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

Julie Muscroft

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Wednesday 19 January 2022

Notice of Meeting

Dear Member

Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 27 January 2022**.

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

Councillor Steve Hall (Chair)
Councillor Carole Pattison
Councillor Mohan Sokhal
Councillor Donna Bellamy
Councillor Mark Thompson
Councillor Andrew Pinnock
Councillor Charles Greaves

When a Strategic Planning Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
A Gregg
V Lees-Hamilton
R Smith
D Hall
J Taylor

Green

K Allison
S Lee-Richards

Independent

T Lyons

Labour

M Akhtar
E Firth
M Kaushik
J Ramsay
C Scott

Liberal Democrat

PA Davies
J Lawson
A Marchington
A Munro

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of the Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Committee held on 16 December 2021.

3: Declaration of Interests and Lobbying

9 - 10

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 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: Public Question Time

To 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.
-

6: 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.

7: Planning Applications

11 - 12

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 24 January 2022.

To pre-register, please email governance.planning@kirklees.gov.uk or phone Richard Dunne or Sheila Dykes on 01484 221000 (Extension 74995 or 73896).

Please note that measures will be in place to adhere to COVID secure rules, including social distancing requirements. This will mean that places will be limited

Members of the public who are unable to attend in person will be able address the Committee virtually.

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.

8: Planning Application - Application No: 2021/92801 13 - 66

Erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton.

Contact officer: Victor Grayson, Planning services

Ward(s) affected: Cleckheaton

9: Planning Application - Application No: 2021/91015 67 - 76

Change of use of grazing land to dog exercise area Blue Hills Farm, Whitehall Road West, Birkenshaw.

Contact officer: Callum Harrison, Planning Services

Ward(s) affected: Birstall and Birkenshaw

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 or Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 16th December 2021

Present: Councillor Steve Hall (Chair)
Councillor Carole Pattison
Councillor Mohan Sokhal
Councillor Donna Bellamy
Councillor Mark Thompson
Councillor Andrew Pinnock
Councillor Charles Greaves

Observers: Councillor Donald Firth
Councillor Musarrat Khan

- 1 Membership of the Committee**
All members were present.
- 2 Minutes of the Previous Meeting**
The minutes of the meeting held on 18 November 2021 were approved as a correct record.
- 3 Declaration of Interests and Lobbying**
Councillor A Pinnock declared that he had been lobbied on application 2021/92801.
- 4 Admission of the Public**
All items on the agenda were taken in public session.
- 5 Public Question Time**
No questions were asked.
- 6 Deputations/Petitions**
No deputations or petitions were received.
- 7 Site Visit - Application No: 2021/91700**
Site visit undertaken.
- 8 Site Visit - Application No: 2021/93674**
Site visit undertaken.
- 9 Planning Applications**
Consideration of the following applications took place.

10 Planning Application - Application No: 2021/92801

The Committee gave consideration to Planning Application 2021/92801 Erection of 287 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Mr Rankin, John Mason and Doreen Sugden (objectors), Rachel Flounders and Suzanne Mansfield (on behalf of the applicant).

Under the provisions of Council Procedure Rule 36 (3) the Sub Committee received representations from Councillors Kath Pinnock and John Lawson (ward members).

RESOLVED –

That consideration of the application be deferred for the following reasons:

1. To allow an opportunity for officers and the applicant to review the layout and mix of housing type to further reduce the dominance of the number of 4 bedroom detached dwellings.
2. To receive details of where the existing 85m stretch of translocated hedgerow would be replanted.
3. To allow officers to provide fully worded details covering all the conditions.
4. To receive more detail on the outstanding issues at the application stage with less deferred to the conditions stage.

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

For: Councillors: Bellamy, Greaves, A Pinnock, Sokhal, Thompson and S Hall (6 votes)

Against: Councillor Pattison (1 vote).

11 Planning Application - Application No: 2021/93674

The Committee gave consideration to Planning Application 2021/93674 Partial redevelopment of Greenhead college including demolition and making good, rection of 2 and 4 storey buildings, reconfiguration of parking and access arrangements, reconfiguration of sports provision and other associated external works (Within a Conservation Area) Greenhead College, Greenhead Road, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from Simon Lett, Grant Sellars and John Blake (on behalf of the applicant).

RESOLVED –

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 the considered report including:

Strategic Planning Committee - 16 December 2021

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Condition for the community use of the playing pitch
4. Hours of use for the pitch (Monday – Friday 0830 to 2030, Weekends – 0900 to 1300)
5. Development done in accordance with Energy & Sustainability Statement.
6. Method statement to show how the external walls of the old school building would be cleaned, repaired and pointed following demolition.
7. Material samples to be submitted
8. Odour report technical points clarification
9. Fats, oils, and grease prevention scheme
10. Noise impact assessment, with amendments to address comments, submitted and implemented.
11. Lighting strategy, with amendments to address comments.
12. Construction Environmental Management Plan (CEMP) to be provided.
13. Limit site to 2,600 students and 185 staff (full time equivalent).
14. Buildouts and sight lines at Greenhead Road and Park Avenue accesses to be provided and secured.
15. Construction Management Plan (CMP) to be provided.
16. Applicant's travel plan to be implemented
17. Waste storage / collection areas to be provided and retained.
18. Provision of 66 cycle spaces.
19. Delivery strategy, phased with temporary spaces if required, of all 157 parking spaces to be provided and retained.
20. Coal Authority ground investigation and remediation conditions
21. Environmental Health ground contamination investigation conditions
22. Provision of the proposed Electric Vehicle Charing Points (EVCP)
23. No vegetation clearance in bird breeding season without survey
24. Provision of Biodiversity Enhancement Management Plan (BEMP), to provide and maintain 10% net gain minimum
25. Full technical details on foul, surface water and land drainage to be provided.
26. Management and maintenance of drainage infrastructure.
27. Details of temporary surface water drainage arrangements during construction
28. Development in accordance with Arboricultural Method Statement.
29. Notwithstanding the submitted plans, landscaping plan minus invasive species to be submitted and ongoing maintenance details.

An amendment to condition 4 to restrict the hours of use of the playing pitch at weekends from 9am to 3pm.

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

For: Councillors: Bellamy, Greaves, Pattison, A Pinnock, Sokhal, Thompson and S Hall (7 votes)

Against: (0 votes).

12 Planning Application - Application No: 2021/91826

The Committee gave consideration to Planning Application 2021/91826 Variation of Condition 30 (Restoration Scheme) of previous permission 2000/90671 for the extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes, consolidating permission 1987/05723 Extension of a disused quarry for winning minerals and subsequent backfilling with approved inert waste Carr Hill Quarry, Barnsley Road, Shepley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Chris Ballam (Agent).

RESOLVED –

That the application be refused in line with the following reason outlined in the considered report:

The proposed revision to the previously-approved restoration scheme includes the introduction of an engineered retaining structure and the retention of a level area, which would harm the visual amenities of the site and its context, would detract from local landscape character, would have an urbanising effect on the site and its surroundings, would result in development encroaching into the countryside, would result in built-up sprawl in the green belt, would fail to preserve the openness of the green belt, and would conflict with the purpose of including the land within the green belt. The proposed soft landscaping would not mitigate the harmful impact of the proposal. The proposal does not fall under any of the exceptions listed under paragraphs 149 and 150 of the NPPF. The proposal is, by definition, inappropriate development in the green belt, and very special circumstances (which clearly outweigh this inappropriateness and other harm) have not been demonstrated. The proposal is therefore contrary to policies LP32 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

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

For: Councillors: Greaves, Pattison, A Pinnock, Sokhal and S Hall (5 votes)

Against: Councillors: Bellamy and Thompson.

13 Planning Application - Application No: 2018/93676

The Committee gave consideration to Planning Application 2018/93676 Infill of land and formation of access and turning facilities, temporary fence and restoration to agricultural use Land North West, Hog Close Lane, Holmfirth.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Chris Ballam (Agent).

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

RESOLVED –

That the application be refused in line with the following reason outlined in the considered report:

The Council has sufficient landfill capacity in the district for meeting the needs of Construction, Demolition and Excavation waste. The submitted information fails to sufficiently demonstrate and justify that there is a proven need for additional landfill capacity for this type of waste, contrary to Kirklees Local Plan Policy LP46.

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

For: Councillors: Greaves, Pattison, A Pinnock, Sokhal and S Hall (5 votes).

Against: Councillor Bellamy (1 vote).

14 Planning Application - Application No: 2021/91700

The Committee gave consideration to Planning Application 2021/91700 Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access MAC's Truck Sales Ltd, Crosland Road, Lindley, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received a representation from Richard Irving (Agent).

RESOLVED –

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 the considered report including:

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 (Environmental) Management Plan. (Pre-commencement)
4. Car park surfacing to be implemented prior to use of development.
5. Highway retaining structure details (Pre-commencement)
6. Submission of foul and surface water drainage details (Pre-commencement)
7. Submission of temporary drainage details (Pre-commencement)
8. No piped discharge of surface water until satisfactory outfalls agreed
9. Southern hard-standing area to be restricted to the parking of personal vehicles only (i.e. not Heavy Goods Vehicles)
10. Coal Mining Intrusive Site Investigations (Pre-commencement)
11. Coal Mining Investigation report prior to the development being brought into use.
12. Phase 2 Contaminated Land Site Investigation Report (Pre-commencement)

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13. Remediation Strategy works and potential for revision subject to site discovery.
14. Remediation Strategy submission and implementation and conducted by a suitably competent person as well as submission of a validation report.
15. Noise Assessment (Pre-commencement)
16. Lighting Scheme including PROW illumination
17. Electric Vehicle Charging Points
18. Archaeology Written Scheme of Investigation (Pre-commencement)
19. Protective Archaeological Fencing (Pre-commencement)
20. Temporary Access and Archaeological Investigation
21. Nesting Bird Protection
22. Submission of a Biodiversity Enhancement and Management Plan
23. Approved landscaping scheme details, Landscaping implementation timescale (within the planting season following completion of development) and 5 year maintenance period
24. Development to be constructed of matching materials.
25. Boundary wall details
26. Operation management plan with a focus on reducing unnecessary air pollution.

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

For: Councillors: Bellamy, Greaves, Pattison, A Pinnock, Sokhal and S Hall (6 votes)

Against: (0 votes).

15 **Planning Application - Application No: 2021/91172**

The Committee gave consideration to Planning Application 2021/91172 Change of use from former petrol filling station, car and van repairs/part sales and car sales pitch to hot food take-away (sui generis) Crown Motors, Waterloo Road, Waterloo, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Sub Committee received representations from David Colley, Nick Willock and Simon Docherty (in support).

Under the provisions of Council Procedure Rule 36 (3) the Sub Committee received a representation from Councillor Musarrat Khan (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 complete the list of conditions including those contained within the considered report including:

1. Development commences within 3 years.
2. Development to be in full accordance with plans and specifications.
3. Areas for parking to be provided, marked and thereafter retained.
4. Signage (as detailed in the highways statement) installed and thereafter retained.
5. Hours of use to be 8am-10:30pm Sun-Thurs, 8am-11pm Fridays and Saturdays.
6. Noise survey to be submitted and approved before the use commences.

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7. Details of ventilation system to be submitted and approved before use commences.
8. No external lighting to be installed other than in accordance with an approved scheme.
9. CCTV scheme submitted and approved before the use commences.
10. Minimum of 2 electric charge points, one for delivery vehicles and one for staff.
11. Details of external works showing how the building is to be made good after demolition.

An additional condition for an Operational Management Plan for Highway safety reasons requiring site and operations to be monitored.

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

For: Councillors: Bellamy, Greaves, Pattison, A Pinnock and S Hall (5 votes).

Against: Councillor Sokhal (1 vote).

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KIRKLEES COUNCIL			
DECLARATION OF INTERESTS AND LOBBYING			
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

STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2022

Subject: Planning Application 2021/92801 Erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton

APPLICANT

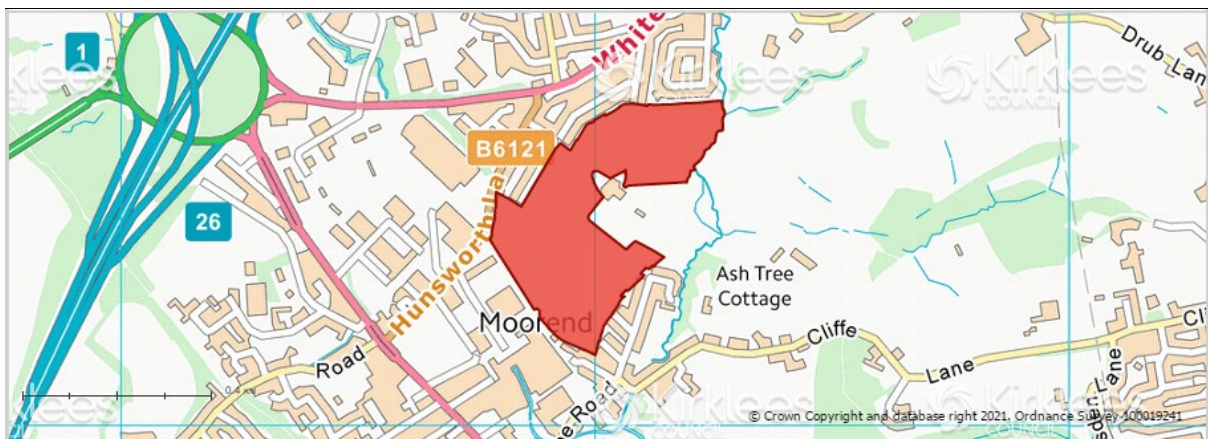
Harron Homes Ltd

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
30-Jul-2021	29-Oct-2021	31-Dec-2021

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

[Link to public speaking at Committee](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Subject to the Secretary of State not calling in the application, 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 – 58 affordable dwellings (55% affordable/social rent, 45% intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £424,546 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.
- 4) Education – £1,176,189 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).
- 5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.
- 7) Air quality mitigation – Contribution of circa £162,000.
- 8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.
- 9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee’s resolution (or of the date the Secretary of State for Levelling Up, Housing and Communities confirms that the application would not be called in) 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 the erection of 291 dwellings.

