabled, a condition is recommended, requiring details of how such a connection would be allowed for.
- 10.77 It is recommended that management and maintenance arrangements for the proposed drainage infrastructure (until adopted by Yorkshire Water) be secured via a Section 106 agreement.

Trees and landscaping

- 10.78 Tree Preservation Order 06/15/w1 protects the woodland within the southern part of the site, and the conservation area status of the site bestows protection on other trees. Outside the site to the east, a Tree Preservation Order (06/15/t1) protects a single tree. The requirements of Local Plan policies LP24i and LP33 are noted, as is the importance of trees to the significance of the Golcar Conservation Area, especially when viewed from public vantagepoints to the south. The site's existing trees certainly make a positive contribution towards public amenity, and to the distinctiveness of this specific location.
- 10.79 The applicant's Arboricultural Report includes a detailed tree survey, which identified group G14 (the protected woodland in the southern part of the site), tree T12 (a mature sessile oak to the north of the woodland) and tree T24 (the protected mature sycamore within the adjacent site to the east) as Category B trees of moderate quality whose retention is desirable. Most other trees were identified as Category C trees of low quality which could be retained, and two trees were identified as Category U trees which are unsuitable for retention.
- 10.80 The applicant proposes the retention of group G14 and trees T12 and T24. Almost all other trees would be felled (or, it is understood, have already been felled). This represents a significant loss of trees from the site and is regrettable, however almost all of the trees identified for felling have diameters of less than 75mm, and are therefore not protected by the site's conservation

area status. Given the size and quality of these trees, and the fact that efficient use of this allocated site would not be possible with these trees retained, the proposed losses are considered acceptable, subject to adequate replacement being secured by a recommended condition, to ensure compliance with Local Plan policies LP24i and LP33.

- 10.81 The council's Arboricultural Officer expressed concern regarding the spur of the estate road proposed between units 5 and 6, and requested that this be altered to become a private drive (similar to what is proposed at plot 12) so it can be constructed using no-dig construction methods which would have less impact upon trees T7 and T8 which are outside the application site. This suggestion is noted, however for the reasons set out under paragraph 10.26 above it is considered necessary for this spur to be built as an estate road to an adoptable standard.
- 10.82 To address another concern of the council's Arboricultural Officer, the applicant's Arboricultural Method Statement has been amended to no longer suggest that trees T7 and T8 would be felled.
- 10.83 The proposed root pruning of tree T24 would be limited, would be required to allow the construction of the adjacent driveway, and is unlikely to result in any significant decline of the tree.
- 10.84 The council's Arboricultural Officer has expressed concern as to how levels would be achieved for the building of the proposed dwellings, and how this could be achieved without impacting on the site's tree cover. The applicant's Arboricultural Method Statement, however, states at paragraph 4.2.1 that no ground level changes are required within the root protection areas of any tree to be retained, and that no mitigation actions are therefore considered necessary.
- 10.85 Shading of the proposed dwellings and their curtilages are a potential concern, and the council's Arboricultural Officer has highlighted the gardens of units 1, 2 and 3 which would be shaded by the protected woodland to the south, potentially resulting in pressure to prune or fell trees. This concern is noted, however to remove or mitigate the potential impact a redesigned proposal involving fewer dwellings (and, therefore, less efficient use of land) would need to be proposed.
- 10.86 The previously-proposed inclusion of parts of the protected woodland within private curtilages was of concern. To help address this, on 22/07/2021 the applicant submitted an amended site layout plan, which reduced the size of the rear gardens of units 3 and 5 so that they would not incorporate parts of the protected woodland. Although the rear gardens of units 1 and 2 would still include parts of the protected woodland, excluding those areas from the curtilages of those units would result in unacceptably small private outdoor amenity spaces for those dwellings.
- 10.87 The same amended site layout plan also includes annotation, confirming that the protected woodland would be the responsibility of the residents' management company. A related provision in the required Section 106 agreement is recommended.

- 10.88 As noted above, although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping and boundary treatments. A further condition regarding the implementation of tree protection measures during the construction phase is recommended. It is also recommended that management and maintenance of landscaped areas outside private curtilages be secured via the required Section 106 agreement.

Ecological considerations

- 10.89 The application site is previously-undeveloped (greenfield) land and was previously in agricultural use. Parts of the site are overgrown with self-seeded trees and shrubs, giving those areas a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site. Great crested newts may also be present in the surrounding area.
- 10.90 When considering the previous application for outline planning permission in relation to this site (ref: 2017/93719), officers noted that trees and shrubs, and the relative lack of human activity on the site, may mean the site provides, or had the potential to provide, habitats for wildlife. It was also noted that some neighbouring residents had stated that bats, deer and many species of bird had been seen at this site, that two ponds existed within 500m of the site, and that to the south of the site, on the other side of Brook Lane, was land forming part of the then-proposed Wildlife Habitat Network. This network connects designated sites of biodiversity and geological importance and notable habitat links, and any development within or close to the network will need to support and enhance these links.
- 10.91 The application is supported by a number of ecological documents including a Preliminary Ecological Appraisal (PEA), a Bat Mitigation Strategy and a Biodiversity Metric Report. This is welcomed. A PEA is not normally considered adequate at full application stage (an Ecological Impact Assessment (EclA) is normally required), and it is noted that the submitted PEA makes further recommendations for bat activity surveys, however as this is the only outstanding issue it is considered that, if these surveys were addressed via an appropriate bat mitigation strategy, there would be sufficient information to enable officers to assess the impacts of the proposals. Therefore, in this case the submission of an EclA is not considered necessary.
- 10.92 Multiple bat roosting crevices and spaces are present in the derelict building that stands at the north end of the site, close to Clay Well. KC Ecology have therefore expressed concern regarding the demolition of this building, and have advised that further bat surveys are required at application stage. The comments of KC Ecology were, however, made prior to the applicant reverting back to their previous proposal to retain the derelict building. Retention of this building, and implementation of the measures set out in the applicant's latest Bat Mitigation Strategy, obviate the need for further application-stage surveys, however conditions relating to bat mitigation measures will be necessary.

- 10.93 Given the applicant's proposals (as set out in the submitted Bat Mitigation Strategy) to create a "dark corridor" between the derelict building and the protected woodland to the south, for use by commuting bats, a condition requiring details of external lighting is recommended.
- 10.94 In accordance with Local Plan policy and the council's Biodiversity Net Gain Technical Advice Note, the applicant has submitted a biodiversity net gain metric calculation and associated report. This found that the proposed development would result in a loss of 2.3 habitat units (a -41.98% loss). The applicant has not yet demonstrated how this loss can be compensated for on-site, and concerns have been raised by KC Ecology regarding aspects of the applicant's calculation. A revised metric calculation was submitted on 15/07/2021, and the further comments of KC Ecology (including advice on what measures or contribution would be needed for the development to achieve the required biodiversity net gain) are awaited. Related to this, it is recommended that provision for the payment of a financial contribution (payable in the event that a biodiversity net gain cannot be achieved on site or nearby) be included in the required Section 106 agreement. Also related to this, a condition requiring the submission and implementation of an Ecological Design Strategy is recommended.

Environmental and public health

- 10.95 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) and the uptake of low emission fuels and technologies, should be secured via Section 106 obligations.
- 10.96 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.
- 10.97 Regarding the social infrastructure currently provided and available in Golcar (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP provision, there is no policy or supplementary planning guidance requiring the 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.

Ground conditions

- 10.98 Conditions regarding site contamination remediation are recommended in accordance with advice from the council's Environmental Health officers.

- 10.99 The applicant's submission documents state that Japanese Knotweed and Himalayan Balsam are present on the site. A condition, requiring the submission of a method statement for the removal and eradication of these invasive species (and the implementation of approved measures) is recommended.

Representations

- 10.100 A total of 28 representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations and financial viability

- 10.101 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
- 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.
- 6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

- 10.102 No financial viability information was submitted by the applicant under the previous application (ref: 2019/90925) prior to that application being considered by the Huddersfield Sub-Committee, however an unacceptably late attempt to submit such information was made prior to the refusal of that application earlier this year. Also of note, no financial viability information was submitted under the earlier application for outline planning permission (ref: 2017/93719) relating to this site.

- 10.103 Affordable housing is to be provided at the adjacent site, where the same applicant is implementing a permission for 19 dwellings. That development is to provide three affordable housing units.

- 10.104 Under the current application, the applicant submitted a Residential Viability Report (Grasscroft Development Solutions, March 2021). This states that “without any S106 contributions the scheme is at the limits of viability. The imposition of on-site affordable housing or S106 commuted sums exacerbates the viability constraints”.
- 10.105 The applicant’s viability information has been assessed by the council’s independent viability consultant, Align Property Partners. Officers have also had regard to the council’s Viability Guidance Note, approved by Cabinet on 02/06/2020. Align’s assessment concluded that – with the required affordable housing and open space contribution included – the proposed development could in fact deliver an acceptable level of profit (£545,144) – this equates to a profit margin of 14.6% on sales (taking the profit on affordable units at 7%) or 16.3% on costs.
- 10.106 One key input that differs between the applicant’s appraisal and Align’s assessment is the Benchmark Land Value (BLV). The applicant initially put this at £405,000, based on an assumed possibility that the land could have value as a pony paddock or for hobby farming, and based on a 15x multiplier. Officers do not consider the land to be suitable (or readily available) for those uses, given its gradients, limited accessibility and current condition. Officers are also unconvinced that a 15x multiplier is appropriate to arrive at a BLV using the EUV+ (existing use value, plus a premium) approach – it has not been demonstrated that a landowner (acting reasonably) would require a sum that is fifteen times the land’s current value (or EUV) to be sufficiently incentivised to release it for sale.
- 10.107 Align also queried the applicant’s assumptions regarding abnormal costs. These had not been broken down or explained in detail by the applicant, yet they were referred to by the applicant as a key factor that is adversely affecting the proposed development’s viability.
- 10.108 On 14/07/2021 the applicant responded to Align’s assessment. The applicant provided further detail regarding abnormal costs, queried various assumptions and inputs used by Align (including the BLV, which the applicant referred to as “implausibly low”), argued that a 20% profit level was reasonable, and submitted an updated appraisal, including adjustments to BLV (revised to £225,000) and sales and marketing fees. Based on no affordable housing or Section 106 contributions being provided, the updated appraisal arrived at a 19.08% profit level (based on gross development value), and the applicant has therefore argued that the site remains constrained by viability and cannot support Section 106 contributions or affordable housing.
- 10.109 These findings are not accepted. The applicant’s £225,000 BLV is still considered too high, and it is considered reasonable to expect the applicant to adjust their profit expectations to a level below 20%. The information provided by the applicant regarding abnormal costs is currently being reviewed by Align’s quantity surveyor (QS).
- 10.110 Subject to Align’s QS providing commentary on the recently-submitted information regarding abnormal costs, and given the above assessment, it is not accepted that the proposed development is unviable, and it is recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

- 10.111 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

Other planning matters

- 10.112 A condition removing permitted development rights for extensions and outbuildings from the proposed dwellings is recommended. This is considered necessary due to the site's location within Golcar Conservation Area, and its visibility in views from public vantagepoints to the south. Extensions and alterations under permitted development allowances here could be harmful to the significance of this heritage asset and could cause visual harm in longer views across the subsidiary valley.
- 10.113 The impact of the proposed development upon the values of adjacent dwellings is not a material planning consideration.
- 10.114 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS158, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of the Golcar Conservation Area, the site's topography, adjacent residential development (and the amenities of these properties), biodiversity, drainage and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. Some aspects of the proposed development attract negative weight in the balance of planning considerations, however approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.3 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 Planning and Development)

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan.
4. Submission of details of temporary (construction-phase) surface water drainage arrangements.
5. Drainage and surfacing of parking spaces.
6. Submission of details relating to internal adoptable roads.
7. Submission of details of any highways retaining walls and structures.
8. Submission of details of the internal road's pedestrian connection to the adjacent public right of way COL/56/40.
9. Submission of details of cycle parking, and provision prior to occupation.
10. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
11. Submission of details of waste storage and collection, and provision prior to occupation.
12. Temporary refuse storage and collection arrangements during construction
13. Submission of detailed drainage scheme (including clarification regarding on-site attenuation volume of and annotations).
14. Submission of flood routing details.
15. Submission of details to allow for a surface water connection across the site from site ref: HS153.
16. Submission of an intrusive site investigation report (phase II report).
17. Submission of a remediation strategy.
18. Implementation of remediation strategy.
19. Submission of a validation report.
20. Submission of details of crime prevention measures.
21. Submission of details of the retention, making safe and maintenance of the site's derelict building.
22. External materials (details and samples to be submitted).
23. Submission of details of boundary treatments.
24. Submission of details of external lighting.
25. Implementation of tree protection measures.
26. Submission of full details of a hard and soft landscaping scheme, to include replacement trees.
27. Submission of details and implementation of bat mitigation measures.
28. Submission of an Ecological Design Strategy.
29. Submission of an invasive species removal and eradication strategy, and implementation of measures.
30. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91384>

Certificate of Ownership – Certificate A signed

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2021/91638 Reserved matters application pursuant to outline application no. 2016/91479 (appeal no. APP/Z4718/W/17/3173711) for erection of 22 dwellings Land at Hart Street, Newsome, Huddersfield, HD4 6LS

APPLICANT

Nick Gould, Urban
Developments (York) Ltd

DATE VALID

21-Apr-2021

TARGET DATE

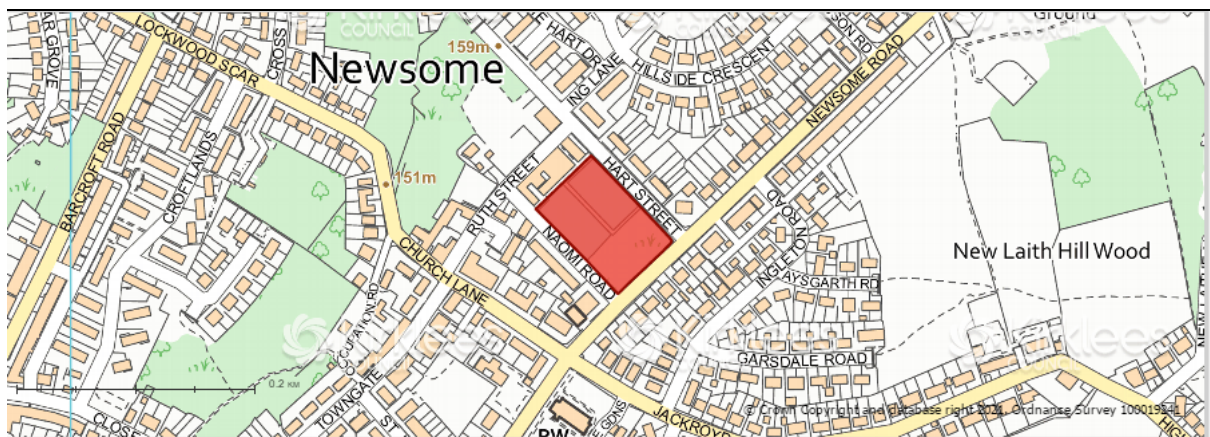
21-Jul-2021

EXTENSION EXPIRY DATE

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Newsome

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

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

1. Await the result of the crayfish survey. If none are found move the application forward to a decision in accordance with points 2 and 3 of the recommendation set out below.

If, in the unexpected circumstance that crayfish are identified within the mill ponds, undertake appropriate negotiation on the matter, with officers to return the application to a subsequent Committee with an updated recommendation.

2. To secure a S106 agreement to cover the following matters:

- a) Public open space provisions including off site commuted sum (£23,798.15) and future maintenance and management responsibilities of the open space within the site
- b) Contribution towards sustainable travel (metro cards) (£11,253)
- c) Four dwellings (20% of units) to be affordable, with all four to have a tenure of affordable rent.
- d) Management and maintenance of drainage and public open space.

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.

3. Complete the list of conditions, including those contained within this report, and issue the planning permission.

1.0 INTRODUCTION

1.1 This application seeks reserved matters permission for the erection of 22 dwellings. Approval is sought for all reserved matters; access, appearance, landscaping, layout, and scale. Outline permission for the principle of the development, including the quantum of 22 units, was approved via application 2016/91479.

- 1.2 In accordance with the Delegation Agreement the application is brought to the Huddersfield Area Planning Sub-Committee due to the level of public representation (in objection), which is deemed significant. Ward Councillor Andrew Cooper has also requested a committee decision, if officers are minded to approve.

2.0 SITE AND SURROUNDINGS

- 2.1 The site comprises an area of 0.62 ha. It is a rectangular in shape. There are two reservoirs within the north half of the site that originally served Newsome Mills. The south half of the land is largely overgrown. Historically this area of land was used as allotments. Along the west boundary are a number of mature trees that are protected by a Tree Preservation Order.
- 2.2 The site is flanked on 3 sides by roads: Hart Street, Newsome Road, and Naomi Road to the north, east and south respectively. These roads are residential in character. To the north-west, across a private access, is a mix of housing and business units; these units separate the site from Ruth Street. On the north side of Ruth Street is the remains of Newsome Mills, a grade 2 listed building. Further to the west is Newsome local centre.

3.0 PROPOSAL

- 3.1 The outline planning permission, which was granted with all matters reserved, established the principle of development for 22 dwellings. This is reserved matters application seeks approval for all reserved matters; access, appearance, landscaping, layout, and scale.
- 3.2 Of the 22 dwellings, the following sizes are proposed:

2-bed: 6
3-bed: 16

Three distinct house types are proposed. All dwellings are to be two storeys in height. Most units are to be in semi-detached pairs, except for two terraces of three. All dwellings would be faced in artificial stone with concrete roof tiles.

- 3.3 A new shared surface road into the site is to be formed, accessed from Hart Street. It would lead into the centre of the site and provide access to plots 1 – 5, 8 – 9 and 19 – 22. Plots 6 – 7 and 10 – 15 would front onto, and be accessed from, Hart Street. Plots 16 – 18 would face onto, and be accessed from, Newsome Road.
- 3.4 All units are to have two off-road parking spaces, bar plot 8 which has one, and a rear garden area. Rear boundaries are to be 1.8m high timber fencing, with feature stone and timber fencing on prominent edges. Street trees are proposed around the new road. An area of 1,229.9 sqm public open space (POS) is proposed, including along the west boundary, and sited in the south corner. The POS would provide pedestrian access from Newsome and Naomi Road into the site. A pond would be sited within the POS.

3.5 The applicant has stated that all units (22) are to be affordable rent, to be managed and operated by the registered provider Yorkshire Housing. They have offered 4 (20%) be secured within the S106 as affordable housing.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2007/91056: Residential development of 24 dwellings and 8 apartments and associated parking, garages, roads and sewers – Refused

2008/92072: Erection of 28 no. dwellings with associated roads, parking, garaging, sewers and creation of new public open space – Refused (Appeal dismissed)

2016/91479: Outline application for erection of 22 dwellings – Refused (Appeal Upheld)

2020/92721: Application for Additional Environmental Approval to restore planning permission 2016/91479 for outline application for erection of 22 dwellings and extend the time limit to implement the development until 1 May 2021 – Granted

4.2 Surrounding Area

Newsome Mills

2017/93009: Listed Building Consent to remove fire-damaged debris from interior of mill building and weaving shed – Granted

2019/91404: Listed Building Consent for internal and external alterations and works – Granted

2019/91633: Outline application for extension and alterations to existing mill remains to create 33no. apartments with parking and services at ground floor level, and change of use of former office building into one dwelling and the existing gate house to cycle parking facilities with ancillary works including the provision of open space – S106 Outline Permission

Land north of Newsome Mills

2019/91630: Outline application for erection of 30 dwellings and 12 apartments with ancillary works – S106 Outline Permission

Connect Day Services Ltd, 1 C, Ruth Street

2019/90198: Change of use from outbuilding, former cart shed and former pump house to adult day care – Conditional Full Permission

5.0 HISTORY OF NEGOTIATIONS

5.1 The application was not subject to pre-application discussions. Planning officers and consultants expressed various concerns to the initial proposal. This included matters relating to design, highways, drainage and ecology.

5.2 Negotiations took place on the identified issues. Discussions were also required on securing the identified planning obligations. This involved formal meetings, emails, and phone calls. The applicant positively responded to all feedback and incorporated officer requests and recommendations into their design.

5.3 Following receipt of the amended proposal, and further supporting documents, the application was re-advertised. On assessment of the amended proposal, final discussions took place on outstanding matters, which the applicant continued to respond positively to. Based on the negotiations undertaken and amendments made, officers were supportive of the proposal.

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 27th February 2019).

Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents

6.2 The application site is unallocated land within the Local Plan. 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
- **LP29** – Management of water bodies
- **LP30** – Biodiversity and geodiversity
- **LP33** – Trees
- **LP34** – Conserving and enhancing the water environment
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP63** – New open space

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

Supplementary Planning Documents

- 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

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th 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
- **Chapter 17** – Facilitating the sustainable use of minerals

6.5 Other relevant national guidance and documents:

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

Climate change

- 6.6 The Council approved Climate Emergency measures at its meeting of full Council on the 16th 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.
- 6.7 On the 12th 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

Public representation

- 7.1 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 The proposal was amended during the course of the application. The amended proposal was re-advertised to neighbouring residents and registered interested parties. The final public representation expired on the 18th of August, 2021. Subsequent minor amendments were made which did not justify an additional public representation period.
- 7.3 In total, across the two public representation periods, 72 representations were received. One was in support with all others in objection. The following is a summary of the comments received.

Design

- The proposed development is unattractive and out of keeping with the area.
- The application should provide more information to demonstrate how it will fit into the existing streetscene.
- The site is of heritage value, being a historic mill pond. The development would also harm the 19th century culvert and setting of nearby historic buildings, such as the coach house.
- The proposal will block views, including towards Castle Hill.
- The mill ponds are an important characteristic of Newsome and their loss is detrimental to local heritage and setting. This view is supported by the 2009 inspector's decision, which cited the development of this

land 'would have an unacceptable impact on the character and appearance of the area'.

- The 2017 inspector stated, in their report, that the proposal would cause harm to the character of the area. He also stated that the proposed outline failed '*to demonstrate that the proposed quantity of development could be accommodated within the confines of the site given the constraint created by the protected trees*'.
- Since the 2017 inspector's decision the Local Plan has been adopted, which does provide a 5-year housing land supply. The previous 5-year housing land supply issue was a determining factor in the inspector supporting the outline application.

Amenity

- Concerns over the amenity of future occupiers, due to fears of the quality of the new houses and their size.
- The proposed development will harm the amenity of nearby residents, through overbearing, overshadowing, overlooking, and noise. This includes windows and garden spaces.
- The site is an open green space in the urban environment; it provides mental and physical wellbeing to local residents. The new Public Open Space will not serve a practical purpose for residents. This has been particularly necessary and evident during lockdown.

Highways

- The new dwellings have insufficient parking spaces.
- The proposal will prevent on-street parking along the south of Hart Street, which will harm the amenity of nearby residents who rely on the on-street parking.
- Concerns over driveways directly onto Newsome Road.
- Newsome is overly congested; the proposal will exacerbate this.
- The walls of the ponds are also retaining structures, which retain parts of Naomi Road and the trees along the road.
- Concerns over the cumulative impact of the proposed development and that approved (at outline stage) at Newsome mills.

Drainage

- The dwellings are on a flood plain.
- Questions over what will happen to the ponds and the water that currently feeds them.
- The ponds are an attenuation feature which helps keep the local watercourse 'in balance'. The development will lead to the flooding of local properties.
- Insufficient understand is demonstrated by the applicant in regards to the source of water into the mill pond.

Other

- The site should be reverted to an allotment, to enable local people to grow their own food. Local community groups support and wish to do this. Alternatively, the pond should be brought into public ownership.