1.2 This application is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.

1.3 This application is a resubmission of application ref: 2019/93303 which related to a residential development 267 dwellings. That application was refused by the Strategic Planning Committee on 28/04/2021 (decision issued 21/05/2021) for the following reason:

“The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom detached dwellings. Furthermore, the double hedgerow within the site, which is classed as ‘important’ under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor-quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.”

1.4 The current, revised scheme seeks to respond to the previous reason for refusal through changes to the site layout and housing mix, and the submission of additional information in relation to the translocation of the important hedgerow.

1.5 In relation to the current application, a position statement was considered by the Strategic Planning Committee on 21/10/2021. That position statement set out details of the application (when 284 dwellings were proposed), the consultation responses and representations that had been received, and the main planning issues relevant to the application. Members of the Strategic Planning Committee provided comments on the main planning issues.

1.6 Following Members’ consideration of that position statement, the applicant increased the number of dwellings proposed to 287 and provided further supporting information.

1.7 The current application was again considered by the Strategic Planning Committee on 16/12/2021. At that meeting, Members deferred their decision so that the following matters could be addressed:

- Housing mix – Increase in smaller dwellings required so development is not dominated by 4-bedroom and detached housing.
- Hedgerow – Details required of where the deleted 85m stretch of translocated hedgerow would be replanted, and Yorkshire Water’s further comment.
- Outstanding issues – More detail required at application stage, and less deferred to conditions stage.
- Fully-worded conditions required.

- 1.8 Following the deferral on 16/12/2021, the applicant increased the number of dwellings proposed to 291, changed the unit size mix, provided an amended landscaping plan, and submitted other supporting information. Fully-worded conditions were drafted by the case officer for discussion with the applicant.
- 1.9 The application is now brought to the Strategic Planning Committee for determination, in accordance with the Council's Scheme of Delegation.
- 1.10 It is noted that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolved to grant permission. The position regarding the SoS is reflected in the officer recommendation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is located towards the northern extent of Cleckheaton and comprises unused agricultural grazing land amounting to some 12.01 hectares.
- 2.2 The site wraps around Merchant Fields Farm, which comprises a group of four dwellings. The access to these dwellings is via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 2.3 The area to be developed comprises five adjoining fields which are separated by tree and hedgerow boundaries. The two fields at the centre of the site are gently sloped, however the two fields making up the southern portion of the site and the field in the north-eastern part of the site slope down relatively steeply towards the site boundaries.
- 2.4 The site is located in an area where there are a mix of uses. Residential development lies to the north, northwest and southeastern boundaries and there is employment land to the southwest. Open land exists to the east. Nearby residential streets are relatively densely-developed and accommodate mainly semi-detached and terraced housing. This includes two-storey houses, chalet bungalows and bungalows.
- 2.5 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site's south-eastern boundary. Nann Hall Beck meets the site's north-eastern boundary.
- 2.6 Land to the east of the site is within the green belt. Land to the southwest is within a Priority Employment Area.

3.0 PROPOSAL:

- 3.1 The application is for full planning permission for the erection of 291 dwellings.

- 3.2 A new vehicular access point is proposed on Hunsworth Lane (the B6121), where a new right-turn lane would be provided. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm. New estate roads would extend from these access points. Private drives (off the new estate roads) would serve some of the proposed dwellings. Pedestrian connections to the adjacent public footpaths are proposed.
- 3.3 Open spaces are proposed along the site's southwestern edge, in the site's northeastern corner, and adjacent to Brookfield Terrace and Brookfield View. Small areas of green space are also proposed in other locations.
- 3.4 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.
- 3.5 Off-street car parking is proposed in private driveways and garages.
- 3.6 All dwellings would be two-storey. Eleven house types are proposed. The proposed external materials include red brick and artificial stone, and red and grey concrete roof tiles.
- 3.7 36x 2-bedroom, 105x 3-bedroom (or 3-bedroom with a study) and 150x 4-bedroom dwellings are proposed. 57 of the 291 dwellings would be affordable.
- 3.8 The applicant's landscaping proposals include the translocation of the site's hedgerow to new locations around the site's boundaries.
- 4.0 RELEVANT PLANNING HISTORY (including enforcement history):**
- 4.1 2019/93303 – Erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive – permission refused 21/05/2021

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

5.1 The table below sets out how the overall number of units and the unit size mix have changed since the previous application, the October 2021 position statement and the December 2021 report were considered.

	Application resubmission 2021/92801				
	Refused application 2019/93303	Position statement considered 21/10/2021	Report considered 16/12/2021	Current proposal	Change from the 267-unit proposal
Units	267	284	287	291	24-unit increase
1-bed	0	0	0	0	No change
2-bed	26	36	36	36	10-unit increase
3-bed	50	61	70	105*	55-unit increase
4-bed	191	187	181	150	41-unit decrease

*21 of these 3-bedroom units have a study which could be used as a fourth bedroom.

5.2 As noted in the previous committee report, the increase in the quantum of development has been achieved by revising parts of the previous layouts and extending the proposed built-up area closer to the southeastern site boundary. Three dwellings have also been added close to Nann Hall Beck (units 49, 50 and 51).

5.3 The applicant has provided additional supporting information in relation to the methodology for the translocation of the “important” hedgerow, including clarification as to where an 85m-long stretch of hedgerow (that was deleted from the proposals on 15/12/2021) would be moved to. The submitted Hedgerow Translocation Method Statement (rev A) has been prepared by a company who have previously carried out similar work.

5.4 During the life of the current application, negotiations regarding the following other matters have been undertaken:

- Officers requested that the applicant review the proposals in light of paragraph 131 of the revised National Planning Policy Framework, which states that planning decisions should ensure that new streets are tree-lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate). The applicant submitted amended landscaping layouts which seeks to respond to this matter.
- The amended landscaping plan also seeks to address concerns raised by Yorkshire Water regarding the proximity of planting to a sewer within the site.
- The applicant has submitted additional information in response to comments made by the Coal Authority regarding an identified coal mining feature close to the proposed access on Hunsworth Lane.

- Vehicle swept path tracking (intended to demonstrate that the proposed estate road layout can accommodate an 11.85m refuse collection vehicle) has been included on site layout drawings.
- Detailed drawings of the Hunsworth Lane site entrance were submitted.
- An updated Flood Risk Assessment (rev D) has been submitted.
- The applicant submitted missing and revised house type drawings and confirmed that the Salcombe house type is no longer proposed. In the most recent changes to the unit size mix, the applicant has deleted the Hewick and Baybridge house types, and has introduced the Rothbury and Bramley (T7) house types.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Unit size information and a breakdown of the proposed affordable housing provision was provided.

5.5 Pre-application negotiation, and negotiation undertaken during the life of the previous application (ref: 2019/93303), was detailed in the committee report for that application.

5.6 Amendments and further information (including the amendments made in late 2021 and early 2022) submitted during the life of the application did not necessitate local reconsultation.

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 The application site is allocated for residential development in the Local Plan (site allocation ref: HS96). The site allocation sets out an indicative housing capacity of 413 dwellings, and identifies the following constraints relevant to the site:

- Noise sources near site – industrial estates on Hunsworth Lane and Riverside Drive and M62 motorway
- Potentially contaminated land
- Part of site lie within a UK BAP priority habitat
- Site is within the Wildlife Habitat Network
- Site is close to archaeological site
- Part/all of the site is within a High-Risk Coal Referral Area
- Public right of way crosses the north-eastern corner of the site

6.3 Site allocation HS96 also identifies the following site-specific considerations:

- Additional mitigation on the wider highway network will be required. Development of this site has the potential for a significant impact on the Strategic Road Network. Measures will be required to reduce and mitigate that impact. The transport assessment will need to demonstrate that any committed schemes are sufficient to deal with the additional

demand generated by the site. Where committed schemes will not provide sufficient capacity or where Highways England does not have committed investment, development may need to contribute to additional schemes identified by Highways England and included in the Infrastructure Delivery Plan (IDP) or other appropriate schemes. If development is dependent upon construction of a committed scheme, then development will need to be phased to take place following scheme opening.

- Rivers and hedgerows are both Habitats of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Any application for this site will include a buffer from Nann Hall Beck to provide an opportunity for enhancement of the local ecological network. This buffer shall not form part of any domestic curtilage and enhancement can best be provided in this location by creating a flower rich grassland with scattered scrub.

6.4 Site allocation HS96 refers to a gross site area of 12.10 hectares, but identifies a net site area of 11.65 hectares, allowing for the retention of the site's existing hedgerows and a vegetated buffer adjacent to the Nann Hall Beck at the northeast of the allocation.

6.5 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP19 – Strategic transport infrastructure
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents:

- 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)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

- 6.7 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.
- 6.8 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:

6.9 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

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

6.11 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)
- National Model Design Code (2021)
- Hedgerows Regulations 1997

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development affecting public rights of way. Site notices were posted, a press notice was published on 02/09/2021, and notification letters were sent to neighbouring properties. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 23/09/2021.

7.2 115 representations have been received, including a representation (circulated to Members on 10/12/2021) with an attached video showing footage of a flood event at Brookfield View and Balme Road, filmed on 09/02/2020. A summary of the representations is provided below.

Planning history:

- Application now proposes more houses so impacts will be worse than previously refused application.
- Objections raised to the previous application are still relevant.
- Proposal does not address the previous reason for refusal in relation to housing mix. Proposed mix of housing is unsuitable.

- Proposal does not address the previous reason for refusal in relation to the hedgerow. The important double hedgerow should be incorporated into the layout, not translocated elsewhere within the site

Highways:

- Impact of increased traffic on local highway network, including key junctions.
- Local highway network cannot accommodate the additional traffic. There are already congestion problems in this area.
- Impact on queuing times at junctions. Additional traffic will be detrimental to highway safety.
- Local junctions will be operating well over capacity.
- Cumulative highway effects with other planned / committed developments in the area.
- Kilroyd Drive unsuitable to accommodate the additional traffic.
- On-street parking on Kilroyd Drive narrows its width and makes it unsuitable to serve the development.
- Impact of construction traffic and development traffic on Kilroyd Drive. Construction access should be taken from the proposed new access on Hunsworth Lane, not Kilroyd Drive.
- Concerned that the developer will not construct the Hunsworth Lane access, and all traffic will go via Kilroyd Drive.
- Traffic mitigation measures are required for development on this site, as set out in the Local Plan.
- Safety concerns with the proposed access on Hunsworth Lane. Access is on a bend.
- Public transport infrastructure inadequate to support this development.
- Development will be reliant on private car because of limited bus services in this location.
- Development will be used as a rat-run between the proposed points of access.
- Suggestion for a Traffic Regulation Order on Kilroyd Drive to prevent the site being used as rat-run and consequently limit the impact on residents of Kilroyd Drive.
- Internal road layout is unsuitable for large vehicles and will require reversing manoeuvres.
- Applicant's transport assessment is inadequate.
- The submitted Travel Plan is unrealistic and does not reflect the reality of local circumstances.
- Public transport infrastructure inadequate to support this development.
- Impact on footpaths.
- Cycle paths should be provided.
- Road connection to Mazebrook Avenue should not be allowed.
- M62 / M606 connection required before development is allowed.

Amenity:

- Detrimental impact on outlook.
- Overbearing / imposing impact on adjacent houses.
- Overshadowing / loss of light.
- Overlooking / loss of privacy.
- Noise and air pollution from additional traffic.

- Air quality monitoring needs to be carried out closer to the site with cumulative impacts of other planned / committed developments also taken into account.
- Impact on health as a result of increased air pollution.
- Increased light pollution.
- Loss of an accessible local beauty spot.
- Nuisance and disturbance from construction activities.
- Impact on amenity of residents of Kilroyd Drive by using this road as an access.
- Environmental destruction.
- Air quality in area is poor.

Land stability and contamination:

- Concern regarding the impact on public safety from the legacy of coal mining activity.
- Site instability due to historic mining legacy.
- Evidence of active subsidence on the site.
- The fourth mine shaft close to Hunsworth Lane has not been adequately investigated.
- Concerns regarding mine gas.
- Gas protection measures for new houses should be provided. No information regarding this has been submitted.
- There could be other mining features that have not been identified.
- Hollows have appeared on site over the last 40 years.
- Adjacent properties would experience subsidence and existing residents would experience difficulty in obtaining insurance.

Flooding:

- Concerned that the development will increase flood risk on and off the site.
- There are existing flooding problems in this area. Proposal is likely to exacerbate these.
- Site is prone to flooding.
- There are existing road flooding problems on Kilroyd Drive. Any planning permission should be subject to existing problems being addressed.
- There have been flood incidents at nearby properties.
- Developing the land will mean surface water run-off is increased.
- Cumulative impact on flooding from this development and other planned / committed developments in the area.
- Increased risk of flooding to existing property from greater discharge to the adjacent beck.
- Loss of natural drainage provided by the existing fields, which will increase flood risk elsewhere.
- Impact of vegetation removal on flood risk.
- Proposed attenuation is inadequate.
- Section 19 report should have been considered.
- Main sewer has not been located.
- Yorkshire Water objection noted.
- Existing flooding problems prevent use of local roads.
- Upgrade to culvert at Balme Road bridge needed.

Infrastructure:

- Increased pressure on schools and medical service providers.
- Inadequate infrastructure and amenities to support the additional housing proposed, including shops.
- Cumulative impact with other developments must be taken into account when considering the impact on facilities and services.

Ecology:

- Detrimental impact on flora and fauna including owls, bats, foxes, herons.
- Loss of habitat.
- Detrimental impact on the ecosystem of the adjacent watercourse.
- Impact on the “important” hedgerow by translocating it. Concern that it will not survive.
- Trees and hedgerows have previously been removed from the site.
- Net loss to biodiversity.
- Submitted ecological reports are out of date and contain inaccuracies.
- Applicant has cut down trees and hedges.