- The proposal will lead to an increase in pollution through traffic movements.
- The site is not a housing allocation, unlike Newsome mills. The ponds should not be developed before the Newsome mill site, which is an available brownfield site.
- The development will put greater pressure on local institutions, including schools and surgeries.
- Trees are to be removed from Hart Street, to the detriment of amenity and the environment. No replacement trees are proposed along Hart Street.
- An arboricultural method statement is required to demonstrate the trees along Naomi Road will be kept safe.
- The site is of ecological value and its removal, with no adequate mitigation, will harm local ecology. Particular concern is given over the loss of the pond, which benefits fish, birds, insects, and bats.
- The fire service has previously used the ponds to source water.
- The proposal will harm property values in the area.

Support

- The proposed dwellings will help those in need, as there is currently a housing shortage.

7.4 Local ward members were notified of the application. The site falls within Newsome Ward.

7.5 All of the local ward members (Cllrs Karen Allison, Andrew Cooper and Susan Lee Richards) object to the proposal and have put forward shared comments. The following is a summary of the matters raised:

- Notice is given to the LLFA's initial objection to the proposal. Questions over the capacity of the local sewerage infrastructure.
- The proposal would be visually harmful, to the detriment of the area's character, including the heritage value of the mill ponds.
- The proposal will harm local ecology.
- The proposal has insufficient parking for the number of dwellings, nor do dwellings have electric vehicle charging points.

8.0 CONSULTATION RESPONSES

Below is a summary of the consultation responses received in relation to this application. Where appropriate, these are expanded on further in the main assessment.

8.1 Statutory

K.C. Highways Development Management: No objection subject to conditions.

The Coal Authority: No objection.

Yorkshire Water: No objection.

8.2 Non-statutory

K.C. Conservation and Design: Expressed initial concerns over the design and layout of the proposal. They provided advise on aspects of the design, which the applicant incorporated into their proposal. No objection to the proposal as amended.

K.C. Crime Prevention: No objection subject to conditions.

K.C. Ecology: Have been involved in discussions throughout the application process. Subject to the crayfish survey result being the expected negative, no objection subject to conditions. Should the survey identify a crayfish population K.C. Ecology will require further involvement.

K.C. Environmental Health: Comments on review of the ground investigation reports are delayed.

K.C. Landscape: Expressed initial concerns over the design and layout of the proposal. They provided advise on aspects of the design, which the applicant incorporated into their proposal. No objection to the proposal as amended.

K.C. Lead Local Flood Authority: Have provided advise and feedback through the proposal. Expressed initial objections. Following the submission of amended proposal, no objection subject to conditions.

K.C. Strategic Housing: Advised on matters relating to affordable housing.

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

9.0 MAIN ISSUES

- Principle of development
- Sustainability and climate change
- Access
- Appearance
- Layout
- Scale
- Landscaping
- Planning obligations
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The outline permission (2016/91479) approved the principle of residential development within the site for up to 22 dwellings with all matters reserved. This application seeks permission for the outstanding reserved matters. These are layout, scale, appearance, access and landscaping, considered below.

- 10.2 Reserved matters are defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as the following:

Access – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.

Appearance – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

Landscaping’ – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

Layout – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

Scale – the height, width and length of each building proposed within the development in relation to its surroundings

- 10.3 Notwithstanding the above, while the quantum of residential units was secured at outline stage, consideration must be given to the housing mixture. LP11 of the Local Plan requires consideration of housing mixture. LP11 requires a proposal’s housing mix to reflect the proportions of households that require housing, achieving a mix of house size (2, 3, 4+ bed) and form (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the Kirklees Strategic Housing Market Assessment (SHMA).
- 10.4 The application seeks six 2-bed units and 16 3-bed units. When queried on this proposed mixture the applicant, alongside a statement from Yorkshire Housing, specified the mixture is to address identified shortfalls in affordable housing in the area. To demonstrate this, they included data from Kirklees’ Housing Solutions Service which confirmed local demand against supply. As noted previously, the applicant intends to operate the site as 100% affordable housing (affordable rent). The submitted information has been discussed with K.C. Strategic Housing, who accept the data, with officers likewise raising no objections.
- 10.5 The principle of the proposed development, and the number of units, has been established by the outline permission. Furthermore, the type of housing is considered to address local need. Consideration must however be given to local impacts and assessments made on the reserved matters.

Sustainability and climate change

- 10.6 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.
- 10.7 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. Notably the site is within close proximity of Newsome local centre and has Huddersfield Town Centre nearby. 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.
- 10.8 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These aspects will be considered where relevant within this report.

Access

- 10.9 There is currently no vehicle access into the site. A new road is to be created with access from Hart Street, a 30mph residential road, which would serve plots 1 – 5, 8 – 9, and 19 – 22. Plots 6 – 7 and 10 – 15 would have direct access onto Hart Street and plots 16 – 18 onto Newsome Road.
- 10.10 For the access road, following initial concerns from HDM and the Council's Section 38 team, amendments have been made and further details provided. Adequate on-site turning has been demonstrated for local service vehicles. It is intended for this road to be built to an adoptable standard and then adopted. Based on the further details, HDM have identified no reason why the access may not be built to an adoptable standard. A condition is to be imposed requiring the submission of technical highway details to ensure the road is built to an acceptable standard.
- 10.11 The proposal would add several driveways onto Newsome Road and Hart Street. Hart Street is a residential road and new access points are not a cause for concern. Residents have raised concerns over the proposal displacing informal road parking on Hart Street. A reduced level of frontage parking will be retained on Hart Street, but as informal street parking, officers are satisfied it may be accommodated elsewhere within the local network. K.C. Highways expressed initial concerns over the proposed driveways onto Newsome Road. However, the new driveways will have clear lines of sight, with Newsome Road already has a high number of dwellings with driveways onto it. In these circumstances, cumulative with the low number of driveways onto Newsome Road proposed (three), the arrangement is not considered unacceptable.

- 10.12 The proposal's traffic generation was considered at outline stage by officers and the inspectorate, who each concluded there was no indication that the local highway network could not accommodate the demand. At 22 dwellings the proposal falls below the thresholds for transport assessments and travel plans. Accordingly, there are no concerns over the proposals impact upon the local network.
- 10.13 Pedestrian access is to be via the new access road from Hart Street, and a footpath through the Public Open Space with separate routes to Newsome Road and Naomi Road. This is considered a good level of pedestrian permeability that would allow strong connectivity for residents, including towards nearby bus stops and Newsome centre.
- 10.14 Considering waste collection, each dwelling has dedicated waste storage facilities (for up to three bins) and sufficient space in curtilage for waste presentation on collection day. As noted previously, adequate turning for a waste service vehicle has been demonstrated. As engineering works would take place adjacent to Naomi Road, K.C. Structures have requested a condition securing more details on works near existing highway retaining walls, which is considered appropriate and recommended by officers.
- 10.15 In the interest of highway safety and amenity during the construction phase conditions requiring the submission of Construction Traffic Management Plan (CMP) and Construction Environmental Management Plan (CEMP) are recommended.
- 10.16 Having regard to the above, the proposal is considered to deliver a safe and suitable access arrangement, which would not harm the safe and efficient flow of traffic on the surrounding highway network. It is therefore considered to comply with Policy LP21 of the KLP.

Appearance

- 10.17 The proposed dwellings are predominantly semi-detached, which is the dominant house form in the area. Two terraces are proposed, located next to the site's north-west boundary. These terraces are adjacent to an existing neighbouring terrace and converted commercial site; the proposed siting of the terraces helps the development transition between semi-detached properties on Newsome Road and the higher density of development near Newsome Mills. Therefore, the proposed forms are considered acceptable.
- 10.18 Regarding architectural form, the proposed dwellings would have a typical, simple modern vernacular. Dwellings in the area have varied appearance, but predominantly can be identified as the vernacular design of their period of construction, with simple aesthetics. During the application window proportions and the addition of feature bay windows (on certain units fronting Hart Street and Newsome Road) have been introduced to reflect prominent characteristics of the built environment. Roof forms in the area are mixed between gabled and hipped: the proposal has a corresponding mixture. As amended, the proposed dwellings design and architectural features would adequately harmonise into the established built environment.

- 10.19 The dwellings would be faced in artificial stone. Materials in the area are varied, with artificial stone, natural stone, render, timber, and brick being evident. In this context the use of artificial stone is not opposed in principle, however a suitably high-quality end product and coursing would be required. Furthermore, appropriate coursing would be required. Samples of the materials and coursing may be secured via condition.
- 10.20 For the given reasons, officers are satisfied that the proposed appearance of the development would not harm visual amenity and it would represent good design in accordance with Policy LP24 of the KLP.

Layout

Residential Amenity

- 10.21 The site is surrounded by existing residential properties, although those to the north, east and south are separated from the site by roads. The proposed dwellings' habitable room windows are in excess of 21m of all neighbouring dwellings, in accordance with guidance contained within the Householder Design Guide SPD. Topography on site and around the site is predominantly level and gives no reason to depart from these recommended distances.
- 10.22 To the north-west of the site are closer spaced neighbouring properties; some of the buildings are commercial and others are residential. Residential units have their side elevations facing the site. No. 8 Hart Street has a first-floor window, however based on its small size and location, it is presumed to serve a non-habitable room. There are no concerns regarding the impact upon commercial properties.
- 10.23 The proposed separation distances to existing neighbouring residential properties are acceptable and do not raise concerns over overbearing, overshadowing, or overlooking.
- 10.24 Consideration must also be given to internal separation distances and the amenity of future occupiers. Internal separation distances meet or exceed the minimums set out within the Householder Design Guide, with the exception of plots 15, which has a rear separation of 6m of plot 14 at a minimum of 6.0m. However, plot 15 is orientated away from plot 14; the proposed angle will allow plot 15's occupiers a predominantly clear view over their own garden and results in no amenity concerns.
- 10.25 The proposed layout, for residential amenity purposes, is considered acceptable and complies with guidance contained within the Householder Design Guide SPD and the aims and objectives of LP24 of the Kirklees Local Plan.

Urban design

- 10.26 Plots 6 – 18 front direct onto Newsome Road and Hart Street; this mimics the form of most dwelling in the area. Plots 15 and 16 are at a 45degree angle compared to other units and face the junction of Newsome Road / Hart Street. This mimics the layout no. 342 Newsome Road on the opposite side of the Newsome Road / Hart Street junction and is considered an appropriate response to local character. The set back of the dwellings from the roads is

considered acceptable; plots 17 and 18 are noted to be closer than most other dwellings in the area, but not unduly so: being well separated from existing dwellings, this closer proximity will not be notable and its impact will be further reduced by the POS being immediately to their side, preserving an open character. Plots 1 – 5 and 19 – 22 front the new road; they have appropriate positioning, orientation, and space around them. Overall, the layout of the dwellings is typical for modern residential development and mimics that of most dwellings in the surrounding area.

- 10.27 The proposed public open space is sited in a suitable location where it will serve the wider community and not just future occupiers. Furthermore, the POS hosts paths from both Naomi Road and Newsome Road into the development which connect into the road through the site, onto Hart Street. This will provide a good level of pedestrian connectivity.
- 10.28 Considering parking layout and provision, there would be a mixture of front and side parking. The mixture is appropriate and allows for some units to have front gardens, preventing an unattractive 'sea of tarmac' arrangement. Bar one exception, all units (which are a mixture of two and three-bed properties) would be served by two dedicated off-road parking spaces, in accordance with the recommended levels on the Highways Design Guide SPD. The exception is plot 8, which has a single parking space. Plot 8 is a two-bed dwelling. During negotiations an agreeable solution, which balanced design, amenity and highway safety, and that provided two parking spaces could not be identified. In mitigation the site is deemed a sustainable location, with the site having strong public transport links (with metro cards proposed), proximity to Newsome Local Centre and Huddersfield town centre, and a condition for cycle storage facilities being proposed. Furthermore, the property is only two-bed; on balance this shortfall is not considered a cause for concern. Four dedicated visitor parking spaces are to be provided upon the new road. Of the proposed units 11 would be accessed from the new road and 11 from Hart Street / Newsome Road. Given this mixture, a reflective combination of dedicated and informal visitor parking spaces is considered acceptable.
- 10.29 The provision of cycle storage facilities and electric vehicle charging points, one per dwelling, are recommended to be secured via condition. This is to promote alternative, low emission, methods of travel.
- 10.30 It is noted that the site is neither within a Conservation Area nor immediately adjacent to a Listed Building. While it is within the Castle Hill Study Area the separation distance would limit the material's impact upon the heritage asset. The site is close to the Grade 2 Listed Newsome Mills. In regards to the ponds, which have historic connection to the mill, in making their decision on the outline application the inspector stated:

I note that the Council accepts that they are neither curtilage listed structures for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990, nor within the setting of the listed mill to the rear. I note also the Council's Officer Report which states that due to their separation from the Mill that the water bodies have little significance as non-designated heritage assets. I am aware too that the water bodies are not mentioned within the listing description of the Mill, and I am conscious of references to an English Heritage report, which considered that the physical separation of the water bodies from the Mill, and the limited architectural interest of the ponds indicated that they were unsuitable for listing.

Accordingly, officers are satisfied that the proposed development – which has raised no concerns over fitting into the established built environment – would not cause harm to any nearby heritage assets.

- 10.31 The application has been assessed based on the submitted plans. Once erected, dwellings benefit from Permitted Development right for further extensions and alterations. There are concerns that Permitted Development works on certain units could lead to an overdevelopment cause harm to residential amenity, visual amenity, and highway safety. This relates to plot 6, given its layout to no.8 Hart Street, and units 15 and 16, due to their comparative small garden size caused by their orientation to the other units. Accordingly, it is recommended to remove Permitted Development rights for extensions and outbuildings for the identified dwellings.
- 10.32 Summarising the above, officers are satisfied that the proposed layout would respect the townscape and landscape such that it is considered to be sufficiently good design and comply with the guidance of the Householder Design Guide SPD and Policies LP24 and LP35 of the KLP.

Scale

- 10.33 The scale of the proposed dwellings, consisting of their height, width and length, is consistent what that of neighbouring properties. Furthermore, the forms of the dwellings, being a mixture of terraced and semi-detached, mimics that predominant within the area. The scale of the dwellings would suitably harmonise into the established built environment and not appear incongruous.
- 10.34 For the amenity off future residents, all units would meet the minimum recommended floor spaces outlined within the Technical Housing Standards, as set out within the below table.

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
Type A (2-bed)	6	70	70
Type B (3-bed)	7	85	84
Type C (3-bed)	9	85	84

- 10.35 Garden sizes, both front and rear, are considered commensurate to the scale of their host dwellings, establishing good spacing to the benefit of residential and visual amenity.
- 10.36 The scale of the development is therefore considered to respect the surrounding townscape, while also ensuring an appropriate standard of amenity for future occupiers, in accordance with Policy LP24 of the KLP.

Landscaping

- 10.37 Engineering works will be required to level parts of the site and to facilitate the development. Overall, these will not be substantial and are not a cause for concern. However, some levelling will be required near to the retaining wall of Naomi Street. A condition for technical details of any works close to the retaining wall is recommended, in the interest of highway safety.

- 10.38 The proposed gardens are considered commensurate in scale to their host dwellings. They offer good separation and space about dwellings, while offering private amenity space for residents, securing a high standard of visual and residential amenity. A comprehensive boundary plan has been provided, showing the subdivision of dwellings and other boundaries. Officers are satisfied that the proposed boundary treatment would be visually attractive, while securing the amenity of future occupiers without harming the amenity of neighbouring residents. The implementation of the given boundary treatment is to be secured via condition.
- 10.39 An area of public open space 1,229.9 sqm in size is proposed. This is welcomed and, as noted in the layout section, is in an appropriate location. The application is supported by a hard and soft landscaping strategy which is considered acceptable and would secure a high-quality environment. This was amended during the course of the application to include a pond, for ecological purposes, but would have visual amenity benefits as well. A condition is recommended requiring the implementation of the landscaping as proposed, alongside the management and maintenance details for the open space for a minimum of five years, to ensure plants have adequate establishment opportunity, alongside a S106 agreement to secure long-term management arrangements.
- 10.40 Policy LP33 of the Local Plan establishes a general principle in favour of protecting trees which offer public amenity value. The site hosts numerous trees along its boundary with Naomi Road, which benefit from a group Tree Preservation Order. The application is supported by an arboricultural survey and impact assessment. Several trees around the site are to be removed to facilitate the development. These are predominantly young or in a poor state of health, offering limited public amenity value. Three trees within the TPO group have been identified for removal, on arboricultural grounds due to poor health and likewise are of limited public amenity. Replacement tree planting is proposed, with the landscaping strategy proposing 12 trees across the site. Many of these will be along the street with others in the Public Open Space, which is welcomed.
- 10.41 The submitted reports have been reviewed by K.C. Trees. They do not oppose the development, subject to a condition for an arboricultural method statement (to detail how trees would be protected during construction). This is acceptable to officers, who consider the proposal to comply with LP33.
- 10.42 In summary, officers consider the submitted landscaping details to be acceptable in accordance with KLP Policies LP24, LP32 and LP33.

Planning obligations

- 10.43 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.
- 10.44 The outline approval, which had the set number of 22 dwellings, contained planning conditions requiring the provision of affordable housing and public open space. Officers consider it appropriate and reasonable to secure the provision of these obligations at this stage, via a S106 agreement, as per the below summary.

Affordable homes

- 10.45 LP11 of the Local Plan and the Council's Interim Affordable Housing Policy requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution would be 4 units.
- 10.46 The applicant has agreed to 4 units, as affordable rent, being secured within the S106 agreement. They have stated that all units on site are to be affordable rent, with the site being managed and maintained by Yorkshire Housing (a registered provider) moving forward.
- 10.47 Local policy would typically seek a tenure mixture of 55% affordable rent, and 45% intermediate tenure: in this case split two and two. The applicant and Yorkshire Housing have raised concerns over having two intermediate tenure units alongside 20 affordable rents, stating management issues. Furthermore, they have demonstrated a specific local need for additional affordable rent units in this area. This is not disputed by officers or K.C. Strategic Housing. Accordingly, officers are satisfied that the proposed affordable housing officer is acceptable, in compliance with the aims and objectives of LP11 and the Kirklees Interim Affordable Housing Policy.

Education

- 10.48 The scale of the development does not trigger a requirement for an education contribution.

Public open space

- 10.49 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.
- 10.50 The application proposes 1,229.9 sqm of on-site Public Open Space, with an off-site contribution of £23,798.15 agreed, which is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the S106. This is considered appropriate to comply with policy LP63 of the Kirklees Local Plan.

Sustainable travel

- 10.51 The site is within walking distance of numerous bus stops that connect the development to the wider area, including Huddersfield Town Centre that in turn connects to the greater region. To assist in the promotion of alternative, sustainable methods of travel, as opposed to the primary use of private vehicles, West Yorkshire Combined Authority have calculated a contribution of £11,253 for the provision of metro travel cards (bus only).
- 10.52 The provision of this contribution is considered to comply with the aims of LP20 of the KLP.

Management and maintenance

- 10.53 It is recommended that the S106 agreement include terms for the provision of long-term maintenance and management of the surface water drainage features (until adoption) and the on-site public open space. This is to ensure appropriate responsible bodies are in place to ensure the ongoing management and maintenance of these assets.

Other matters

Air Quality

- 10.54 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.55 Notwithstanding the above, in accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.
- 10.56 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

Contamination and coal legacy

- 10.57 The site is within a High Coal Risk Area. The application is supported by a Phase 2 Site Investigation Report which has been reviewed by the Coal Authority. The report concludes that the coal mining risk of ground instability is negligible. The Coal Authority concur with this assessment and offer no objection to the proposal.
- 10.58 Turning to contaminated land, the outline planning permission included a condition requiring the investigation of potential on-site contamination and, subject to the outcome, secures appropriate mitigation, remediation, and validation. This is sufficient to ensure that the proposal complies with the aims and objectives of LP53.
- 10.59 Notwithstanding this, the application is supported by a Phase 1 and Phase 2 ground investigation reports, and a remediation strategy. This is currently being reviewed by K.C. Environmental Health. Regardless, as the aforementioned condition is imposed on the outline it cannot be discharged as part of this reserved matters application. K.C. Environmental Health's comments will inform the applicant prior to the submission as part of a Discharge of Condition application.

Drainage and flood risk

- 10.60 The site is within flood zone 1 and is below 1ha in size. Therefore, neither a site-specific flood risk assessment nor sequential test is required.

- 10.61 The site hosts a pair of artificial ponds. The ponds are fed by a culvert, which crosses the site from Newsome Road and discharges into the ponds. The ponds only overflow into the combined sewer on Hart Street. The applicant proposes to re-direct the feeder culvert, having it discharge directly into the combined sewer on Newsome Road. This has been accepted in principle by Yorkshire Water, subject to a separate sewerage connection agreement process. As the ponds already overflow into the combined sewer there are no anticipated capacity issues. Once the culvert is re-directed the ponds would be drained, possibly via tanker or direct to the sewer (subject to Yorkshire Water agreement). This approach is considered acceptable by planning officers and the LLFA.
- 10.62 The submission of a drainage strategy is secured via condition 9 on the parent outline planning permission. Despite this, the applicant has provided indicative details to demonstrate that an appropriate drainage strategy has been considered and may be accommodated on site. This has been reviewed by the LLFA and is considered acceptable for this stage, with a complete scheme to be provided at discharge of condition stage. The final details relate to the size of the attenuation tank, which has adequate space to be enlarged as required.
- 10.63 The drainage strategy is supported by a flood route plan, should a pluvial exceedance event occur. It demonstrates adequate avoidance of dwellings and their respective curtilages. Foul drainage, which is likewise secured via condition on the parent outline permission, is indicated to be direct into the combined sewer.
- 10.64 The maintenance and management of the surface water drainage system (until formally adopted by the statutory undertaker) is recommended 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.
- 10.65 The provision of full surface water and foul drainage details is secured via condition at outline stage. However, the applicant has provided sufficient detail with this reserved matter to demonstrate an acceptable scheme is feasible with due regard to the relevant reserved matters. Accordingly, officers are satisfied that the proposed development complies with the aims and objectives of LP27 and LP28 of the KLP.

Ecology

- 10.66 Development has the potential to cause harm to ecology within any site and in the wider area. Policy LP30 of the KLP states that the Council would seek to enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity.
- 10.67 The Local Planning Authority's refused the outline application (ref. 2016/91479) on ecology grounds. It was considered that the ponds were of local importance to ecology and should be retained. The decision to refuse 2016/91479 was appealed and upheld by the planning inspectorate. In their determination, the inspector gave due regard to the LPA's concerns. However, they were satisfied that the applicant had demonstrated harm to local ecology

would not be significant. The inspector concluded that the habitats present on the appeal site are of importance to nature conservation at the site level only, and their loss could be adequately mitigated via the imposition of the following condition:

7) Notwithstanding condition 4 no development shall take place until details of the on-site mitigation and biodiversity enhancement and of off-site nature and water conservation measures have been submitted to and approved in writing by the local planning authority. The scheme shall include measures for the mitigation of biodiversity impacts of the development hereby approved and details of measures to encourage biodiversity within the site, including potential locations for bird and bat roosting opportunities. Development shall be carried out in accordance with the approved details.