Landscape and urban design:

- Loss of green fields.
- Land was green belt.
- Development will merge Hunsworth and Cleckheaton.
- Housing will detrimentally affect the established character of this area.
- Hunsworth will lose its rural feel and character.
- Overly dense form of development.
- Inadequate open space provided

Other matters:

- Development needs to be assessed in the context of other Local Plan allocations in this area – cumulative impact.
- Many of the submitted reports need updating.
- Size of new dwellings (majority large detached) is out of keeping with the area which is mainly 2/3-bedroom terraced and semi-detached.
- Brownfield sites should be built on first.
- Proposed community orchard may attract anti-social behaviour.
- There is a Roman road running through the site. Archaeological investigation and recording is required.
- Inadequate play areas for children of all ages.
- Inadequate engagement by the developer with the local community.
- A contribution should be sought to improve the public realm in Cleckheaton town centre.
- Building houses on these open fields is inconsistent with achieving net zero climate change and similar environmental commitments.
- Question the competency of the developer.
- Negative impact on house prices.
- Query as to whether pre-commencement conditions have been drafted and agreed with the developer.
- Residents’ rights under the Human Rights Act would not be upheld.

- Harm to mental wellbeing.
- Destruction of community.
- Residents should be listened to.

7.3 Councillor Kath Pinnock (Member for Cleckheaton ward) commented on the application as follows.

- *Please can this application be considered by committee given the size of the application and the number of objections?*
- *I am not convinced that the latest proportions of different house types and sizes in the plan are sufficient to meet the concerns raised at the last committee and meet the Council's policy objectives.*
- *The fourth mine shaft has still not been located.*
- *Currently the double hedge is both protected under the legislation but also deemed to be a significant feature in the local landscape. How can both these be retained if the hedge is moved as per the application?*

7.4 Councillor Kath Pinnock provided the following further comments on 08/11/2021:

I accept that the site has been allocated for housing. However, the application fails in a number of regards to fulfil the principles for housing development as set out in the Council's Planning Supplementary Guidance which was adopted in June 2021. These are:

- 1. Density – the aim is for a density of 35 per hectare whereas the application is at a density of 25.6 per hectare. The consequence of accepting lower densities is that more land has to be allocated for housing across Kirklees.*
- 2. Principle 2 set out in the Supplementary Planning Guidance refers to new sites taking their "cue from the character of the local built environment". This new application has reduced the number of detached dwellings by four but detached properties remain the overwhelming house type. This is despite the fact that terraces and semi-detached houses are the main house type in the area.*
- 3. Active travel – the plan hardly fulfils the requirements of access to public transport. The applicant references the bus stops at the end of Kilroyd Drive. There are just two buses a DAY from these stops. To access buses to Bradford, Dewsbury, and Cleckheaton buses are from bus stops at Moorend. For cycling the nearest access to the Spen Valley Greenway is from Whitechapel Road. The consultation report from WYCA states "the analysis over emphasises the catchments for both modes and isn't a realistic indication of what the walking and cycling catchment is". WYCA further comments, "There are some long cul-de-sacs which mean that pedestrian/cycle connectivity is very poor. This means car travel becomes a more convenient alternative. This is particularly notable adjacent to Links Avenue."*
- 4. Landscaping and play and amenity space – The consultation report from WYCA has some very critical comments to make: "The development's layout does not appear to be well connected into the surrounding area and seems to have been designed to be self-contained. The following layout features potentially mean that private car journeys are likely to be the preferred method of travel: • green spaces are concentrated at the edge of the development with none of them as a community focal point. A green space*

surrounded by houses overlooking it, even if it is quite small, can lead to more community activity and active travel; • Some of the green spaces are not sufficiently overlooked to make them welcoming for all - for instance the orchard, the entrance to the site and the informal kickabout space at the North East of the site." There is much to be concerned about in regards to play areas and amenity spaces which are all sited on the boundaries. One of the areas allocated for children is on a 1 in 6 slope leading onto the busy Hunsworth Lane.

5. Flooding – there are flooding issues associated with the site. The advice for the discharges from the 2 attenuation tanks has changed significantly from the previous application. The discharge rates are now advised to be reduced from 19.8l/s to 17.5l/s and 39 l/s (sic) to 3.5 l/s. There is also mention of the creation of a ditch and a "rain garden" which both indicate the flooding issues that occur. A further concern that needs to be addressed is the cumulative impact of the additional discharges from this site, from the "Amazon" application in Scholes, and the North Bierley waste water treatment works site in Oakenshaw all of which will feed into the River Spen at Balme Road where flooding is already a frequent problem.

6. Yorkshire Water – the consultation response could not be clearer. YW objects in very strong wording to the layout of the site and, in particular, the fact that an 800mm siphon sewer must have a 5m stand off on each side. The line of the sewer is not accurately known, and the applicant has not identified the sewer line which is clearly of vital importance.

7. Coal mine shafts – the location of the 4th shaft is still not known and although undevelopable land has been indicated where it is estimated to lie, nevertheless, it does seem neglectful that the 4th shaft hasn't been properly located.

8. Hedgerow – the double hedgerow, deemed to be a significant feature in the Local Plan, is to be dug up and re-planted as a single hedge on the boundary. This will inevitably result in a loss of biodiversity. The Council's SPG states that any development should result in a 10% improvement in biodiversity. Here there is a negative outcome. It is not acceptable for this to be offset elsewhere. The Cleckheaton area is already suffering a negative impact in terms of the environment. Improvements must occur on site.

9. Air quality – there are no measurements of the reduction in air quality as a result of the additional traffic from this large site. There must be prior to any development being agreed.

10. Traffic congestion – the traffic lights at Hunsworth Lane are already operating beyond capacity, as are those at the Moorend crossroads. It is now apparent that National Highways has decided that any slip road from the M62 to the M606 is now no longer to proceed. This slip road has been a possibility for at least 30 years. Its purpose was to remove traffic from the congested Chain Bar roundabout. What assessment has been made of the impact on Chain Bar of all the additional traffic from the various development sites in the area? As the traffic lights at Hunsworth Lane are already over capacity there will be queuing. This already occurs at peak times and takes traffic well up the A58 towards Birkenshaw. In such circumstances, how is traffic to exit the new development from Kilroyd Drive at peak times?

In conclusion, there are many issues that the applicant has failed to address adequately. I hope that there will be a requirement for a further application to deal with these matters.

7.5 On 06/01/2022, commenting on the amendments made after the committee meeting of 16/12/2021, Cllr Kath Pinnock stated that the applicant should go much further in amending the proposals.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 KC Highways Development Management – No objection in principle, subject to design of Hunsworth Lane access being resolved at conditions stage, and submission of satisfactory road safety audit and designer's response.

8.3 KC Lead Local Flood Authority – No objection subject to conditions and Section 106 agreement. No objection to 17.5l/s maximum discharge rate to Nann Hall Beck, or to 3.5l/s maximum discharge rate to sewer overflow. Conditions recommended regarding detailed design of surface water attenuation, temporary (construction phase) surface water drainage, and swale maintenance. Section 106 should secure management company responsibilities for sustainable drainage systems until adopted, and for ditch / watercourse.

8.4 The Coal Authority – No objection subject to conditions. Site is within the defined Development High Risk Area. There are four mine shafts present within the application site. Regarding shaft 418426-008, applicant has confirmed that the proposed layout of development is such that no building plots or highway infrastructure will be located within the calculated zone of influence of the shaft, which will be accommodated entirely within a landscaped area. Welcome applicant's intention to undertake remedial works to stabilise shallow mine workings present beneath the site and to treat mine shafts 419426-001, 419426-002 and 419426-005. Mine gas should be considered. Implications of sustainable drainage systems should be considered in relation to the stability and public safety risks posed by coal mining legacy. Conditions recommended regarding implementation and validation of remedial works.

8.5 National Highways (formerly Highways England) – No objection subject to condition requiring a construction phase traffic management plan.

8.6 Non-statutory:

8.7 KC Ecology – The development would result in a net biodiversity loss and an off-site financial contribution is necessary in order to deliver a net biodiversity gain of 10%.

8.8 KC Education – A contribution of £1,176,189 is required towards education provision.

8.9 KC Environmental Health – Regarding air quality, condition recommended requiring revised Air Quality Assessment. A financial contribution towards air quality mitigation will be required. Regarding site contamination, conditions recommended securing revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation. Regarding noise, condition recommended securing revised Noise Impact Assessment. Conditions also recommended regarding electric vehicle charging and a Construction Environmental Management Plan.

- 8.10 KC Landscape – There is an opportunity to provide high quality open space provision on this site, including play provision for children and young people. On-site provision to meet the needs of children and young people should be considered in the first instance, before an off-site commuted sum is considered. Aspects of the proposed open space provision have been well thought-out, such as the community orchard. However, a much more expansive and detailed scheme is necessary for the development to fully meet the different open space typologies, particularly in relation to parks and recreation and equipped play. The scale of the development also generates a requirement for outdoor sport provision, which would be sought as a commuted sum. In light of increase in unit numbers to 291, and in the absence of further detail of the proposed on-site provision, a contribution of £424,546 is required.
- 8.11 KC Public Health – No objections raised. Detailed comments provided regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure.
- 8.12 KC Strategic Housing – There is significant need for affordable 1-, 2-, 3- and 3+-bedroom homes in Batley and Spen. The proposal triggers a requirement for 57 affordable dwellings (20% of the total number of units). A tenure split of 55% social or affordable rent to 45% intermediate housing should be sought. The affordable housing should be distributed evenly throughout the development and not in clusters and must be indistinguishable from market housing in terms of both quality and design. Strategic Housing would prefer to see the clusters of affordable homes further dispersed where possible.
- 8.13 KC Trees – No objection. Condition recommended requiring the development to be carried out in accordance with the submitted hedgerow translocation method statement.
- 8.14 KC Waste Strategy – All plots appear to have bin storage and presentation points which is welcomed. However, consideration should be given to providing suitable screened and secure bin storage to the front of terraced plots and any plot which has stepped rear access. On these plots rear access for the storage of bins is poor and convoluted which may discourage use. Formal provision of bin stores at the front of these dwellings would help to avoid the casual storage of bins at the front of houses in full view of the street, under windows and blocking driveways / footways. Swept paths for an 11.85m refuse collection vehicle are required. A condition is recommended requiring temporary waste collection arrangements if properties are to be occupied before the site construction is complete.
- 8.15 West Yorkshire Combined Authority (WYCA Metro) – Applicant's Transport Assessment over-emphasises site's walking and cycling catchments. Proposed layout does not appear to be well connected with the surrounding area and seems to have been designed to be self-contained. Proposed layout features potentially mean that private car journeys are likely to be the preferred method of travel. Due to its size, it is inevitable that parts of the site will have longer walk distances to access local bus stops and services than the recommended 400m distance. This would be improved by amending the site layout and incorporating more pedestrian access points to the surrounding residential areas. Bus stops 16701 and 15500 on Bradford Road should be

upgraded to include a real time passenger information display, costing £20,000. Stop 15448 on Whitehall Road should be upgraded to include a real time information display, and a real time display enable pole should be provided at stop 15449, costing £20,000. Submitted Travel Plan is informative but lacks commitments to implement measures to encourage sustainable travel to ensure its targets are met. Sustainable travel fund of circa £145,000 appropriate. Digital connectivity and electric vehicle charging also required.

8.16 West Yorkshire Police Designing Out Crime Officer – No objection subject to conditions.

8.17 Yorkshire Water – If planning permission is to be granted, three conditions should be applied. Existence of water infrastructure and easements through the site are noted. No trees are to be planted within 5m of public sewers. As surface water from the site is not proposed to discharge to the public sewer network, no assessment of the capacity of the public sewers to receive surface water has been undertaken. No objection to foul drainage proposals. Advice provided regarding water supply.

9.0 MAIN ISSUES

- Previous refusal and deferral of permission
- Principle of development
- Sustainability and climate change
- Quantum and density
- Housing mix
- Unit sizes
- Affordable housing
- Urban design issues
- Residential amenity and quality
- Important hedgerow
- Other tree, biodiversity and landscaping issues
- Highway issues
- Flood risk and drainage issues
- Environment and public health
- Coal mining legacy
- Representations
- Planning obligations
- Conditions
- Other planning matters

10.0 APPRAISAL

Previous refusal and deferral of permission

10.1 The application is a resubmission of previous application ref: 2019/93303 which related to a development of 267 dwellings and which was refused on 21/05/2021. The council's assessment and refusal of that application is a significant material consideration relevant to the council's assessment of the resubmitted application.

- 10.2 The previous proposal for 267 dwellings was refused on the basis of the housing mix, which was considered to be overly dominated by 4-bedroom detached dwellings. Permission was also refused due to concerns regarding the proposal to translocate the “important” hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.
- 10.3 Regarding the current application, Members deferred their decision on 16/12/2021 so that housing mix and hedgerow concerns could be addressed. Members also had concerns regarding the number of conditions recommended, and requested sight of fully-worded conditions.
- 10.4 This committee report focusses on the two main issues pertinent to the council’s refusal – these matters are considered under the “Housing mix” and “Important hedgerow” headings below. This committee report also responds to the comments made by Members on 21/10/2021 and 16/12/2021, and provides commentary relating to other information and amendments submitted by the applicant following the previous refusal of permission and deferral, and relating to other material considerations that have emerged in recent months, including the adoption of the council’s Open Space SPD and Housebuilder Design Guide SPD in June 2021, the publication of the council’s Planning Applications Climate Change Guidance and Biodiversity Net Gain Technical Advice Note in June 2021, the publication of an updated NPPF in July 2021, and the passing of the Environment Act in November 2021.
- 10.5 Relevant considerations on the ground (at the application site and its surroundings) have not significantly changed since April/May 2021. This further justifies a focus in this committee report on the two main issues pertinent to the council’s refusal.
- 10.6 Notwithstanding the focus of this committee report, Members are free to consider any planning matters relevant to this application, however careful consideration must be given to the need for consistency in planning decisions, and the risks involved in raising concerns that were not deemed to be reasons for refusal earlier in 2021. Raising such concerns would not be unlawful (there is no planning legislation that requires planning decisions to adhere to earlier resolutions), however there is an expectation placed upon the council to act reasonably in the execution of its duties as the local planning authority. Reference can 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 not determining similar cases in a consistent manner.

Principle of development

- 10.7 As set out in the committee report for application ref: 2019/93303, the site is allocated for housing in the Local Plan (site allocation ref: HS96) and therefore the principle of residential development at the site is considered acceptable. The proposed 291 dwellings would make a significant contribution towards the supply of housing in Kirklees.

- 10.8 The housing land supply position in Kirklees has recently been updated to provide evidence for a planning appeal against the refusal of planning permission. The council can currently demonstrate 5.17 years of deliverable housing land supply and therefore Kirklees continues to operate under a planned system.
- 10.9 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it.

Sustainability and climate change

- 10.10 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.11 The application site is a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. The surrounding area has food outlets, shops, two pubs, Hunsworth Park and Recreation Ground, Moorend Park and Cleckheaton Sports Club, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, and combined trips can be made, which further indicates that residential development at this site can be regarded as sustainable.
- 10.12 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage space), electric vehicle charging points, a Travel Plan and other measures have been proposed or would be secured by condition or planning obligations. 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.
- 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.

Quantum and density

- 10.14 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the

Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve.

- 10.15 The 291 dwellings proposed falls short of the 413-dwelling indicative capacity set out in site allocation HS96. 291 dwellings are approximately 70% of 413 dwellings. The under-delivery of dwellings at this site is a shortcoming of the proposed development that attracts negative weight in the balance of relevant planning considerations.
- 10.16 Notwithstanding the site's constraints and the policy requirements relevant to a 291-dwelling development (which, it is accepted, reduce the developable area), it remains the case that the applicant's decision to propose a significant (albeit recently-reduced) proportion of larger detached houses is driving down the development's quantum and density, is limiting the efficient use of land, and may have adverse implications in relation to energy efficiency and affordability (as detached dwellings can be less energy efficient and more expensive to heat). In the current proposals, 206 (71%) of the 291 dwellings would be detached, and the remaining 85 would be terraced or semi-detached. 150 (52%) of the 291 dwellings would have four bedrooms (not counting the 21 Rothbury units which would have three bedrooms and study that could be used as a bedroom). Using a site area of 11.8 hectares (to enable comparison with the indicative site capacity), the proposed 291 dwellings would achieve a density of only 25 dwellings per hectare.
- 10.17 Comparison with the following similarly sized recent schemes is appropriate:
- Owl Lane, Chidswell (ref: 2019/92787). 260-unit scheme, 100 dwellings (38%) are to be detached, 44 (17%) are to have four bedrooms, and a density of 33 dwellings per hectare is to be achieved. Approved.
 - Land east and west of Netherton Moor Road, Netherton (ref: 2019/93550). 250-unit scheme, 114 (46%) are to be detached, 53 (21% are to have four bedrooms, and a density of 30 dwellings per hectare is to be achieved. Approved.
 - Bradley Villa Farm, Bradley (ref: 2021/92086). 270-unit scheme, 171 (63%) detached dwellings are proposed, 136 (50%) four-bedroom dwellings are proposed, and a density of 27 dwellings per hectare would be achieved. Pending decision (considered by Strategic Planning Committee on 29/07/2021, position statement raised concerns regarding unit sizes, quantum and density).
- 10.18 Compared with the previously-refused scheme at the Merchant Fields site, the current proposal increases the quantum of development, albeit by a relatively modest 24 units.
- 10.19 Although the above assessment identifies concerns regarding the proposed development's quantum and density, there are other key considerations that must be taken into account.

- 10.20 Firstly, it is noted that the allocated site's indicative capacity is based on a site area of approximately 11.8 hectares and the 35 dwellings per hectare expectation of Local Plan policy LP7 and does not take into account site constraints and other considerations. As set out in the committee report for application ref: 2019/93303, it is considered that the site's topography, coal mining legacy and easements are material constraints on development at the site. These constraints will make it difficult to deliver the expected 413 units at this site.
- 10.21 Taking into account these constraints, it is appropriate to also consider what density would be achieved by the proposed development based on a smaller site area figure that reflects the part of the allocated site that is developable. Using the net developable area figure used at paragraph 10.13 of the committee report relating to application ref: 2019/93303 (8.84 hectares), the current proposal for 291 dwellings would achieve a density of 33 dwellings per hectare, which is closer to the 35 dwellings per hectare expectation of Local Plan policy LP7.
- 10.22 It should also be noted that, although under-use of an allocated site attracts negative weight in the balance of relevant planning considerations, the weight to be attached to that shortcoming is lessened by the limited or lesser impact that such a low quantum of development may have upon the local highway network and social infrastructure, when compared with the impact that a 413-dwelling scheme would have.
- 10.23 Finally, given that the previous, less dense proposal for this site was not refused on quantum grounds (of note, the council's refusal reason referred to the preponderance of 4-bedroom detached dwellings and the need to meet the needs of different household types, and did not refer to the overall number of units, the need to use land efficiently, or Local Plan policy LP7), given the applicant's subsequent attempts to increase quantum, and given that 291 new dwellings would undoubtedly make a welcome contribution towards the supply of housing in Kirklees, it is recommended that the proposed quantum and density be accepted.
- 10.24 The applicant's recent increase in the quantum of development has partly been achieved by extending the proposed built-up area closer to the south-eastern site boundary, and by adding three dwellings close to Nann Hall Beck (units 49, 50 and 51). These revisions bring new housing closer to the existing properties towards the south on Brookfield View, Brookfield Terrace and Brookfield Avenue, and also affects the amount of open space that would be provided on site. The proposed layout nevertheless retains a buffer to these existing houses and to Nan Hall Beck in the north-eastern part of the site. The reduction in the open space would be taken into account as part of the calculation for open space contributions.

Housing mix

- 10.25 As noted in the table at paragraph 5.1 above, since the previous application (ref: 2019/93303) was considered, the applicant has increased the proposed number of 2-bedroom dwellings by 10 and the number of 3-bedroom dwellings by 55. The number of 4-bedroom dwellings has been reduced by 41. The unit size mix and the relevant percentages are now:

- 1-bedroom – 0 units – 0%
 - 2-bedroom – 36 units – 12%
 - 3-bedroom – 105 units – 36%
 - 4-bedroom – 150 units – 52%
 - 5-bedroom – 0 units – 0%
- 10.26 Of note, in the above figures the 21 Rothbury units are counted as 3-bedroom units, although they would additionally have a study that could be used as a fourth bedroom.
- 10.27 Paragraph 3.5 of the Local Plan recognises that “If identified housing needs are to be met, houses of all sizes are needed together with an increasing number of bungalows and flats/apartments”, and policy LP11 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. For major developments, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. 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.
- 10.28 As noted at paragraph 10.16 above, the proposal still includes a high proportion of 4-bedroom and detached dwellings, however there is now a greater number of smaller-sized dwellings proposed, which would help to meet the needs of a broader range of people and their households. Given these improvements to the proposed unit size mix, it is considered that this part of the council’s previous reason for refusal (and later reason for deferral) has been satisfactorily addressed, and it is not recommended that planning permission be refused again on these grounds.
- 10.29 At the Strategic Planning Committee meeting of 16/12/2021, concern was additionally expressed regarding the proposed housing mix and how this would affect the proposed development’s ability to respect its context. It was noted that adjacent streets to the north of the application site are dominated by bungalows, terraced and semi-detached dwellings.
- 10.30 Context is indeed an important consideration when assessing the design of major residential developments, and such developments are indeed expected to respect and enhance the local character of the area, usually by taking cues from the character of the built environment within the locality. This can be done with reference to existing nearby typologies (be they bungalows, terraces, semis, detached dwellings, blocks of flats or another form of building), but also by reflecting other aspects of a site’s context, such as building heights, roof forms, fenestration patterns, elevation-to-elevation distances (street cross-sections), arrangements of gardens, and materials. There is also some allowance in design guidance (e.g., the National Design Guide) for large residential schemes to deviate from their contexts (to an extent) and establish their own identity.

- 10.31 At the Merchant Fields site, the preponderance of larger and detached units means nearby typologies (specifically, the terraces of Kilroyd Avenue, the semis of Links Avenue and the bungalows of Mazebrook Crescent) would not be reflected in the majority of the development, however due to the terraced and semi-detached dwellings that are proposed along the northwest edge of the site and elsewhere, the other proposed references to context (including building heights, materials, front gardens and street cross-sections), and the allowance in the National Design Guide, it is not considered that the proposed development is context-inappropriate or unacceptable in design terms.

Unit sizes

- 10.32 The sizes of the proposed dwellings are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Epidemic-related lockdowns in 2020/21 and increased working from home have further demonstrated the need for adequate living space.
- 10.33 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant
- 10.34 An updated table of floorspace figures was provided by the applicant on 13/01/2022. This confirms that all dwellings (including those of the recently-introduced house types) would be NDSS-compliant. The 21 Rothbury units would remain compliant if counted as 4-bedroom units.

Affordable housing

- 10.35 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.
- 10.36 20% of 291 dwellings is 58.2, therefore the 57 affordable dwellings proposed by the applicant now falls short of Local Plan policy LP11 by one unit. The applicant has been asked to address this shortfall, and to confirm the location and tenure of the additional affordable unit now required. This clarification will also affect the tenure split currently proposed by the applicant (31 affordable rent unit and 26 intermediate units). The recommended Section 106 Heads of Terms include a requirement to provide a policy-compliant 58 affordable dwellings.

10.37 All of the proposed affordable rent units would be of the 2-bedroom Hadleigh house type, and all of the proposed intermediate units would be of the 3-bedroom Bamburgh house type. As those two house types are also proposed within the development's private (market) housing, as variations of those house types are proposed (some would be built of red brick, some of artificial stone, and a mix of affordable semi-detached and terraced dwellings are proposed), and as the proposals also include private semi-detached and terraced dwellings, it is considered that the development's affordable housing element would not be visually distinguishable. The applicant has also confirmed the proposed locations of the affordable units – these would be sufficiently pepper-potted around the site.

Urban design issues

10.38 The proposed layout and most other aspects of proposed design have not significantly changed since the previous application (ref: 2019/93303) was considered, however the following changes are noted:

- Proposed built-up area extended closer to the south-eastern site boundary, and three dwellings added close to Nann Hall Beck (units 49, 50 and 51).
- The applicant has submitted missing and revised house type and electricity substation drawings and has confirmed that the Salcombe house type is no longer proposed. In the most recent changes to the unit size mix, the applicant has deleted the Hewick and Baybridge house types, and has introduced the Rothbury and Bramley (T7) house types.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Increased proportion of smaller dwellings (more terraced and semi-detached dwellings, and fewer detached dwellings, resulting in revised street scenes).
- Street trees added.

10.39 The minor changes to the proposed layout, and other design changes, are considered acceptable. The additional terraced and semi-detached dwellings, and reduced number of detached dwellings, would help vary the development's street scenes, would add interest, and would help relieve some of the visual monotony of the previous proposal. The eleven proposed house types, and the proposed variations in their elevations and materials, would also bring interest and variety to the development's street scenes. Subject to details of materials and boundary treatments, the proposed garages and two electricity substations are considered acceptable in design terms.

10.40 Regarding the grain of the proposed development, some of the terraced and semi-detached dwellings are appropriately proposed adjacent to existing terraced properties on Kilroyd Avenue, which would help the proposed development reflect and respond to its context. All dwellings would have two-storeys, and no bungalows are proposed. Although bungalows would have been welcomed at this site (to reflect those of Kilroyd Drive and Mazebrook Crescent), there is no policy requirement for bungalows to be provided, and it is noted that the site's context is not entirely defined by bungalows – Kilroyd Avenue and Links Avenue and streets to the southeast are dominated by two-storey dwellings. It is also again noted that while relevant design guidance generally requires new development to respect its context, there is some

allowance (at, for example, paragraph 59 of the National Design Guide) for larger new development to establish its own identity.

- 10.41 Regarding external materials, the applicant proposes red brick and red concrete roof tiles for approximately 170 of the 291 dwellings, and artificial stone and grey concrete roof tiles for the others. White UPVC windows, black painted front doors and garage doors, and black UPVC rainwater goods are also proposed. Subject to details and samples being provided at conditions stage, this palette of materials is considered acceptable for this site and its context.
- 10.42 The applicant was asked to review the proposed development in the context of the revised NPPF which was published in July 2021, and specifically paragraph 131 which states that planning decisions should ensure that new streets are tree-lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate).
- 10.43 The applicant submitted a revised landscaping layout which provides additional trees across the site. Furthermore, the applicant has advised that where trees are to be provided within front gardens, these areas would fall under the responsibility of a management company. For this arrangement to be workable, the management company would either need to take full control for a section of each garden, or adequate covenants would need to be written into sale contracts. Of note, a similar covenant-related arrangement (regarding responsibility for trees) has previously been accepted at a site in Linthwaite (application ref: 2021/91571). It is recommended that details of these arrangements be secured by condition.
- 10.44 As the application is a resubmission of a previously refused scheme, and as the requirement to provide tree-lined streets within the NPPF post-dates the original proposal, it is recognised that it will be difficult to integrate additional tree planting without a redesign of the road layout which was previously deemed acceptable. The applicant has, however, proposed trees at many of the key junctions and at the terminus of some of the cul-de-sacs, and groups of trees are proposed within areas of open space. Individual trees to the front of some plots would be provided as described above, and other plots would incorporate shrub planting to their frontages. However, if some of these shrubs were replaced with trees it would help to give the development a more tree-lined feel, and it is accordingly recommended that such additional tree planting be secured through the condition relating to landscaping. Subject to further increases in the number of trees provided to the front of dwellings (to be secured by condition), on balance it is considered that the development would accord with paragraph 131 of the NPPF in this instance.
- 10.45 Regarding archaeology, as noted at paragraph 10.30 of the committee report for the previous application (ref: 2019/93303), the applicant carried out a pre-determination archaeological evaluation in 2019. The results of this work established that the site had very low archaeological potential and, in particular, the line of a Roman road was not located by archaeological trial trenching. In light of those findings, the West Yorkshire Archaeology Advisory Service did not consider that any further archaeological work was necessary at the site.