- 10.68 In light of the above, the principle of developing the site for 22 dwellings, without the retention of the ponds, was established at outline stage.
- 10.69 Notwithstanding this, officers have worked with the applicant to ensure adequate consideration is given to on-site mitigation and biodiversity enhancement during the course of this reserved matters application, as opposed to waiting until the discharge of condition stage, as ecological mitigation and enhancement may have a bearing on the reserved matters of scale, landscaping, and layout. However, in accordance with the condition, specifics of the off-site nature and water conservation measures to mitigate for the loss of the mill ponds will be addressed via the subsequent discharge of condition 7 of the outline permission.
- 10.70 The application is supported by an Ecological Mitigation & Enhancement Plan which has been reviewed by K.C. Ecology. The loss of the pond is noted however as per the previous inspector's decision, the condition is considered sufficient to ensure adequate mitigation will be put in place. Nevertheless, as a 'layout' consideration, the application has been amended to include the provision of a smaller pond on site. This will ensure that existing ecological functions are retained for amphibians and invertebrates, as well as those that feed upon them, albeit at a reduced capacity. Full technical details of the pond, to ensure it achieves the intended purpose, would be secured via condition.
- 10.71 The document details other means of mitigation and on-site enhancements, which are welcomed in principle and indicate adequate ecological works may be undertaken. To ensure that the creation and maintenance of these are sufficient to provide adequate on-site mitigation and enhancement, a condition will be applied for a Landscape & Ecological Management Plan.
- 10.72 Notwithstanding the above, at outline stage the application's ecological report suggested a crayfish survey be undertaken as part of the reserved matters application. Initially this was not proposed as part of the application: after a desk-based analysis the applicant considered the likelihood of crayfish being within the site was adequately low for surveys not to be necessary. This was disputed by K.C. Ecology; while it is accepted that the likelihood may be low, surveys have been requested in accordance with legislation. The applicant has agreed to this, and the surveys are currently being prepared. The results of the surveys are not expected until after the committee date.

- 10.73 Given the low expectation of crayfish being present, officers consider it reasonable to recommend approval, subject to delegation back to officers to await the outcome of the survey, with the caveat that in the unlikely event crayfish are found the application will be returned to committee for further consideration by members. Subject to the expected outcome of the survey, the proposed conditions, and the previously imposed condition on the outline application, officers consider the proposal to comply with the aims and objectives of LP30 of the Kirklees Local Plan.

Minerals

- 10.74 Mineral resources are finite and their extraction can only take place where the minerals naturally occur. The application site falls within an area designed as a Mineral Safeguarded Area (SCR with Sandstone and/or Clay and Shale) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. Policy LP38 seeks to ensure the appropriate management of minerals and consider whether they may be extracted during development
- 10.75 The site is brownfield land within the urban environment, with residential properties in close proximity. Given these factors and the site's relatively small size, there is considered limited prospect of any reasonable method of extraction taking place without causing undue impact to nearby sensitive receptors. Accordingly, officers are satisfied that the proposal does not conflict with LP38.

Representations

- 10.76 In total 72 representations have been received. Most matters raised have been addressed within this report. The following are those matters not already considered.

Design

- The site is of heritage value, being a historic mill pond. The development would also harm the 19th century culvert and setting of nearby historic buildings, such as the coach house.
- The mill ponds are an important characteristic of Newsome and their loss is detrimental to local heritage and setting. This view is supported by the 2009 inspector's decision, which cited the development of this land 'would have an unacceptable impact on the character and appearance of the area'.
- The 2017 inspector stated, in their report, that the proposal would cause harm to the character of the area. He also stated that the proposed outline failed '*to demonstrate that the proposed quantity of development could be accommodated within the confines of the site given the constraint created by the protected trees*'.

Response: The loss of the ponds and the respective heritage impact was considered by both planning officers and the inspectorate as part of the parent outline application. The loss of the ponds, on heritage / design grounds, did not form a reason for refusal by the LPA (although it did for amenity / ecology reasons). On the matter, the inspector stated:

I have taken into account the heritage aspects of the reservoirs, and I note that the Council accepts that they are neither curtilage listed structures for the purposes of the Planning (Listed Buildings and Conservation Areas) Act 1990, nor within the setting of the listed mill to the rear. I note also the Council's Officer Report which states that due to their separation from the Mill that the water bodies have little significance as non-designated heritage assets. I am aware too that the water bodies are not mentioned within the listing description of the Mill, and I am conscious of references to an English Heritage report, which considered that the physical separation of the water bodies from the Mill, and the limited architectural interest of the ponds indicated that they were unsuitable for listing. I note also that there were no objections from statutory consultees in relation to the proposed development of the reservoir element of the appeal site. However, these considerations only point to a lack of harm to heritage interests rather than a positive benefit of the scheme in this regard and therefore have only a neutral effect on the overall planning balance.

Given the above, officers maintain that the loss of the ponds is not detrimental to the heritage value of the area or Newsome mill complex. Conversely, from a general design perspective, the inspector did accept that the loss of the ponds would cause harm to the character of the area. However, they concluded that the benefits of the proposal outweighed the harm caused through the loss of the ponds in upholding the appeal.

The inspector did not claim that the outline proposal failed '*to demonstrate that the proposed quantity of development could be accommodated within the confines of the site given the constraint created by the protected trees*'. He said he'd been supplied with no layout plans, but an indicative plan which demonstrated how the site could be laid out.

- The proposal will block views, including towards Castle Hill.

Response: There is no individual right to a view in planning. Consideration is required as to whether a proposal would harm the amenity of occupiers through aspects such as overbearing or overshadowing; for the reasons given in paragraph's 10.21 and 10.22 this is not considered the case. Conversely Castle Hill is a heritage asset with public views towards it forming an aspect of its heritage value. The proposed development would not unduly restrict public views towards Castle Hill.

- Since the 2017 inspector's decision the Local Plan has been adopted, which does provide a 5-year housing land supply. The previous 5-year housing land supply issue was a determining factor in the inspector supporting the outline application.

Response: It is accepted that the inspector gave weight in favour of the proposal due to Council lacking a 5-year housing land supply at the time, and that the Council now holds a 5-year housing land supply following the adoption of the Local Plan. These circumstances do not change that the site has an extant outline planning permission, and that this assessment is limited to the reserved matters only.

Amenity

- The site is an open green space in the urban environment; it provides mental and physical wellbeing to local residents. The new Public Open Space will not serve a practical purpose for residents. This has been particularly necessary and evident during lockdown.

Response: The site is not allocated Urban Green Space; however, the benefit of open spaces is accepted. It is noted that the principle of erecting 22 dwellings on this site has been approved and is not a consideration of this application. The proposal includes an adequate provision of on-site Public Open Space as well as an off-site contribution to enable improvements at alternative nearby open space sites.

Highways

- Newsome is overly congested; the proposal will exacerbate this.
- Concerns over the cumulative impact of the proposed development and that approved (at outline stage) at Newsome mills.

Response: The scale of the proposed development, and that committed within the area, does not raise concerns over cumulative impacts within the area.

Drainage

- The dwellings are on a flood plain.
- Questions over what will happen to the ponds and the water that currently feeds them.
- Insufficient understanding is demonstrated by the applicant in regards to the source of water into the mill pond.
- The ponds are an attenuation feature which helps keep the local watercourse 'in balance'. The development will lead to the flooding of local properties.

Response: The site is not within a flood plain or an Environment Agency flood zone. As detailed in paragraphs 10.60 – 10.65 the pond is currently fed by a culvert (only), before flowing into the combined sewer. The culvert is to be re-directed directly into the combined sewer. Rainfall into the site, post removal of the ponds, will be addressed via the proposed surface water drainage strategy.

The submitted information, including the arrangements for the ponds and surface water drainage, has been reviewed by the Lead Local Flood Authority and Yorkshire Water, who offer no objection.

Other

- The site should be reverted to an allotment, to enable local people to grow their own food. Local community groups support and wish to do this. Alternatively, the pond should be brought into public ownership.

Response: These comments go beyond the scope of this planning application.

- The site is not a housing allocation, unlike Newsome mills. The ponds should not be developed before the Newsome mill site, which is an available brownfield site.

Response: The planning system does not prioritise brownfield over greenfield developments, nor allow for Local Planning Authorities to determine the order in which developments take place.

- The development will put greater pressure on local institutions, including schools and surgeries.

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. With regard to schools, the proposed development falls below the threshold for requiring an education contribution.

- Trees are to be removed from Hart Street, to the detriment of amenity and the environment. No replacement trees are proposed along Hart Street.

Response: The trees on Hart Street have been identified within the application's Arboricultural Survey as being poor quality. K.C. Trees do not oppose this and concur they offer limited public amenity.

- The fire service has previously used the ponds to source water.
- The proposal will harm property values in the area.

Response: These considerations do not form material planning considerations.

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 principle of 22 residential units on this site has been established by the approved outline planning permission on site (ref. 2016/91479), with this proposal being reserved matters only. The reserved matters propose 22 units, as per the outline, with the dwellings being an appropriate housing mixture that is based on local need. Therefore, the principle of development remains acceptable.

11.3 This application seeks approval on all reserved matters; access, appearance, landscaping, layout, and scale. Site constraints including neighbouring residential properties, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.

11.4 The proposal would not harm material planning considerations. Furthermore, it would provide an enhancement to local affordable housing, providing 4 affordable rent units, with the applicant intending to operate the other 18 units as affordable rent also, with Yorkshire Homes as a registered provider. Furthermore, a public open space, with circa 1,229.9 sqm on-site will be created for new and existing residents, with £23,798.15 towards off-site contributions to enhance other local facilities, in line with policy.

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)

1. Development to be carried out in accordance with the approved plans and specifications
2. Material samples, to include proposed coursing etc.
3. Implementation of boundary plan.
4. Details on road built to an adoptable standard
5. Details of works adjacent to retaining wall
6. Secure cycle storage details.
7. Further details on highway retaining works
8. Proposed driveways to be provided and retained.
9. Removing Permitted Development rights for extensions and outbuildings for plots 6, 15 and 16.
10. The provision of Electric Vehicle Charging Points
11. Submission of Arboricultural Method Statement
12. Landscaping to be provided in accordance with approved details.
13. Submission of Landscape and Ecological Management Plan (LEMP)
14. Boundary treatment to be erected in accordance with plans, to be provided prior to occupation
15. Finished floor levels as per flood routing plan
16. Temporary surface water drainage details to be provided
17. Submission of Construction Environmental Management Plan (CEMP)
18. Construction traffic Management Plan (CMP)

For clarity the following are the conditions attached to the outline application (2016/91379). For the avoidance of doubt, these do not need to be reimposed as part of the reserved matters, but remain active via the outline application:

1. Reserved matters to be approved prior to development commencing
2. Reserved matters to be submitted within 3 years
3. Development to commence within 2 years of reserved matters being approved
4. Development to be done in accordance with plans
5. Development to not commence until affordable housing obligation resolved
6. Development to not commence until ground investigations undertaken
7. Development to not commence until ecological mitigation and enhancement resolved
8. Development to not commence until public open space obligation resolved
9. Development to not commence until drainage strategy approved
10. Development to not commence until sewerage strategy approved

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91638>

Certificate of Ownership

Not applicable at reserved matters stage.

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Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2021/91823 Alterations to convert existing basement into two apartments (Listed Building within a Conservation Area) 132, Trinity Street, Huddersfield, HD1 4DT

APPLICANT

Z Uddin

DATE VALID

04-May-2021

TARGET DATE

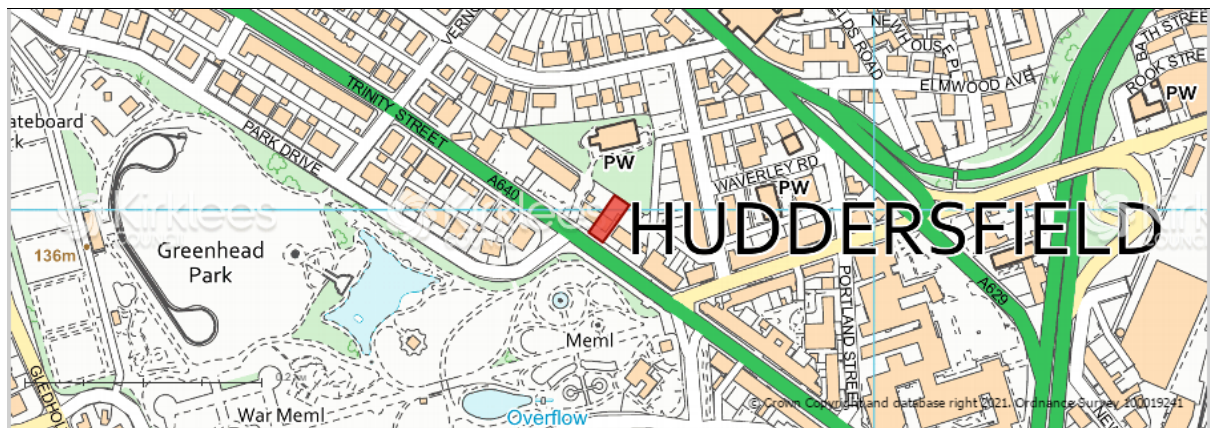
29-Jun-2021

EXTENSION EXPIRY DATE

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: GREENHEAD

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: Refusal

Reasons for Refusal:

1. The habitable room windows within the proposed dwellings, especially the bedrooms and the front-facing living room, would, by reason of the relationship between the proposed windows and existing ground levels, experience severely restricted natural light and outlook. The proposed development would therefore fail to provide an adequate level of amenity to future occupants of the dwellings, contrary to the aims of the National Planning Policy Framework paragraphs 125(c) and 130 (f), and Policy LP24(b) of the Kirklees Local Plan.

2. The removal of the existing steps would harm the significance of the Listed Building. Whilst the degree of harm would be less than substantial, it has not been justified by a demonstrable public benefit as required by paragraphs 200 and 202 of the of the National Planning Policy Framework, since it is considered that the creation of two new apartments with severely substandard levels of amenity would not be a public benefit.

1.0 INTRODUCTION:

1.1 This application is brought before Huddersfield Planning Committee for determination under the terms of the Delegation Agreement following a request from Ward Councillor Mohan Sokhal. Cllr Sokhal's grounds for requesting a Committee decision are as follows:

'To enable members of the Sub Committee to consider whether the level of amenity, particularly daylight, will be adequate or future residents of the apartments.'

1.2 The Committee Chair has confirmed that Cllr Sokhal's request is valid having regard to the Committee Protocol.

2.0 SITE AND SURROUNDINGS:

2.1 132 Trinity Street is a substantial stone-built semi-detached dwelling (the right-hand half of a pair) of two storeys plus an attic and basement, built in stone with a blue slate roof, situated on the northern side of the highway opposite Greenhead Park. It has a small front yard and an extensive back garden. It is set in a residential area comprising dwellings of generally similar style and age.

3.0 PROPOSAL:

3.1 The proposal is for the conversion of the existing basement into two apartments.

3.2 Each would have a single bedroom and would have a total floor area of 55 and 46sqm respectively. The larger apartment would have an outlook to the front and rear only. The smaller apartment would also have side-facing windows in the bedroom and living room.

3.3 The external works would consist of:

- The formation of a new window and light-well to the front elevation on the left-hand side;
- The restoration of two infilled windows to the side elevation;
- The fitting of a new window in an existing opening to the rear on the right-hand side;
- A new rear entrance door to the rear below and to the right of the existing entrance door, at basement level;
- The formation of new external steps down to the basement to be constructed using the original steps up to ground floor;
- The formation of a steel staircase to ground floor from garden level in place of the existing stone steps.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 2020/90213, 90214: Conversion of dwelling to create house of multiple occupancy (HMO). Approved, not implemented.

The permission applied to the ground and upper floors only. The basement was, on officers' advice, omitted from the final version of the scheme and left unconverted.

2020/93941-2: Planning Permission and Listed Building Consent for alterations to convert existing basement to two apartments (within a Conservation Area). Refused, no appeal.

2021/91824 - Listed Building Consent for alterations to convert existing basement to two apartments (within a Conservation Area) – Allied listed building consent, pending consideration/outcome of the decision on this application.

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

5.1 None.

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 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The site is in Greenhead Park / New North Road Conservation Area on the Kirklees Local Plan. It is a Grade II Listed Building.

- **LP 1:** Presumption in favour of sustainable development
- **LP 7:** Efficient and effective use of land and buildings
- **LP 21:** Highway safety and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 35:** Heritage
- **LP 52:** Protection and improvement of environmental quality

- 6.3 Listing Description. TRINITY STREET 1. 5113 (North Side) Highfield Nos 128 to 134 (even) SE 1316 33/1304 II 2. Mid C19. Hammer dressed stone. Pitched slate roof. Coped gables. 2 storeys. Modillioned eaves cornice. Raised quoins. 3 sashes each in plain raised frames on 1st floor. One sash each in moulded frame with moulded cornice on ground floor. Canted ground floor bays with sashes, moulded surrounds and moulded cornice, to No 128 (one) and No 134 (two). Doors with panelled jambs, moulded transoms, semi-circular fanlight, moulded voussoirs and anthemion cresting.

- 6.4 As it is a conversion of an existing building it is considered it does not raise access or other Equality Act considerations.

6.3 Supplementary Planning Guidance / Documents:

- KC Highways Design Guide 2019
- Housebuilders Design Guide Supplementary Planning Document,
- Biodiversity Net Gain Technical Advice Note
- Climate Change Guidance for Planning Applications

6.4 National Planning Guidance:

National Planning Policy Framework

- Chapter 11 – Making efficient use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment.

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 Final publicity date expired: 18-Jun-2021 (publicity by neighbour notification letter, site notice and press advertisement on the grounds of the development affecting a Listed Building and being within a Conservation Area).
- 7.2 No representations were made by members of the public
- 7.3 Ward Councillor comments (Ward Councillor Mohan Sokhal)
- Requests Sub-Committee decision (see Section 1 above)

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

There were no statutory consultees.

8.2 Non-statutory:

No consultations were deemed necessary for this planning application.

KC Conservation & Design were consulted on the accompanying Listed Building Consent and had no objection to the works to the listed building.

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The site is within Greenhead Park / New North Road Conservation Area on the UDP Proposals Map and is a Grade II Listed Building.
- 10.2 There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the appearance of buildings or land within a Conservation Area.

- 10.3 Policy LP1 of the Local Plan states that when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. LP1 goes on further to stating that:
- “The council will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”*
- 10.4 As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021).
- 10.5 As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority’s should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.6 Paragraph 68 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.
- 10.7 Although the Local Planning Authority can demonstrate a five year land supply, it is noted that this development would be contribute to the housing supply in the district. However the provision of housing needs to be balanced against all policies and material planning considerations considered below
- LP7 - encourages the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and appropriate housing densities to ensure that land is used efficiently.
 - LP21 – that proposals must ensure the safe and efficient flow of traffic and safe access.
 - LP22 – appropriate parking to be provided given the type o development and the accessibility of the site.
 - LP24 – the form, scale, layout and details of development must respect and enhance the character of the townscape and landscape, provide a high standard of amenity for future and neighbouring occupiers including appropriate distances between buildings and a high level of sustainability.
 - LP35 – The significance of heritage assets must be preserved or enhanced.
 - LP52 – Potential pollution impacts must be considered at the planning stage.

- 10.8 Neither the Local Plan nor NPPF contain a policy specifically dealing with basement dwellings. NPPF Chapter 11 paragraph 118d, states that Local Planning Authorities should support the development of “under-utilised” land and buildings. In theory this could include large houses that are currently under-occupied, but as this is not an exceptionally large house, and already has permission for HMO use which is an intensification on the previous use, it is considered that no substantial weight can be placed on this paragraph.
- 10.9 Paragraph 125c says: “In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).”
- 10.10 Turning to NPPF Chapter 12, paragraph 130(e-f) states that planning decisions should ensure that developments should optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, but also that they should create places that promote health and well-being with a high standard of amenity for existing and future users.
- 10.11 Any implications for highway safety and access will also be assessed having regard to the aims of Policies LP21-22.

Urban Design issues

- 10.12 The applicant proposes to extend the left-hand bay on the façade downwards at semi-basement level and insert a single window and a lightwell. Stone copings and a rendered or stone-faced retaining wall are proposed for the light wells. As this wall would only be visible from within the void and through the basement window this intervention is not considered to harm the significance of the listed building. In addition, the proposed wrought iron grill over the front lightwell is judged acceptable.
- 10.13 The new basement entrance to the rear would be accessed via the re-located stone staircase to the rear, with a steel staircase with Victorian detailing and a slender balustrade proposed to access the ground floor doorway. In addition, a rear light well would be created to the rear, with simple metal balustrades around both rear light wells which would reflect the Victorian character of the building. The windows are to be timber. The works would largely retain the character of the rear elevation.
- 10.14 However, it is still considered that the removal of the existing steps would harm the significance of the Listed Building. The degree of harm is considered to be very slight and would certainly amount to “less than substantial” harm. But even “less than substantial” harm must still be justified by a public benefit. In principle, bringing vacant floor space back into use can be a public benefit.
- 10.15 In this instance it is not considered to be a public benefit since it would not result in the formation of living accommodation that would provide an adequate standard of living for future occupants, for the reasons set out in detail in paragraphs 10.17-30 below “Residential amenity”.

10.16 In conclusion, it is considered that whilst the development would not harm the character of the Conservation Area or visual amenity, it would cause harm to the significance of the Listed Building, a degree of harm which though less than substantial has not been justified by a demonstrable public benefit. It would therefore be contrary to the aims of Policy LP35 of the Local Plan and Chapter 16 of the NPPF.

Residential Amenity

10.17 As set out in paragraphs 10.9-10.10 above, the current version of the NPPF emphasises that the quality of life for future occupants of any proposed new dwelling is an important material consideration.

Privacy and overlooking:

10.18 The new or restored windows in the front and rear elevations would not be in a position to overlook other dwellings at close quarters and it is considered that there would be no adverse consequences for the privacy of either existing or future residents. The two side-facing windows would face towards the driveway and side wall of no. 130. This neighbouring property has two windows in its own facing side elevation but these are both obscurely glazed. The two new side-facing windows would only overlook the driveway of the neighbouring property. Whilst this arrangement would potentially result in compromised privacy for the occupants of the new dwelling, a condition requiring obscure glazing could be imposed in the event of officers being minded to approve since they are secondary windows.

10.19 To sum up, the proposed development would provide adequate levels of privacy for future and neighbouring occupants.

Compliance with nationally described space standards:

10.20 The amount of living space would be above the minimum required for a single-bedroom, single-storey dwelling in the Nationally Described Space Standards, which is 39sqm for a dwelling with one bed space, and 50 sqm for a dwelling with two bed spaces. The two flats would have an internal area of 55sqm and 46sqm respectively; this means the smaller flat would, under the standards, not be adequate for two occupants sharing the bedroom, but this would be difficult to control through the planning process. Individual bedrooms would also be compliant being in excess of the recommended minimum area of 7.5sqm for a single bedroom and 11sqm for a double bedroom, at 17sqm and 26sqm.

Availability of natural light and outlook:

10.21 However, a further factor that must be assessed is whether the dwellings would provide sufficient natural light and outlook for future occupants, since these are often poor for basement and semi-basement dwellings. Since the last application, which was refused on the basis that light and outlook would have been unacceptably poor, the following changes have been made in an attempt to ensure more light or a better outlook:

- In the larger apartment, the living room is now to be at the rear and the bedroom at the front;

- It is proposed that for the smaller apartment, the light-well at the rear is enlarged. (The front-facing light-well serving this apartment is existing).
- 10.22 The architect has also claimed in the supporting statement that by switching the rooms in the larger apartment around when compared to the refused application 2020/93941, there would be increased light entering the living room, which is deemed to be more important than the bedroom. The internal arrangement for the smaller apartment remains unchanged.
- 10.23 The adopted Local Plan policy LP24 places more emphasis on amenity for future residents of the proposed development than the comparable policies did in the now-superseded Unitary Development Plan (UDP). In particular, LP24(b) specifies they must “provide a high standard of amenity for future and neighbouring occupiers” This is also a requirement of the NPPF (Achieving well-designed places).
- 10.24 There have been, both under the now-superseded UDP and the current Local Plan, numerous examples of applications for basement dwellings being refused and not appealed. These include 2016/91491 (110 Longley Road), 2018/94184 (Central Avenue), 2018/90263 (42 Bradford Road), and 2019/91436 (1 Willow Lane).
- 10.25 Basement dwellings are however diverse in the amount of light and quality of outlook they provide, and each case must be assessed on its own merits. In the present example, the two front-facing windows (bedrooms) would be almost wholly below ground level, so that the line of sight for a person standing within one of the front-facing rooms would be at or near the level of the existing front garden. Light and outlook would consequently be very poor even with the new light-well. The outlook from the side-facing windows would also be poor (even assuming they were not obscurely-glazed) since they would face the wall of a two-storey building only 5.7m away and there is a risk that their light and outlook would be further obstructed by parked cars.
- 10.26 The outlook from the rear windows would be a little better, since they would face out on to an extensive garden and their lintel height would be above existing ground level. Outlook and light might be more limited for the living room window in the larger apartment than the smaller one, because the garden level is higher on that side, although the proposed new light-well would go some way towards improving the ability to receive light.
- 10.27 The architect’s supporting statement suggests that planning decisions should place a higher priority on the availability of natural light and outlook to living rooms than bedrooms. There is no statutory basis for this view since both are classed as habitable rooms. If, however, this principle is to be accepted on the grounds that residents are likely to spend more of their waking hours in the living room than the bedroom, it is still considered that the light and outlook available for even for the rear-facing windows would be poor because internal floor level would be 800-1000mm below ground level in the garden.
- 10.28 In summary, the smaller apartment (the right-hand one as viewed from the front) might enjoy a slightly better standard of amenity than the larger one, in that both main rooms would have a secondary source of light from the east. However, even in the smaller apartment, floor levels in both rooms would be

set well below surrounding land levels, so that overall outlook and ability to receive natural light would both be below the level normally expected for a new dwelling. It is considered that the overall living environment for future occupants would be oppressive.