Residential amenity and quality

- 10.46 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.
- 10.47 Compared with the previous application (ref: 2019/93303), the proposal brings development closer to Brookfield Avenue, Brookfield Terrace and Brookfield View which lie to the southeast of the site. However, these properties would be separated from the new dwellings by an undeveloped buffer and the separation distances would all exceed those recommended within the Housebuilders Design Guide SPD. The three dwellings added close to Nann Hall Beck (units 49, 50 and 51) are not close to existing residential properties. The layout now proposed would not bring development any closer to existing dwellings to the west and north of the site on Links Avenue, Kilroyd Avenue and Mazebrook Crescent. In the case of properties on Kilroyd Avenue, separation distances have increased slightly in some instances. Examples of distances to be maintained around the edges of the site are set out below:
- Between side elevation of unit 242 and front elevation of 30 Links Avenue – 16m.
 - Between rear elevation of unit 268 and main rear elevation of 45 Kilroyd Avenue – 24m (20m would be maintained to rear extension).
 - Between rear elevation of unit 275 and main rear elevation of 27 Kilroyd Avenue – 22m (19m would be maintained to rear extension).
 - Between rear elevations of unit 286 and 1 Kilroyd Avenue – 24m.
 - Between side elevations of unit 1 and 31 Kilroyd Drive – 11m.
 - Between side elevation of unit 45 and rear elevation of extension at 49 Mazebrook Crescent – 24m.
 - Between side elevations of unit 152 and 17 Brookfield Terrace – 10m.
- 10.48 Overall, it is considered that the proposed layout provides acceptable separation distances to neighbouring dwellings.
- 10.49 Significant open space provision is required for the proposed development, including a Local Area for Play (LAP), a Local Equipped Area for Play (LEAP) and a contribution towards a Multi-Use Games Area (MUGA). With the 291 dwellings now proposed, a significant open space contribution towards off-site provision would normally be required, however some of the applicant's welcomed proposed on-site provision can be taken into account.
- 10.50 With reference to the open space typologies set out in the council's Open Space SPD, the applicant proposes the following on-site provision (as detailed on drawing 122-AP-02 rev A):
- Natural and Semi-natural Greenspace – 1.4 hectares
 - Amenity Greenspace – 0.41 hectares
 - Provision for Children and Young People – 0.39 hectares
 - Parks and Recreation – 0.58 hectares
 - Allotments and Community Food Growing – 0.14 hectares

- 10.51 Taking into account some of what is shown on the submitted drawings (including the good detail of the proposed “allotments and community food growing” area), this figure is reduced to £424.546. A further reduction would be possible if the applicant were to provide more acceptable detail of what would be provided in the areas to be offered under other typologies. For example, the “parks and recreation” area shown in the northeast part of the site could be accepted as such if the applicant were to propose more than the mown grass, three benches and two paths currently shown. Similarly, the “children and young people” area could be accepted as such with a greater level of investment and detail. A trim trail previously proposed by the applicant at the south end of the site was welcomed, however it did not amount to a LEAP. Annotations referring to a LEAP have since been added to the applicant’s drawings, however this aspect of the proposal has not been fully detailed.
- 10.52 In response to Members’ comments made on 21/10/2021, a clear plan of the proposed on-site open space will again be included in the committee presentation. Of note, should planning permission for the current proposal be granted and implemented, any subsequent proposal to build on the currently proposed open space would require a further planning application. Such an application is considered unlikely, given that the open space would occupy sloped land or would be provided above drainage attenuation.

Important hedgerow

- 10.53 As noted in the committee report for the previous application (ref: 2019/93303), a double hedgerow to the southwest of Merchant Fields Farm is classed as “important” under the Hedgerow Regulations 1997. That application was refused due to concerns regarding the proposal to translocate the important hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.
- 10.54 Following the late changes made by the applicant on 15/12/2021, and the raising of concerns by Members at the Strategic Planning Committee meeting of 16/12/2021, the applicant has clarified the proposals in relation to the hedgerow, through the submission of a revised Landscape Masterplan (rev K) and a revised Hedgerow Translocation Method Statement (rev A). The applicant now proposes to translocate the majority of the hedgerow to the south edges of the site, adjacent to public footpath SPE/41/10. Here, it would be laid out as a single hedgerow set within an area of open space. A further stretch of hedgerow (deleted from the proposals on 15/12/2021, to address a Yorkshire Water easement concern) is to be moved to new locations north of Brookfield View and units 129 to 131. Here, the hedgerow would line parts of the site boundary, and would be closer to Nann Hall Beck, the proposed community orchard and undeveloped fields to the east.
- 10.55 The submitted Hedgerow Translocation Method Statement has been prepared by a company who have previously carried out similar work (including the translocation of 550m of hedgerows for UK Coal Ltd in the East Midlands and North East). The statement details the technical aspects of translocating the important hedgerow and demonstrates the expertise of the company to complete this work.

- 10.56 Retention of the hedgerow in its current location would pose a very significant constraint to the site layout, particularly to the road network within the site which is already influenced by topographical constraints.
- 10.57 Officers have considered the applicant's information and assessed whether the proposed translocation is suitable and achievable, having regard to the need to preserve the hedgerow's value, and the relative disbenefits of retaining the hedgerow in its current location within a site allocated for residential development. Both KC Trees and KC Ecology are satisfied that translocation is a viable option for the hedgerow, and officers from those teams provided commentary on the matter at the Strategic Planning Committee meeting of 21/10/2021. The examples of hedgerows being translocated elsewhere in the country serve to provide further comfort that this is a viable solution.
- 10.58 Furthermore, it is considered that there is a benefit to moving the hedgerow and setting the majority of it within an area of open space at the south edges of the site. The hedge in its current location would not be as valuable within a developed site and the wildlife value that it currently provides within this open field system would be significantly reduced if it were to be incorporated into the built environment. The translocation of most of the hedgerow to the edges of the site adjacent to planted open space and a stretch of public footpath provides potential benefits in terms of wildlife (habitat) connectivity and foraging opportunities. A long wildlife corridor (the longest possible, given the site's constraints) would be created, and the proposal would allow the current hedgerow material and associated species mix to form a valuable new landscape feature. The other locations currently proposed for the site's hedgerow are also considered acceptable.
- 10.59 It is relevant to note that the hedgerow is deemed "important" due to its species mix, rather than any association with historic features specific to the location where it is currently growing. On that basis, moving the hedgerow (including its species composition and basal soil with its associate seed bank) to alternative locations is considered to be a good option to ensure that it can continue to offer a high degree of wildlife and public amenity value.

Other tree, biodiversity and landscaping issues

- 10.60 Trees to the southwest of Merchant Fields Farm (along the line of the important hedgerow, and within the application site) are the subject of Tree Preservation Order (TPO) SP2/70/g10. Another tree to the northeast of the farm is the subject of TPO SP2/70/t4. Trees to the northeast (on the opposite bank of Nann Hall Beck) are also protected. Land to the east is within the green belt. The majority of the application site is within a Biodiversity Opportunity Zone (Pennine Foothills), bats are present in the area, and Nann Hall Beck and its banks form part of the Wildlife Habitat Network.
- 10.61 A net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF.

- 10.62 The applicant's Design and Access Statement confirms at page 24 that TPO-protected trees would be retained and would "have a strong presence within the centre of the site". The proposed layout, however, shows the trees of TPO SP2/70/g10 at the rear of units 86 to 96. It is recommended that these trees be kept outside private curtilages, and that they be the responsibility of a residents' management company.
- 10.63 As with the previous application (ref: 2019/93303), the proposal includes a scheme of biodiversity mitigation and enhancement measures including new hedgerow planting, new woodland planting and provision of wildflower rich grassland. Notwithstanding these measures, the development results in a net biodiversity loss on the site and to mitigate this and deliver an overall net gain to biodiversity, the applicant is required to provide a contribution towards off-site ecological enhancement. A contribution of circa £120,000 would be required – the precise amount would be determined by the detail of the on-site provisions, and further biodiversity metric calculations. The off-site contribution would fund ecological enhancement works that would be administered by the council and carried out at a location as close to the site as possible.

Highway issues

- 10.64 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.
- 10.65 Paragraph 110 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 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.66 Existing highway conditions must be noted. The site lies approximately 1.2km to the north of Cleckheaton Town Centre and is located to the east of Hunsworth Lane (the B6121). Beyond an intervening strip of land, the application site has a frontage to Hunsworth Lane approximately 100m long, where the road runs downhill from north to south. Footways exist on both sides of the carriageway, the road is lit, a 30mph speed restriction applies, and there are central double white lines prohibiting overtaking. "SLOW" road markings exist on the carriageway. On-street parking is restricted by double yellow lines along part of the application site's Hunsworth Lane frontage, however on-street parking is allowed (and occurs) further to the north. A signalled junction exists to the north where Hunsworth Lane meets Whitehall Road (the A58).

- 10.67 The site is not close to a railway station. The nearest bus stops on Hunsworth Lane and Whitehall Road West offer only a limited service to Bradford, Brighouse and East Bierley, as well as one bus a day to Leeds. Further to the south, however, a frequent service between Bradford and Wakefield (via Dewsbury) is available from bus stops on Bradford Road.
- 10.68 At the site's northern edge, access to the dwellings at Merchant Fields Farm is provided via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 10.69 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site's south-eastern boundary.
- 10.70 The proposed layout retains the two separate points of vehicular access which were proposed under the previous application (ref: 2019/93303). The proposed internal layout is largely as per the previous application.

Accessibility:

- 10.71 The site is allocated for housing in the Local Plan. The principle of its suitability for residential development and the relative accessibility of the site was assessed as part of this process and was found to be acceptable.

Access points:

- 10.72 A new vehicular access point is proposed on Hunsworth Lane. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm.
- 10.73 The new access from Hunsworth Lane would take the form of a priority junction with a right-turn lane, which is considered acceptable in principle and appropriate for the scale of development proposed. On 13/12/2021 the applicant submitted a drawing (LTP/3836/P2/01.01 rev B) of the proposed junction – this shows a 43m long visibility splay to the north of the proposed junction, however the applicant has since advised that a 60m splay is achievable to account for speeding traffic. It is recommended that further information be secured at conditions stage regarding visibility and horizontal and vertical alignment, together with a stage 1 RSA and Designer's Response. Subject to these issues being satisfactorily addressed, the proposed Hunsworth Lane access is considered acceptable. The submitted junction drawing also now shows the correct length of a council refuse collection vehicle, and illustrates vehicle tracking at this new junction which would be the subject of detailed assessment at conditions stage and under a future Section 38 application.
- 10.74 It is recommended that the proposed Hunsworth Lane access point be used during the construction phase. Through the application of the recommended conditions, the intention is to require a construction access to be provided off Hunsworth Lane from the outset, so that construction traffic would not need to use Links Avenue or Kilroyd Drive. A permanent residential access off Hunsworth Lane would then need to be provided before the majority of the dwellings could become occupied – an allowance for the occupation of a small number of dwellings (which would be accessed only from the north until the residential access off Hunsworth Lane is completed) is considered appropriate, to help the development's cashflow and viability.

Traffic impact and network assessment:

- 10.75 The scope of the applicant’s Transport Assessment (TA) was agreed during pre-application discussions and is based on current guidance and industry standard methodology. Traffic surveys have been undertaken which identify the local network peak hours as 07:30 to 08:30 and 16:45 to 17:45. For assessment purposes the TA is based on a residential development comprising 310 dwellings. The current proposal is for 291 dwellings and therefore the TA provides a robust assessment.
- 10.76 Traffic growth has been based by the applicant on TEMPro growth rates with a future design year of 2025. The industry standard TRICS database has been used by the applicant to determine trip rates – for robustness the assessment uses 85% percentile trip rates based on AM and PM peak hours of 08:00 to 09:00 and 17:00 to 18:00 respectively, which have higher traffic levels than the actual local network AM and PM peak hours of 07:30 to 08:30 and 16:45 to 17:45 respectively.
- 10.77 In terms of traffic generation, for a 291-dwelling development this would equate to 214 and 221 two-way trips respectively in the AM and PM peak periods. The table below provides full details.

	85 th Percentile Vehicular Trip Rates			Traffic Generations for 291 dwellings		
	Arrivals	Departures	Two-Way	Arrivals	Departures	Two-Way
08:00-09:00	0.243	0.491	0.734	71	143	214
17:00-18:00	0.463	0.296	0.759	135	86	221

Traffic distribution:

- 10.78 Traffic has been distributed (in the TA) on the highway network using origin and destination data from the 2011 Census’ method of travel to work data set. The methodology has been reviewed and is considered to be acceptable.

Junction assessment:

- 10.79 The following junctions have been assessed using a base year of 2020 and a future design year of 2025.

Kilroyd Drive / A58 Whitehall Road (priority junction):

- 10.80 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing or capacity problems.

Hunsworth Lane / Proposed Site Access (priority junction):

- 10.81 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing, capacity or vehicle delays.

A58 Whitehall Road / A651 Bradford Road (roundabout):

- 10.82 Assessment shows that in the 2025 base traffic (without development traffic) scenario, the A58 Whitehall Road East arm would operate beyond practical capacity in the AM and PM peak periods and the A651 Bradford Road South arm would operate beyond practical capacity in the AM peak period. The addition of development traffic (i.e. 2025 base plus development traffic scenario) would marginally worsen this situation, although in terms of rate of flow to capacity (RFC) values and queuing the addition of development traffic is considered to have a relatively minimal impact and would equate to an increase of approximately four queuing vehicles in the peak periods.
- 10.83 In the 2025 base plus development traffic scenario all arms except the A651 Bradford Road south arm would continue to operate within theoretical maximum capacity, and the Bradford Road south arm would operate marginally over maximum capacity in the AM peak period. The A651 Bradford Road North and A58 Whitehall Road West arms would continue to operate within practical capacity in all scenarios including the 2025 base plus development scenario.
- 10.84 It is considered that future network growth would be the main contributory factor towards certain arms of the roundabout operating over capacity and that the impact of development traffic would in relative terms be minimal.