- 10.29 In very rare instances, the desirability of providing a new use for a Listed Building that would otherwise remain vacant or severely under-used may provide a justification for a development that would fail to accord with other planning policies. In this instance, the applicant has not sought to provide a justification for the development by reference to finding the optimum viable use for the Listed Building. It is unlikely that such a justification could be successfully demonstrated, as the proposed accommodation is judged to be severely substandard, and furthermore there is already a viable use (dwelling house as existing, or HMO as approved) for the ground and upper floors.
- 10.30 In conclusion, it is considered that the development would not provide an acceptable standard of living for future occupants and would thereby conflict with the aims of Policy LP24(b) of the Local Plan and paragraph 125(c) and 130(f) of the National Planning Policy Framework.

Highway issues

- 10.31 The driveway provides tandem parking (with space for up to three cars) but this is unlikely to be suitable for a building containing multiple dwellings because of the likelihood of cars being boxed in by a vehicle belonging to another occupant parked in front. However, it is unlikely that future occupants would have to be reliant on the use of a private car for most of their daily or weekly needs. The property is situated very close to Huddersfield Town Centre and benefits from a regular bus service. There are traffic regulation orders on the adjacent parts of Trinity Street.
- 10.32 Given the highly sustainable location, the lack of suitable parking is not a concern in this instance and it is considered that both the new dwellings and approved HMO would be able to function without giving rise to highway safety problems and would thereby accord with the aims of LP21-22.

Representations

- 10.33 Ward Councillor Sokhal's comments are noted and the issues raised have been thoroughly assessed in this report. No representations from other third parties were made.

Other Matters

- 10.34 *Noise:*
There is a risk that future occupants would be negatively affected by noise from road traffic. This would apply especially to the front-facing rooms. In the event of officers being minded to approve, any such problems could be alleviated by means of suitable noise attenuation measures, which would have to be demonstrated by a full noise assessment report. The aims of LP52 and NPPF Chapter 15 would thereby be fulfilled.

10.35 *Biodiversity:*

The site is in the bat alert layer but on the basis of an external viewing is unlikely to have bat roost potential, and in any case no roof or high-level alterations to the building that might affect bats are proposed. No bat survey work is considered necessary.

10.36 *Climate Change:*

On 12th 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 pre-dates 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 this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects.

It is noted however that the site is appropriately situated for ensuring that future residents would be able to rely on means of transport other than the private car, and would create additional living accommodation within the envelope of an existing building. It is therefore considered that the development demonstrates acceptable levels of sustainability from the point of view of promoting carbon reduction. It must be emphasised that in officers’ judgement this factor does not outweigh the residential amenity concerns outlined in 10.17-30 above.

11.0 CONCLUSION

11.1 It is considered that the proposed development would fail to provide an acceptable level of amenity for future occupants owing to severely limited natural light and outlook that would be available, in turn it would lead to less than substantial harm to the listed building, which is not outweighed by a demonstrated public benefit. The application is therefore recommended for refusal.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations. It is therefore recommended that the application be refused.

12.0 Reasons for refusal:

1. The habitable room windows within the proposed dwellings, especially the bedrooms and the front-facing living room, would, by reason of the relationship between the proposed windows and existing ground levels, experience severely restricted natural light and outlook. The proposed development would therefore fail to provide an adequate level of amenity to future occupants of the dwellings, contrary to the aims of the National Planning Policy Framework paragraphs 125(c) and 130 (f), and Policy LP24(b) of the Kirklees Local Plan.

2. The removal of the existing steps would harm the significance of the Listed Building. Whilst the degree of harm would be less than substantial, it has not been justified by a demonstrable public benefit as required by paragraphs 200 and 202 of the of the National Planning Policy Framework, since it is considered that the creation of two new apartments with severely substandard levels of amenity would not be a public benefit.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91823>

Certificate of Ownership A signed.

Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 16-Sep-2021

Subject: Planning Application 2020/91055 Variation of conditions 2 and 6 and removal of conditions 5 on previous permission 2019/93524 for provision of 3 parking spaces and landscaping works to provide amenity space 102, Dunford Road, Holmfirth, HD9 2DT

APPLICANT

H Acumen

DATE VALID

02-Apr-2020

TARGET DATE

28-May-2020

EXTENSION EXPIRY DATE

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: Approve Variation of Condition

DELEGATE approval of the application for the variation of condition 2 and 6 and the removal of condition 5 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.

1.0 INTRODUCTION:

1.1 The application is brought before the Huddersfield Sub-Committee for determination under the terms of the Delegation Agreement on account of there having been significant local objection to the proposal.

2.0 SITE AND SURROUNDINGS:

2.1 The application red line comprises a triangular shaped plot. Dunford Road runs parallel to the east boundary and an unadopted road Swan Bank Lane runs parallel with the west boundary. This also carries the route of public right of way no. HOL/108/20. Topography of the site is such that it slopes down from east to west with a retaining wall along Dunford Road. The site was previously covered in trees, but these were removed fairly recently. Refurbishing/renovation works have also recently been carried out on the existing properties within the application red line.

3.0 PROPOSAL:

3.1 The application seeks to vary conditions 2 (approved plans) and 6 (landscaping) and the removal of condition 5 (highway improvements) on previous permission 2019/93524 for provision of 3 parking spaces and landscaping works to provide amenity space.

3.2 The amendments to the approved plans reflect what has been constructed on site. The proposal would provide a parking area that is 9.3 metres wide by 5.2 metres deep. A drystone retaining wall would be erected to the rear of the parking bays with a double height gabion basket retaining wall above and a single height gabion basket retaining wall above with terraced garden areas in between. A stepped access would be provided to the north of the site linking the parking area to the properties off Dunford. Screening planting would be provided to the south of the site.

- 3.3 Condition 5 to be removed sought to improve the access between Dunford Road and access to Swan Bank Lane. The condition is detailed below.
- 5. Prior to development commencing on works to improve the access of Swan Bank Lane with Dunford Road, a detailed scheme for the provision of a widened access from Swan Bank Lane, with improved sight lines onto Dunford Road shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing and surface finishes. Thereafter all of the approved works shall be implemented before any part of the development is first brought into use and be retained thereafter.*

Reason: *To ensure the adequate sightlines can be provided to serve the development given the challenging topography and the junction of Swan Bank Lane with Dunford Road in the interests of highway safety and to achieve a satisfactory layout and to accord with Policy LP21 of the Kirklees Local Plan.*

- 3.4 The submitted application states that the highway improvements are not financially viable, as the work to provide the approved parking spaces alone do not yield a financial benefit for the applicant; they simply improve the parking provision for the existing dwellings on Dunford Road. The applicant considers that the provision of 3 parking spaces still provides significant highway safety improvements by reducing levels of on-street parking on Dunford Road.
- 3.5 Condition 6 required the submission of a landscaping scheme for the application site. A plan has been provided which details various native shrubs will be planted at the site along with areas of turfing. The plan details that the shrubs will grow to be between 1-2 metres in height.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/93524 - Provision of 3 parking spaces and landscaping works to provide amenity space – Approved
- 4.2 2018/93148 - Outline application for erection of residential development and on site parking for nos. 100, 102 and 104 Dunford Road – Refused, dismissed at appeal

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

- 5.1 The Case Officer secured amended plans to accurately reflect the development constructed on site.

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 27th February 2019).

6.2 Kirklees Local Plan (2019):

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP21** – Highway safety and access

- **LP22** – Parking
- **LP24** – Design
- **LP30** - Biodiversity & Geodiversity
- **LP35** – Historic environment

6.3 Supplementary Planning Guidance / Documents:

- Kirklees Highways Design Guide

6.4 National Planning Guidance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 12** – Achieving well-designed places
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

Neighbourhood Development Plans Neighbourhood Development Plans

6.5 The Holme Valley Neighbourhood Development Plan has reached an advanced stage of preparation and the independent Examiner's Report has been received. Although the plan has yet to be subject to a referendum in the affected area, it is a material planning consideration in decision making and weight has been attributed in accordance with NPPF (July 2021) paragraph 48. The most relevant policies to this application being:

1. Protecting and enhancing the landscape character of the Holme Valley
2. Protecting and enhancing the built character of the Holme Valley and promoting high quality design
3. Conserving and enhancing Local Heritage Assets (Recommendation 8A)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Final publicity date expired: 23 Nov 2020 (publicity by neighbour notification letter, site notice and press advert). In Total 17 representations in objection have been received. A summary of the comments received are set out below:

- The proposed parkin spaces are not workable and would be detrimental to the users of Swan Bank Lane which is a private lane maintained by a management company.
- The proposal would lead to an intensification of the access which is also a public right of way to the detriment of highway and pedestrian safety.
- Are the parking spaces of sufficient dimensions to serve as parking spaces as the spaces appear small in depth?
- Land outside of the application site will have to be used for parking.
- It is not clear how the parking spaces will be surfaced, additional run off would be detrimental to the operation of the Swan Bank Lane.
- The widening of the lane should still go ahead as it provides a wider highway benefit condition 5 should therefore not be removed.
- Further work in the local area causes additional disruption to local residents.
- The terraced garden areas have the potential to overlook windows in the adjacent property.
- Works have been undertaken at the site without following the planning permission and the first set of plans submitted were inaccurate.

- The design of the works would be detrimental to the character of the local area.
- The landscaping details submitted are unclear and do not provide sufficient detail to address this condition.
- Amended plans for the application have not been re-advertised to residents and they still do not accord with what has been built on site. The landscaping plan sets out that all areas will be turfed but the landscape plan a mix of turf and shrubs, which will it be. The flagged patio area does not appear on the site layout plan.
- A 'corral' fence has been installed at the site instead of the stone wall, which was passed - and which has now disappeared off Plan G (you will note that the current corral fencing is also not included on the latest plan).
- The current plan does not show the intentions of the developer at the area where the junction improvements were to be located.

7.2 Holme Valley Parish Council – object to the removal of condition 5

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:** none necessary

8.2 **Non-statutory:** none necessary

9.0 MAIN ISSUES

- Principle of development
 - Background
- Amendments to the Approved Plans
 - Design and Heritage
 - Highway Safety
 - Residential amenity
- Removal of Condition 5
- Condition 6 landscaping
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 The application site is unallocated on the Local Plan and therefore Policies LP1 and LP2 are relevant which support sustainable development. Since the decision on the original planning permission the Holme Valley Neighbourhood Development Plan has been through examination and has gained weight and will be considered alongside policies in the Local Plan, the Highways Design Guide SPD and National Policies in the NPPF.
- 10.2 The proposal is a Section 73 application which seeks to vary conditions and plans of the approved scheme. The key considerations for the application whether the proposed changes and removal of condition 5 are of an acceptable design, have an acceptable impact of the adjacent Underbank Conservation Area adjacent listed buildings, have an acceptable impact on residential amenity, highway safety, ecology and all other material planning considerations and representations received.

Background

- 10.3 The site has previously gained planning permission for the formation of 3 parking spaces under application 2019/93524 and this application seeks to amend what has been previously approved, to that described in section 3 of this report, remove the requirement to provide highway improvements and has provided detail in respect to the landscaping at the site. The principle of forming 3 parking spaces has therefore been granted and this application solely focus on the amendments to the scheme and the variations to the planning conditions.

Amendments to Approved Plans

- 10.4 The key consideration with regard to the amendments to the approved plans are design, heritage and highway safety.

Design and Heritage

- 10.5 General design considerations are set out in Policy LP24 of the Local Plan, which seeks to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity. This is further supported by Chapter 12 of the NPPF and the National Design Guide which supports good design that functions well and adds to the overall quality of an area and retains a strong sense of place.
- 10.6 Due to the site's location adjacent the Underbank Conservation Area and a Grade II listed building at nos.106 and 112 Dunford Road, which is located to the south east. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 need to be considered. Policy LP35 of the Local Plan is also relevant which sets out criteria to be considered for applications which impact on heritage assets. Chapter 16 of the NPPF considers heritage matters and advises that new development should make a positive contribution to local character and distinctiveness. When harm is caused this needs to be weighed against the public benefits of the proposal.
- 10.7 The changes to the approved plans have led to the proposed parking area being approximately 1 metre wider than that previously approved, but around 2 metres shorter in depth. The other main change is the scale of the retaining structures at the site with a double height gabion basket above a drystone wall to the rear of the parking area and a higher level gabion basket structure.
- 10.8 The reduction in the depth of the parking area on design grounds makes them visually less prominent as there is an overall reduction in scale. However, the new retaining structures appear larger, as sloping elements previously proposed have been removed. The retaining structures, whilst locally prominent when viewed from Swan Bank Lane, would not be visible from Dunford Road or the wider Conservation Area and are constructed with natural stone and the use of gabion baskets in the structure has been previously approved by the 2019 permission. They are also set to the rear of the listed building at a lower level reducing any impact on the setting of the listed building.

- 10.9 When the structures are viewed in the wider context of the site, where the retaining structures to Dunford Road can be seen, they are, on balance, not considered to be incongruous. The former gate posts at the site have been repositioned at either end of the parking area as required by the 2019 permission. In addition, timber fences have been erected at the site under permitted development, all being under 2 metres high as part of the works to bring the dwellings back into use, and aid in providing a clear visible separation between the application site and the adjacent triangular piece of land to the north. Terraced areas formed by the retaining structures also aid in providing some small areas of useable garden for the occupiers of the dwellings and overall soften the different sections of retaining structures. With further softening achieved through the landscaping proposed via details submitted in respect to condition 6.
- 10.10 In conclusion on design and heritage grounds, the changes to the approved plans can be supported and they would accord with Policy LP24 and LP35 of the Local Plan and Policies in Chapter 12 of the NPPF.

Highway Safety

- 10.11 Turning to highway safety Policies LP21 and LP22 of the Local Plan are relevant which seeks to ensure that proposals do not have a detrimental impact to highway and pedestrian safety and provides sufficient parking.
- 10.12 The key consideration in highway safety terms with the amended design is whether the parking spaces remain of a sufficient size to provide 3 parking spaces and whether vehicles can appropriately enter and exit them. The depth of spaces at 5.2 metres is considered sufficient to accommodate a vehicle without it interfering with the adjacent access road to Swan Bank Court, being 0.4 metres deeper than a typical parking space which has a depth of 4.8 metres. The width of the parking area at 9.3 metres including the steps or 7.7 metres if the stepped area is discounted is also wider enough to accommodate 3 vehicles.
- 10.13 The final consideration is whether manoeuvring into and out of the spaces are workable. The agent has submitted a site layout plan with swept path analysis for one of the parking spaces which demonstrates that a vehicle can adequately reverse into one of the parking spaces then leave in a forward gear. It is noted that swept path analysis has not been provided for all of the 3 parking spaces and that the analysis for the parking space shown is positioned away from the southern wall. However, it is considered that sufficient evidence has been provided to demonstrate that the spaces are workable and can be entered and exited within the constraints that exist on site. It is noted that additional manoeuvres may be necessary to enter and exit the spaces which is not ideal, especially if different spaces are already in use, however, overall it is considered on balance that they remain workable with the amended design.
- 10.14 The provision of the spaces therefore retains a highway benefit to the local area by removing the need to park on Dunford Road for the occupiers of nos. 100, 102 and 104 Dunford Road. A condition to ensure that they are only used by the occupants of these properties will be reissued on this application along with a condition for appropriate surfacing, should the application be approved. Subject to the listed conditions, the proposal would therefore accord with Policy LP21 and L22 of the Local Plan.

Residential Amenity

- 10.15 With regard to residential amenity, Policy LP24 of the Local Plan advises that proposal should ensure that a high standard of amenity is achieved for future and neighbouring occupiers. This is also supported by Chapter 12 of the NPPF. The key assessment of the proposal is the impact the proposed parking spaces would have on surrounding dwellings.
- 10.16 It is considered that the amendments to the design of the parking layout have limited additional impact on residential amenity, the main change from the approved plans is the formation of differently sized and design terraced garden areas. These amended garden areas are not considered to lead to any additional detrimental overlooking impact on adjacent properties and the principle of having the parking spaces has been previously established. The proposal is therefore considered to have an acceptable impact on residential amenity and would accord with Policy LP24 of the Local Plan and Policies in the NPPF.

Removal of Condition 5

- 10.17 Condition 5 sought to provide highway improvements to the point of access between Dunford Road and Swan Bank Lane, which serves a number of properties off Swan Bank Court and Swan Bank Cottage. Details were conditioned in the interest of highway safety and to accord with Policy LP21 of the Local Plan.
- 10.18 The 2019 approval set out that the highway improvements secured by condition 5 combined with the provision of the parking spaces themselves, represented a highway benefit brought about by the scheme. The loss of the improvements to the point of access, whilst removing an element of highway benefit provided by the scheme, is not considered to represent the most significant highway benefit brought about by the permission.
- 10.19 Officers consider the biggest benefit being the provision of 3 off-street parking for three dwellings on Dunford Road, which is a classified B road and where there are high levels of on street parking. The improvements that could be secured to the junction were relevantly minor focusing on the slight widening of the entrance to the access to Swan Bank Lane by approximately 1.5 metres to slightly improve sight lines.
- 10.20 While the proposal would add extra vehicle movements to the point of access between Dunford Road and the access to Swan Bank Lane, on balance it is not considered that the additional movements would lead to a detrimental impact to highway safety that requires the improvements of the access, and the provision of the 3 spaces, would in total represent a bigger wider benefit to highway safety.
- 10.21 In light of the above, the removal of condition 5 can be supported by Officers provided the 3 additional spaces are only to be used by the occupiers of the properties on Dunford Road and appropriately conditioned, as previously secured by condition. Subject to these conditions the proposal would accord with Policy LP21 of the Local Plan.

Condition 6 landscaping

- 10.22 The application has sought to provide detail in respect to landscaping that was conditioned as part of the 2019 application. The reason for the condition was in the interests of the protection of residential amenity, visual amenity and biodiversity of the site and in accordance with Policies LP24, LP30 and LP32 of the Local Plan and guidance in the NPPF.
- 10.23 The submitted landscaping plan details that native shrub planting would be located adjacent to the parking area and along the southern boundary adjacent to Swan Bank Cottage with turfing proposed on the upper terrace. Specific details in relation to species and planting mix is set out on the plan. This detail has been assessed by Planning Officer's and is considered an appropriate scheme to enhance biodiversity at the site but also to aid in softening the appearance of the retaining structures at the site. In addition, it is considered that the screening will not have a detrimental impact on residential amenity but overall aid in softening the relationship between the application site and surrounding properties. A condition ensuring that the landscaping accords with the submitted plan and is maintained for 5 years is attached to the recommendation. Subject to the aforementioned condition, the proposal would accord with Policy LP24, LP30 and LP32 of the Local Plan.

Other Matters

- 10.24 *Other Conditions Attached to 2019/93524* – Given that works have commenced condition 1 (time to implement) is now no longer necessary. Condition 3 and 4 required the use of natural stone in the retaining structures and gabion baskets, condition 9 required the re-siting of the gate posts. Given that these works have been completed, these conditions are also no longer necessary.
- 10.25 *Climate Change* – On 12th 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 pre-dates 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.

The proposed parking spaces would have a limited impact in terms of climate change and it is accepted that the retaining walls would be faced in local natural stone which is a natural material with a relatively low carbon footprint.

Representations

10.26 In total 17 representations have been received which are summarised below along with a response to the points raised.

- The proposed parking spaces are not workable and would be detrimental to the users of Swan Bank Lane which is a private lane maintained by a management company.
- Are the parking spaces of sufficient dimensions to serve as parking spaces as the spaces appear small in depth?
- The proposal would lead to an intensification of the access which is also a public right of way to the detriment of highway and pedestrian safety.
- Land outside of the application site will have to be used for parking.

Response: As set out in the main body of the report the spaces are considered to be workable and of sufficient depth to accommodate a vehicle. Swept path analysis has been provided to demonstrate that they would be workable and would not interfere with the lane. It is not considered that the additional movements from the use of the parking spaces would adversely impact on the private lane or on the public right of way. It should also be noted that the principle of the parking spaces has been previously approved.

- It is not clear how the parking spaces will be surfaced, additional run off would be detrimental to the operation of the Swan Bank Lane.

Response: The spaces will be surfaced in a permeable material as required by condition 7 of the 2019 permission.

- The widening of the lane should still go ahead as it provides a wider highway benefit condition 5 should therefore not be removed.

Response: This comment is noted, however for the reasons set out in the main body of the report the removal of condition 5 can be supported.

- Further work in the local area causes additional disruption to local residents.

Response: It is considered that the majority of construction work has now been completed, any further impact would be limited. The proposal is therefore not considered to adversely impact the amenity of residents.

- The terraced garden areas have the potential to overlook windows in the adjacent property.

Response: The proposed terraced areas are not considered to lead to a detrimental overlooking impact, and the submitted layout plan aids in softening the impact between the application site and surrounding properties.

- Works have been undertaken at the site without following the planning permission and the first set of plans submitted were inaccurate.

Response: Amended plans have been received to reflect what has been constructed on site. These plans have been assessed as part of this application.

- The design of the works would be detrimental to the character of the local area.

Response: The impact of the proposed amendments on design and the character of the local area has been assessed in the main body of the report and is considered to be acceptable.

- The landscaping details submitted are unclear and do not provide sufficient detail to address this condition.

Response: Additional landscaping details have been submitted which set out the use of native planting and are acceptable to Planning Officers.

- Amended plans for the application have not been re-advertised to residents and they still do not accord with what has been built on site. The landscaping plan sets out that all areas will be turfed but the landscape plan a mix of turf and shrubs, which will it be. The flagged patio area does not appear on the site layout plan.

Response: The amended plans have sought to clarify the extent of alterations the permission is being sought for with the landscaping plan providing detail to meet the requirements of condition 6. The plans were not re-advertised as they did not increase the scale of development on site. The landscaping at the site will need to accord with that set out on the landscaping plan and this can be secured by planning condition. The paved area on the landscape plan is located within the red line boundary and is considered appropriate to include within the application.

- A 'corral' fence has been installed at the site instead of the stone wall, which was passed - and which has now disappeared off Plan G (you will note that the current corral fencing is also not included on the latest plan).

Response: Fencing erected at the site has been done so under permitted development and does not need to be included within the application.

- The current plan does not show the intensions of the developer at the area where the junction improvements were to be located.

Response: As this element of the scheme is proposed to be removed, the area will remain as existing. It is therefore not necessary to show this on a plan.

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 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.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

- 1. In accordance with the approved plans**
- 2. Landscaping to accord with submitted details and retained for 5 years**
- 3. Parking areas to be surfaced**
- 4. Parking areas only to be used by the occupiers of nos. 100, 102 and 104 Dunford Road**

Background Papers:

Application and history files.

Application Webpage - <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91055>

Original Application webpage 2019/93524 -

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93524>

Certificate of Ownership –Certificate A signed.