A58 Whitehall Road / Hunsworth Lane (signalised junction):

- 10.85 This junction has been modelled by the applicant using LinSig modelling software, which has been reviewed by the council's Urban Traffic Control team.
- 10.86 Signalisation of this junction was undertaken in around 1999 and was introduced as an accident remediation scheme – the junction was effectively at capacity when commissioned, and this is still currently the case, with some arms of the junction operating at or slightly over capacity, with significant queues observed on Hunsworth Lane and the A58 Whitehall Road westbound during peak periods. During inter-peak periods the junction operates satisfactorily with spare capacity on all arms.
- 10.87 Under the current application, the applicant resubmitted the TA (ref: 10972/001/01, 11/09/2019) that was submitted with the previous application (ref: 2019/93303). This still includes suggestions of measures at this junction (intended to improve the operation of the junction), namely the introduction of a staggered pedestrian crossing on the Hunsworth Lane north arm of the junction and the removal of the pedestrian crossing facility on the A58 Whitehall Road west arm. As set out in the committee report for the previous application and the position statement for the current application, these are not supported by officers as they would be detrimental to pedestrian safety and movement. The suggested measures would provide some additional capacity at the junction, however by 2025 this additional capacity is predicted to be exhausted, and for a marginal short-term betterment the measures are not considered worthwhile.

10.88 The applicant has been asked to provide an updated TA, deleting these proposed measures, however the document received on 11/01/2022 did not update paragraphs 7.6.3 to 7.6.10 or appendix I. Notwithstanding this, these measures are only suggested in the applicant's TA, and do not affect land within the application site red line boundary. For the avoidance of doubt an informative is recommended, clarifying that the contentious suggested measures are not approved.

10.89 It is considered that there are no reasonable and meaningful physical mitigation measures that can be implemented at the Whitehall Road / Hunsworth Lane junction, within the constraints of the adopted highway. Highways officers have, however, noted that the existing signalling equipment at that junction is nearing the end of its serviceable life and is due for replacement within the next few years. In lieu of the mitigation measures suggested in the applicant's TA, it is considered that a contribution towards the replacement of signalling equipment at this junction (costing £50,000) would be appropriate. This would be secured via the recommended Section 106 agreement.

A638 Bradford Road / Hunsworth Lane / Whitechapel Road (signalised junction):

10.90 The junction has been modelled by the applicant using LinSig modelling software. Results show that in the 2025 with development scenario the signals would operate over capacity in the AM and PM peak periods. To mitigate this impact a contribution towards the installation of Bluetooth journey time monitoring equipment at the junction and its approaches is considered appropriate. The level of contribution proposed, to be secured via the recommended Section 106 Agreement, is £15,000.

Chain Bar Roundabout (M62 Junction 26):

10.91 In addition to the aforementioned junctions, under the previous application National Highways (when still Highways England) requested that, as part of the Strategic Road Network, Chain Bar roundabout (M62 Junction 26) should also be assessed to determine the impact of development traffic on the roundabout. The junction was assessed by the applicant using a LinSig model provided by National Highways. Following review of this assessment National Highways confirmed during the life of the previous application that subject to conditions they offer no objection to the proposal. A similar comment has been submitted by National Highways in respect of the current application.

Internal layout, servicing and refuse:

10.92 The internal layout of the proposed development is expected to be built to adoptable standards, as set out in the Kirklees Highway Design Guide SPD and Highways Guidance Note – Section 38 Agreements for Highway Adoptions March 2019 (version 1) and associated documents.

- 10.93 The proposed internal layout is very similar to that previously submitted and is generally considered acceptable. The council's Section 38 team have been consulted on the proposed development, and while their forthcoming detailed comments may result in minor layout changes, it is not considered necessary to delay determination of the current application while any such matters are being resolved.
- 10.94 Local residents have expressed concerns that the development may create a desirable cut-through for traffic travelling west on the A58 Whitehall Road West wishing to turn left at the Whitehall Road / Hunsworth Lane junction, thus avoiding the signals. This has been assessed, and it is accepted that use of the proposed development as a cut-through route would be undesirable, however it is considered that due to the length, alignment and nature of the route through the proposed development, this is unlikely to prove a popular or well-used cut-through. Should through-traffic prove to be an issue in the future a police-enforced "no motor vehicles except for access" Traffic Regulation Order (TRO) could be implemented.

Road safety:

- 10.95 The applicant's review of personal injury accidents over a five-year period shows that in the agreed accident study area, which includes Chain Bar Roundabout (M62 Junction 26), there have been 14 incidents. 10 incidents were classified as slight, with four being classified as serious and no fatal incidents recorded. Of the four serious incidents, all of which occurred at different locations, three involved a motorcycle, which is perhaps more of a reflection on the lack of protection and vulnerability of motorcycle riders in collision situations. The fourth serious incident involved a single vehicle and was a loss of control incident with the vehicle leaving the road on a bend and hitting a lamp post, with a probable causation factor noted as travelling too fast. Of the remaining 10 slight incidents, there were no significant incident clusters, with probable contributory factors being recorded as failure to look properly, travelling too fast, poor turn manoeuvre and sudden braking, all of which can be classified generally as driver error and not as a result of any inherent highway design issue.
- 10.96 It is considered that there are no significant accident clusters or trends in terms of either type or location that would warrant further investigation or mitigation and that the proposed development is unlikely to materially worsen the current situation in terms of road safety.

Sustainable travel:

- 10.97 In response to the council's consultation on the current application, the West Yorkshire Combined Authority (WYCA) have recommended that bus stops 16701 and 15500 on Bradford Road should be upgraded to include a real time passenger information display. The cost of this provision would be £20,000. WYCA have also commented that bus stop 15448 on Whitehall Road should be upgraded to include a real time information display, and that a "real time display enable pole" should be provided at stop 15449. The cost of this provision would be £20,000.

- 10.98 These recommendations differ to those made by WYCA in respect of the previous application (ref: 2019/93303), where it was recommended that bus stop number 15469 (Hunsworth Lane / Links Avenue) be upgraded to provide a real time information display, costing £10,000. As relevant site circumstances have not materially changed since that previous application was considered, and as the additional 24 dwellings would not significantly increase local public transport use (beyond that associated with the previously-proposed 267 dwellings), it is recommended that relevant Section 106 Heads of Terms reflect the earlier advice from WYCA. Furthermore, in light of Members' comments regarding the limited bus service available from Hunsworth Lane, it is recommended that this contribution would be better put towards bus stop improvements on Bradford Road.
- 10.99 WYCA have advised that, to encourage the use of sustainable transport as a realistic alternative to the car, a sustainable travel fund should be secured, for use by residents of the proposed development to support the cost of sustainable travel such as an MCard or other incentives to use active travel such as cycle vouchers. For the purposes of establishing a cost, WYCA have advised that the MCard scheme for this site based on a bus-only ticket would be in the region of £145,000. It is recommended that the Section 106 requirements related to this contribution be flexibly worded, to enable it to be spent on alternative active and sustainable transport measures (should these be appropriate).
- 10.100 The proposed development includes good connections to public footpaths to the south and east, and the footways of the proposed estate road would connect to those of Hunsworth Lane. Further improvements to neighbourhood pedestrian connectivity could be provided via short footpaths between Links Avenue and the three adjacent cul-de-sacs proposed by the applicant, and between Mazebrook Avenue and the hammerhead adjacent to unit 46. An appropriate condition is recommended.
- 10.101 The applicant has submitted a draft Travel Plan, setting out proposed measures intended to influence the change in travel behaviour towards more sustainable methods of travel using a mixture of increased transportation opportunity, providing information, persuasion and incentive. A Section 106 planning obligation is necessary to ensure an acceptable final Travel Plan is submitted and implemented. A Travel Plan monitoring fee of £15,000 would also be necessary.

Conclusion regarding highway issues:

- 10.102 The proposal is for 291 dwellings and the submitted Transport Assessment (which relates to a 310-unit development) represents a robust assessment of the traffic impact of the proposed development. It is considered that the development would not have an unacceptable impact on highway safety, nor would the development's traffic have a severe impact on the operation of the local highway network. Off-site highway improvements are nevertheless considered necessary to help to mitigate the impact of the development, and appropriate Section 106 Heads of Terms are recommended. Conditions relevant to highway matters are also recommended.

10.103 Subject to satisfactorily addressing any issues raised by the council's Section 38 team regarding layout, and the submission of a Stage 1 RSA and Designer's Response covering the internal layout and any external highway works, the proposals are considered acceptable from a highway perspective.

Flood risk and drainage issues

10.104 Local Plan policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.

10.105 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.

10.106 The application site is in Flood Zone 1 and therefore is subject to the lowest risk of flooding. However, flood risk affects adjacent land and property, including in relation to Nann Hall Beck.

10.107 During the life of the application, the applicant submitted an amended (Rev D) Flood Risk Assessment (FRA) relating to the earlier 284-dwelling proposal. As this relates to a layout almost identical to the 291-dwelling proposal currently under consideration, it is not necessary for the applicant to submit a further update to the FRA.

10.108 In comments dated 29/11/2021, the Lead Local Flood Authority (LLFA) confirmed they had no objection to the proposed development, subject to conditions and to management and maintenance being secured via a Section 106 agreement.

10.109 In earlier comments, Yorkshire Water repeated an objection to the then-proposed site layout due to its impact upon existing public sewerage infrastructure in the southwest part of the site. On 01/12/2021 the applicant advised that the design team had been working off an easement for the wrong pipe, and that a solution was being worked on. Subsequently, in response to consultation on amended drawings (which no longer showed hedgerow planting within a water infrastructure easement), Yorkshire Water withdrew their earlier objection.

Environmental and public health

10.110 Regarding air quality, the condition referred to by KC Environmental Health (requiring a revised Air Quality Assessment) is recommended, and it is noted that a financial contribution towards air quality mitigation will be required.

10.111 Regarding site contamination, four conditions are recommended, securing a revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation.

10.112 Regarding noise, the condition referred to by KC Environmental Health (securing a revised Noise Impact Assessment) is recommended.

10.113 The detailed comments of KC Public Health regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure have been relayed to the applicant team.

Coal mining legacy

10.114 Four coal mining features have been identified as posing a potential constraint to the development.

10.115 Three mine shafts have been located within the eastern part of the site and the applicant is proposing to remediate these and accommodate them within an area of open space. This is acceptable to the Coal Authority.

10.116 A fourth mine shaft was identified within the vicinity of the proposed new access off Hunsworth Lane. Previously, the Coal Authority was satisfied that this feature could be adequately addressed through a suitable planning condition requiring further investigation and remediation as may be necessary. However, the Coal Authority commented on the current application and advised that, since their previous comments were issued, it has come to their attention that it may not be possible for the applicant to undertake a full search for this mine shaft. This is because such investigations may necessitate accessing third party land outside of the site boundary. As such, the Coal Authority has requested that the applicant provide clarification and additional information on this shaft before the application is determined.

10.117 The applicant has submitted an additional plan indicating the location of this fourth mine shaft and has proposed a no-build zone around it. The shaft is identified as lying within an area of the site that is proposed to be soft landscaped. As noted at paragraph 8.4 of this committee report, the Coal Authority is satisfied with the applicant's further information, and has no objection to the application, subject to conditions being applied. The Coal Authority has also advised that they do not require any conditions to be applied in relation to shaft 418426-008.

Representations

10.118 To date, a total of 115 representations have been received in response to the council's consultation. The comments raised have been addressed in this report.

Planning obligations

10.119 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 – 58 affordable dwellings (55% affordable/social rent, 45% intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £424,546 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.

4) Education – £1,176,189 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).

5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).

6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.

7) Air quality mitigation – Contribution of circa £162,000.

8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.

9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

10.120 The applicant submitted a financial viability appraisal (FVA) with the current application. This concluded that the 284-dwelling scheme was unable to viably deliver any level of on-site affordable housing in addition to the required Section 106 off-site payments. The applicant's FVA was, however, independently assessed on behalf of the council by CP Viability (report dated 21/09/2021), who did not agree that there was a viability issue with the proposed development, and who considered that the scheme can provide policy-compliant Section 106 contributions and affordable housing, whilst delivering an acceptable developer profit. On 18/11/2021 the applicant withdrew the FVA.

10.121 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will contact the applicant to discuss provision of a training or apprenticeship programme to improve skills and education. 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.

Conditions

10.122 As requested by Members at the Strategic Planning Committee meeting of 16/12/2021, fully-worded draft conditions are provided at the end of this report. The wording of these conditions is currently being discussed between officers and the applicant.

10.123 Members also expressed concern regarding the number of recommended conditions, and that this suggested an unusually large number of issues were unresolved.

10.124 The number of conditions recommended in this committee report is not unusual for a development or a site such as this. Most of the recommended conditions are routinely applied. Some other major developments will 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 include a protected hedgerow or trees that require protection during works, and not all include water infrastructure easements and coal mining legacy. 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.

Other planning matters

- 10.125 Regarding the social infrastructure currently provided and available in the area surrounding the application site (which is relevant to the sustainability of the proposed development), it is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed earlier in this report in relation to planning obligations.
- 10.126 The proposed development's impact upon property values is not a material planning consideration.
- 10.127 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS96, and the principle of residential development at this site is considered acceptable.
- 11.2 The applicant has satisfactorily addressed the previous application's reasons for refusal, and the previous reasons for deferral. An improvement unit size mix is now proposed, and further information has been submitted regarding the proposed translocation of the site's important hedgerow.
- 11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.

- 11.4 Given the above assessment and having particular regard to the 291 homes that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

12.0 DRAFT CONDITIONS

Conditions and Reasons:

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and in the interests of visual amenity, residential amenity and other matters relevant to planning and to accord with the Kirklees Local Plan and the National Planning Policy Framework.

3. Prior to the commencement of development (including ground works) a Construction (Environmental) Management Plan (C(E)MP) shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall include pre-development road condition surveys (covering an area to be agreed beforehand with Local Planning Authority officers), a timetable of all works, and details of:

- any phasing of development;
- hours of works;
- point(s) of access for construction traffic (as stipulated by condition 4);
- construction vehicle sizes and routes;
- numbers and times of construction vehicle movements;
- locations of HGV waiting areas and details of their management;
- parking for construction workers;
- loading and unloading of plant and materials;
- storage of plant and materials;
- signage;
- measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- street sweeping;
- measures to control and monitor the emission of dust and dirt during construction;

- site waste management, including details of recycling/disposing of waste resulting from construction works;
- mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
- artificial lighting used in connection with all construction-related activities and security of the construction site;
- measures to minimise biodiversity impacts during construction;
- site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- engagement with local residents and occupants or their representatives; and
- engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority. Upon completion of the development, post-development road condition surveys and a schedule of remedial works shall be submitted to and approved in writing by the Local Planning Authority, and the approved remedial works shall be carried out following the completion of all construction works related to the development and prior to the occupation of no more than 200 dwellings of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process.

4. Prior to the commencement of development (including ground works), a vehicular access into the site shall be created at Hunsworth Lane for use by construction traffic. This access shall be used by construction traffic for the duration of the construction phase, and no other access to or egress from the site for construction traffic shall be provided, enabled or used unless approved in writing by the Local Planning Authority.

Reason: In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process.

5. Prior to the first use of the approved vehicular access point at Hunsworth Lane (including use by construction traffic with the exception of construction traffic associated with the formation of the construction access point), vegetation and boundary treatments shall be set back to the rear of the proposed visibility splays as shown on approved plan ref: [to be inserted]. The visibility splays shall be cleared and kept clear of all obstructions to visibility above 0.6m measured from the ground thereafter.

Reason: To ensure adequate intervisibility is provided and maintained in the interests of pedestrian and highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that adequate visibility is provided to enable works vehicles to enter and exit the site.

6. Prior to the commencement of development (including ground works) a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Detail phasing of the development and phasing of temporary drainage provision;
- Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and details of how flooding of adjacent land is prevented; and
- Include methods of preventing contamination of watercourses once the new drainage has been installed.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

Reason: To ensure the risk of flooding does not increase during the construction phase, to limit the siltation of any on- or off-site surface water features, and to accord with Policy LP27 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid increased flood risk are devised and agreed at an appropriate stage of the development process.

7. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become occupied prior to the completion of the development, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of those residential units. The temporary arrangements so approved shall be implemented prior to the first occupation of those residential units, and shall be so retained thereafter for the duration of the construction works unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure satisfactory arrangements are implemented in relation to waste during the construction phase, in the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

8. Prior to the commencement of development (excluding ground works, establishing the site compound, clearing the site (excluding trees and vegetation that is subject to statutory protection and/or is to be retained as part of the development hereby approved) and undertaking initial enabling works) a scheme detailing the proposed internal adoptable roads shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of swept paths for a 11.85m refuse vehicle, full sections, drainage details, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of this work. No part of the development shall be brought into use until the internal adoptable roads for that part of the development have been completed in accordance with the approved plans and details or unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of internal adoptable roads are agreed at an appropriate stage of the development process.

9. Prior to the commencement of development (excluding ground works, establishing the site compound, clearing the site (excluding trees and vegetation that is subject to statutory protection and/or is to be retained as part of the development hereby approved) and undertaking initial enabling works) full details of the permanent site entrance at Hunsworth Lane shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of sight lines, road markings, construction specifications, details of surface finishes and any signage, an independent safety audit covering all aspects of this work, and details of the delivery of the scheme under an appropriate Section 278 approval. Unless otherwise agreed in writing by the Local Planning Authority, no more than 50 dwellings of the development hereby approved shall be occupied prior to the implementation of the approved scheme for use by residential traffic.

Reason: To ensure suitable vehicular access is provided for residents of the development hereby approved, to ensure existing residential streets are not subjected to unacceptable increases in traffic, in the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of the Hunsworth Lane entrance are agreed, and that the entrance is provided, at an appropriate stage of the development process.

10. Prior to the development commencing on the superstructure of any dwelling hereby approved, details of pedestrian connections between the site and adjacent land (namely, Links Avenue and Mazebrook Avenue) shall be submitted to and approved in writing by the Local Planning Authority. The details shall relate to levels, surface materials, construction methods, any handrails, splays to ensure adequate intervisibility for pedestrians and other road users, and measures to ensure opportunities for crime and anti-social behaviour are limited. The development shall be implemented in accordance with the details so approved. The approved works shall be retained thereafter.

Reason: In the interests of ensuring usable, convenient, safer and attractive pedestrian routes are provided, to contribute toward the creation of a walkable and well-connected neighbourhood, to encourage the use of sustainable modes of transport, to mitigate the highway and air quality impacts of the development, and in the interests of minimising the risk of crime and anti-social behaviour in accordance with policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

11. Prior to the first occupation of any specified dwelling hereby approved, the approved vehicle parking area(s) for that dwelling shall be surfaced and drained in accordance with “Guidance on the permeable surfacing of front gardens (parking areas)”, 13/05/2009 (ISBN 9781409804864) as amended or superseded, and shall thereafter retained throughout the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

12. Where highway retaining structures are necessary, prior to development commencing on the superstructure of any dwelling hereby approved, the design and construction details of any such structures (and any temporary highway retaining structures that may be deemed necessary) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained as such thereafter.

Reason: To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

13. Prior to the first occupation of any specified dwelling hereby approved, details of secure, covered and conveniently-located cycle parking for use by residents of that dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and the cycle parking shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and encouraging the use of sustainable transport modes, and to accord with policies LP20, LP21, LP22 and LP24 of the Kirklees Local Plan.

14. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the dedicated facilities to be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space; and
- One Standard Electric Vehicle Charging Point (of a minimum output of 16A/3.5kW) for every 10 unallocated residential parking spaces.

Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. The charging points installed shall be retained thereafter.

Reason: To ensure residents of the development are encouraged to use lower-carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

15. Prior to the commencement of superstructure works, details of storage and access for collection of wastes from the residential units hereby approved, and details of management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority. The details shall confirm that waste collection points shall not obstruct access to private driveways, and shall include details of management measures (including measures to control odour and vermin) and measures to discourage flytipping. The works and arrangements comprising the approved details shall be implemented prior to first occupation and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

16. Prior to the commencement of development (including ground works) a detailed design of surface water attenuation shall be submitted to and approved in writing by the Local Planning Authority. The design shall include flow control devices restricting the rate of surface water discharge from the site to a maximum of 17.5l/s to Nann Hall Beck and 3.5l/s to Yorkshire Water infrastructure leading to the River Spen. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100 year storm events with a 30% allowance for climate change. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter until such a time as it is adopted by the statutory undertaker.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

17. Prior to the commencement of development (including ground works) a scheme detailing the management of residual risk of blockage scenarios after swales / ditches within the site have been constructed (for example, through the use of walling and landscape features and safe flood routing) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also include a detailed management plan (itinerary, schedule and access) for the swale / ditch to the northern boundary of the site. Following the completion of works comprising the approved scheme, the approved maintenance and management scheme shall be implemented thereafter.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

18. Notwithstanding what is shown on the drawings hereby approved, no building or other obstruction including landscape features shall be located over or within an 8m wide protected strip crossing the site (5m and 3m either side of the centre line of the western section, and 3m and 5m either side of the centre line of the eastern section) along the public 800mm diameter syphon sewer located to the south of the site. No construction works in the relevant area(s) of the site shall commence until measures to protect the public sewerage infrastructure within the site boundary have been implemented in full accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The details shall include but shall not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. If the required stand-off or protection measures are to be achieved via diversion or closure of any sewers crossing the site, the developer shall submit evidence in writing to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

Reason: In the interests of ensuring water infrastructure is protected and can be inspected, maintained, adjusted, repaired and altered by the statutory undertaker without hindrance.

19. Prior to the commencement of development (including ground works) a further Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include ground gas monitoring data.

Reason: To ensure unacceptable risks to human health and the environment are identified, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified at an appropriate stage of the development process.

20. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 19, prior to the commencement of development (including ground works, other than those required to inform a site investigation report) a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

21. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 20. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works on site (other than site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

22. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where validation has been submitted and approved in stages for different areas of the whole site, a Final Validation Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

23. Prior to the commencement of development (including ground works but excluding works related to land stability remediation) remedial treatment works to address land instability arising from shallow coal mining legacy and recorded mine shafts 419426-001, 419426-002 and 419426-005 shall be carried out in full. Following completion of the remediation works referred to in this condition and prior to the first occupation of any specified dwelling hereby approved, a Coal Legacy Validation Report shall be submitted to and approved in writing by the Local Planning Authority. The report shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure the site is made stable and to minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan. This pre-commencement condition is necessary to ensure that remedial measures related to the site's coal mining legacy are carried out at an appropriate stage of the development process.

24. Prior to any part of the development hereby approved being brought into first use, a further Air Quality Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall:

- Determine the impact that the development will have on air quality (taking into consideration any cumulative impact from other local developments);
- Include a calculation of the monetary damages from the development; and
- Include a fully-costed mitigation plan detailing the proposed low emission mitigation measures. The monetary value of the damages should be reflected in money spent on the low emission mitigation measures.

The approved low emission mitigation measures shall be implemented before the development is brought into first use and shall be retained thereafter.

Reason: In the interests of amenity and to mitigate the air quality impacts of the development in accordance with policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

25. Prior to the commencement of development (including ground works) a further Noise Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall specify the measures to be taken to protect the development hereby approved from noise from all significant noise sources (including road traffic) that are likely to affect the development. The assessment shall:

- Determine the existing noise climate;
- Predict the noise climate in living rooms and gardens (daytime), bedrooms (night-time), and other habitable rooms of the development; and
- Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new dwellings (including ventilation if required).

Prior to the first occupation of any specified dwelling hereby approved all works specified for that dwellings in the approved Noise Impact Assessment shall be carried out in full and such works shall thereafter be retained.

Reason: In the interests of amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan.

26. Prior to the commencement of superstructure works, and notwithstanding what is shown on the drawings hereby approved, details of all electricity substations to be provided on-site in association with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plans, elevations and sections, and details of external materials, and any boundary treatments. The substation(s) shall be constructed in accordance with the details so approved.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

27. Prior to the commencement of superstructure works, details of all external materials to be used shall be submitted to the Local Planning Authority, and samples shall be left on site for the inspection and approval in writing of the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

28. Prior to the first occupation of any dwelling with external lighting (other than street lighting on streets to be adopted), details of the external lighting for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a scheme detailing street lighting to all private (unadopted) roads/drives/courtyards and shall not include low-level or bollard street lighting. The external lighting shall be designed to avoid harm to residential amenity, increased highway safety risk, risk of creating opportunities for crime and anti-social behaviour, and disturbance to wildlife. All external lighting shall be installed in accordance with the details (including specifications and locations) so approved, and the external lighting shall be maintained thereafter in accordance with the approved details. No dwellings accessed from a private (unadopted) road/drive/courtyard shall be brought into use until the street lighting so approved for that road/drive/courtyard has been installed and brought into use, and the street lighting shall be retained as such thereafter. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

Reason: In the interests of residential amenity and highway safety, to prevent significant ecological harm, to safeguard habitat, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

29. Prior to the commencement of superstructure works, details of the undergrounding of the site's existing overhead electricity lines and their pylons/poles shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved. The approved works shall be retained thereafter.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan.

30. Other than where indicated on the drawings hereby approved, and other than in relation to elevations not facing a highway, no cables, plumbing, foul pipes, vents, burglar alarm boxes, and/or CCTV cameras or related equipment and installations shall be located or fixed to any external elevation(s) of the development hereby approved. Should any such equipment or installations be considered necessary, details of these shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the details so approved.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan.

31. Prior to the commencement of superstructure works, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- Details of existing and proposed levels, and regrading;
- Planting plans, including additional treeplanting notwithstanding what is shown in the drawings hereby approved;
- Details of tree pit sizes and soils;
- Species schedules;
- Details of initial aftercare and long-term maintenance;
- Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion;

- Details (including samples, if requested), of paving and other hard surface materials;
- Details of all on-site open spaces (including details of their purpose(s) and management) and of any areas for designated, informal, incidental and/or doorstep play;
- Details of covenants (or other suitable arrangements) regarding street tree retention, management and maintenance;
- Details of how soft landscaping has been designed to prevent and deter crime and anti-social behaviour; and
- Notwithstanding what is shown on the drawings hereby approved, details (including sections and details of levels) of all boundary treatments, and any retaining walls and gabions, corresponding with measures relating to flood routing and providing for the movement of hedgehogs.

No part of the development hereby approved shall be occupied until all hard and soft landscaping has been implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements.

Reason: In the interests of local ecological value, visual amenity and highways safety, to ensure high quality open spaces are provided, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30, LP32, LP33, LP47 and LP63 of the Kirklees Local Plan, and chapters 8, 12 and 15 of the National Planning Policy Framework.

32. Prior to the commencement of development (including ground works), an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the documents so approved.

Reason: To protect trees in the interests of visual amenity and biodiversity and to accord with Policy LP33 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of tree protection measures are agreed at an appropriate stage of the development process.

33. The translocation of the site's hedgerows shall be carried out in strict accordance with the Hedgerow Translocation Method Statement (FPCR, 08/09/2021) and no change therefrom shall take place without the prior written consent of the Local Planning Authority

Reason: To ensure the hedgerows are retained on-site, to ensure their viability and survival is not jeopardised and to accord with Policies LP30 and LP33 of the Kirklees Local Plan and the Hedgerows Regulations 1997.

34. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless authorised in writing by the Local Planning Authority in response to evidence to be submitted to the Local Planning Authority demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

Reason: To prevent significant ecological harm to birds, their eggs, nests and young and to accord with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

35. Prior to the commencement of superstructure works, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The BEMP shall ensure that no less than a 10% biodiversity net gain (i.e., 10% above the site's pre-development biodiversity value based on its habitat units baseline) is achieved post-development, and shall include the following:

- Description and evaluation of features to be managed and enhanced;
- Details of the extent and location/area of proposed enhancement works on appropriate scale maps and plans;
- Details corresponding with landscaping details to be submitted pursuant to condition 31;
- Details of ecological trends and constraints on site that might influence management;
- Aims and Objectives of management;
- Appropriate management actions for achieving the Aims and Objectives;
- An annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years);
- Details of the management body or organisation responsible for implementation of the BEMP; and
- Details of an ongoing monitoring programme and remedial measures.

The BEMP will be reviewed and updated every five years and implemented for a minimum of 30 years. The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will be secured by the developer with the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully-functioning biodiversity objectives of the originally-approved BEMP. The development shall be implemented in accordance with the approved BEMP and all measures and features shall be retained in that manner thereafter.

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain (based on biodiversity metric calculations which require data relating to the site's pre-development condition) are agreed at an appropriate stage of the development process.

36. Prior to the commencement of development (including ground works), a Biodiversity Gain Plan (BGP) shall be submitted to and approved in writing by the Local Planning Authority. The BGP shall demonstrate a measurable biodiversity net gain and shall include:

- Details of the measures taken or to be taken to minimise the adverse effect of the development on the biodiversity of the on-site habitat and any other habitat;
- The pre-development biodiversity value of the onsite habitat, measured using the Biodiversity Metric 3.0 (or latest version, if available);
- The post-development biodiversity value of the on-site habitat, measured using the Biodiversity Metric 3.0 (or latest version, if available);
- Details of any off-site habitat enhancement required to achieve a biodiversity net gain, including pre-development and target biodiversity value.

The BGP shall inform the BEMP referred to under condition 35.

Reason: To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain (based on biodiversity metric calculations which require data relating to the site's pre-development condition) are agreed at an appropriate stage of the development process.

37. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, D and E of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

Background Papers:

Application and history files.

[link to application details](#)

Certificate of Ownership – Certificate B signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2022

Subject: Planning Application 2021/91015: Change of use of grazing land to dog exercise area at Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU

APPLICANT

C & J Ives

DATE VALID

18-Mar-2021

TARGET DATE

13-May-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.

[Link to public speaking at Committee](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

APPROVE

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

1.0 INTRODUCTION

- 1.1 This application has been brought before the Strategic Planning Committee in accordance with the Council's Delegation Agreement because the site exceeds 0.5ha in size and the proposal is non-residential.

2.0 SITE AND SURROUNDING

- 2.1 The application relates to a 0.6 hectare field associated with Blue Hills Farm. Blue Hills Farm is a working farm which has diversified commercially to contain a café, farm shop and a play barn.
- 2.2 The site itself comprises a grass field set to the east of the farm buildings. It slopes down from the north towards the south. Existing boundary treatments consist of fences and a dry stone wall. Public Footpath SPE/14/20 runs within the south east and north east perimeters of the field. The site is bounded by fields to the north and east, which are also owned by the applicant. The farmstead adjoins the site to the west. To the south of the site is another field, which is allocated for housing in the Kirklees Local Plan (HS93).
- 2.3 Entry to the field is via the existing access, which also serves all the amenities of the farm. The site includes existing unmarked parking areas to both sides of the access, which includes space for approximately 30 vehicles. The access is served from the A58 Whitehills Road West.

3.0 PROPOSAL

- 3.1 The application seeks full planning permission for the change of use of grazing land to a dog exercise area.
- 3.2 There will be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application.
- 3.3 The agent has stated that the proposal would see the field used as a dog park by a maximum of three dogs at any given time. It is understood that the applicant does not wish to host any dog shows or events from the site.

- 3.4 The applicant has stated that operating hours would be from sunrise to sunset each day at present, and between 0700 and 1900 once the first house is occupied on the adjacent site allocated for housing.
- 3.5 Vehicular parking would be provided in the existing car park for Blue Hills Farm.

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site:

None.

4.2 Relevant Planning History from Adjacent Sites:

2019/90527 - Outline application for the erection of up to 127 dwellings, with details of access for Land at, Blue Hills Farm, Whitehall Road West, Birkenshaw, BD11 2DU – Conditional Outline Permission Granted. No reserved matters application has been received at the time of writing. This application was granted on 9th December 2019 and is extant until 8th December 2022.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 Given the application site is set next to an allocated housing site, which benefits from live outline permission, officers had concerns about whether the proposed use would prejudice this housing allocation. As such, officers requested the submission of a noise impact assessment based upon the provisional plan provided under the outline permission. The agent submitted an appropriate noise impact assessment in September 2021. The agent has also suggested conditions relating to the implementation of noise mitigation measures prior to the occupation of dwellings on the adjacent site. Officers also sought clarity about how the site would operate, which was provided by the agent.
- 5.2 The applicant has been requested to amend the red line boundary for the purposes of accurately displaying the official parking areas. An update on this matter will be provided in the committee update.
- 5.3 No other information has been requested nor have any amendments been sought.

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 20th July 2021).

Kirklees Local Plan (2019):

- 6.2 LP1 - Presumption in favour of sustainable development
LP10 - Supporting the rural economy
LP21 - Highway safety and access

LP22 - Parking
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP32 - Landscape
LP56 - Facilities for outdoor sport and recreation

National Planning Policy Framework (July 2021):

- 6.3 Chapter 2 - Achieving sustainable development.
Chapter 6 - Building a strong, competitive economy.
Chapter 12 - Achieving well designed places.
Chapter 13 - Protecting Green Belt land.
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change.
Chapter 15 - Conserving and enhancing the natural environment.

Supplementary Planning Guidance / Documents:

- 6.4
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
 - Highway Design Guide SPD (2019)
 - Planning Applications Climate Change Guidance (2021)
 - Biodiversity Net Gain Technical Advice Note (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 23rd April 2021. No representations were received.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

KC Highways Development Management – no objections.

KC Environmental Health – no objections subject to conditions relating to: the submission a noise mitigation scheme; hours of customer use; the reporting of unexpected contaminated land; and, no external artificial lighting.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt and Visual Amenity
- Residential Amenity
- Highway Safety and Public Right of Way (PROW)
- Ecology
- Carbon Budget
- Representations

10.0 APPRAISAL

Principle of Development in the Green Belt and Visual Amenity

- 10.1 The site is allocated as Green Belt in the Kirklees Local Plan and therefore consideration needs to be given to Chapter 13 of the National Planning Policy Framework. Paragraph 149 of the National Planning Policy Framework indicates that the provision of appropriate facilities for outdoor sport and outdoor recreation could be acceptable in the Green Belt so long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. LP56 of the Kirklees Local Plan reiterates this policy, stating that proposals should ensure that the scale of the facility is no more than what is reasonably required for the proper functioning of the enterprise, and the facility is unobtrusively located and designed to not introduce a prominent urban element into the countryside, including any new or improved access and car parking areas.
- 10.2 In this instance, the proposed use for dog training is considered to be outdoor recreation. The site would be operated by the occupier of Blue Hills. There would be a maximum of three dogs using the site at any one given time. The proposed development does not require the improvement of the access or provision of any additional parking. The proposal also does not require any physical additional or alterations to the field. Therefore, it is considered that the openness of the site would be preserved, and the proposal would not affect the reasons for including land within the Green Belt. Furthermore, given the scale of the facility, it is clearly no more than what is reasonably required to operate the business. No artificial lighting is proposed either, which helps to prevent harm. Therefore, the proposed use is considered appropriate in the Green Belt as set out in Chapter 13 of the NPPF and Policy LP56 of the Kirklees Local Plan. The lack of physical alterations means the development would not be out of character with the rural setting, thus according with Local Plan policy LP24 and Chapter 12 of the National Planning Policy Framework also.
- 10.3 Furthermore, the economic benefits of the development are supported by local and national policy. Paragraph 84 of the National Planning Policy Framework states that 'planning policies and decision should enable: (b) the development and diversification of agricultural and other land-based rural businesses.' As can be seen by the wider use of Blue Hills Farm, the site has successfully diversified without harm to the Green Belt. The proposed dog park would further diversify the site, adding as a boost to the rural business without any harm to the Green Belt visually given the proposal does not include any physical alterations or additions. The creation of a dog park would therefore help support the rural community as per the aims of LP10 of the KLP.
- 10.4 For the reasons set out above, subject to a condition for no artificial lighting, the principle of development in the Green Belt and visual amenity of the development is considered acceptable.

Impact on Residential Amenity

- 10.5 Local Plan Policy LP24 sets out that proposals should ensure a good standard of amenity for neighbouring and future occupiers. At present there are no dwellings within 200m of the application site, except for the farmhouse of Blue Hills Farm. The farmhouse is set adjacent to the car park, and directly next to the farm shop, which creates a relatively high level of disturbance already. It is considered that the proposed dog park, by virtue of it only hosting up to three dogs at a time, would not cause any further detriment to the occupants of the farmhouse given that already caused by the existing use of the farm site.
- 10.6 With regard to future occupiers, the field directly to the south east of the site is allocated for housing. It has been subject to a successful outline planning application, whereby the permission is still live. At the time of writing, a reserved matters application has not been received. Nonetheless, the impact on this allocated site must be considered. On the basis that the dog park would not be used by any more than three dogs at any given time, the proposed harm through noise and disturbance would be limited.
- 10.7 To further limit the harm, however, Environmental Health recommend an hours of use condition for between 0800-1600 April to September and between 0800-1800 October to March. Officers agree that an hours of use condition is necessary. However, it is considered that the hours suggested by Environmental Health are too restrictive and unreasonable given the level of activity, thus failing the six tests for conditions set out within the National Planning Policy Framework – that conditions must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Officers recommend a condition for no operations in the field outside the hours of 0700-1900 all year round, which is considered more reasonable. This also takes into account the close proximity of the M62, West Yorkshire Fire and Rescue Service Headquarters and the current uses of Blue Hills Farm, which would likely cause more 'disturbance' to the future houses on the allocated site than the proposed dog park would.
- 10.8 A condition for no artificial lighting will also be applied as this prevents harm from light to neighbouring dwellings.
- 10.9 KC Environmental Health have also sought the submission of a noise mitigation scheme. They state that the scheme should 'include details of the maximum number of dogs at any time, the noise mitigation measures that will be used at the proposed development to control noise from dog(s) barking and it shall demonstrate that the noise will not cause a loss of amenity at nearby noise sensitive premises.' However, the number of dogs has been provided (up to three) and officers cannot reasonably see a measure which could 'control noise from dog(s) barking' that could be reasonably be delivered given the low level of development. For this reason, a condition for a noise mitigation scheme will not be sought as it cannot be considered necessary or reasonable as per the six tests for planning conditions set out above.

- 10.10 Subject to conditions limiting the number of dogs to three, limiting the use of the park to between the hours of 0700-1900, and no artificial lighting, the proposal cannot be reasonably considered to harm or prejudice the ability for the allocated housing site to be developed to its full potential. Furthermore, as the housing site and application site are currently under the same ownership, it would not be in the interests of the applicant to prejudice the housing site either, which offers further confidence to the authority.
- 10.11 For the reasons given in paragraphs 10.5 through to 10.10, the proposed development is considered to accord with relevant policy in respect to residential amenity.

Highway Safety and Impact on the Public Right of Way (PROW)

- 10.12 This application is for the change of use from grazing land to a dog exercise area at an existing farm with an access on to A58 Whitehills Road West, a 30mph two-way single carriageway main distributor with a hatched central reserve, footways on both sides and street lighting present. There is a bus stop box opposite the site entrance and 'No Waiting at Any Time' with 'No Loading at Any Time' TRO markings to the west of the access over the motorway bridge.
- 10.13 PROW footpath SPE/14 runs along the access to the site and is also adjacent to the proposal site. The PROW footpath would have to remain protected and unobstructed by the application as per legislation outside of the planning process. However, there is no indication that it would be affected by the proposal. Nonetheless, the obstruction of the PROW will be set out via a footnote.
- 10.14 The access is existing and will serve the proposal site and the existing farm and farm shop. No trip generation details were provided with the application. However, considering that Officers seek to impose a condition to limit the number of dogs using the field, this permission would not result in the hosting of dog shows/events in any event. Thus, the proposals are not expected to generate additional traffic that could be considered to have a severe impact on the operation and efficiency of the local highway network. The car park is quite large and sufficient parking spaces are likely to be available for the proposed low-level use. KC Highways agree that as the dog exercising arena is not to be used for displays/shows, a parking management plan is not required.
- 10.15 For the reasons above, the proposed development accords with Local Plan policies LP21, LP22 and LP23 with regard to highways safety, access, parking and the impact on the PROW. The proposal also accords with supplementary planning documents and National Policy with regard to Highway Safety and is thus considered acceptable in regard to this matter.

Ecology

- 10.16 The field is currently grassed. It does not have a watercourse running through it or have any obvious habitat. It is also bound by existing boundary treatments on all sides and is not part of a habitat network or corridor. The proposal will also not result in any built development being erected. Given that the proposed use is for a dog walking facility, combined with the points above, it can be considered that the development would not result in any significant loss or harm to biodiversity through avoidance, thus according with Local Plan policy LP30 and paragraph 180 of the NPPF. Given this, the proposal is considered acceptable with regard to ecology.

Climate Change

- 10.17 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 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 this case, carbon reduction measures are considered unnecessary given that the proposal is solely for a change of use, given the limited scale of the proposal and that it utilises existing parking facilities. It would be unreasonable, as per the six tests for conditions, to seek a carbon budget related conditions for these reasons.

Contaminated Land

- 10.18 The submitted Design and Access Statement prepared by FM Lister & Son dated 03 March 2021 makes reference to a fence being erected. Whilst the applicant states this is permitted development, no detail has been given on the construction of such. The development is adjacent to potentially contaminated land (our map ref 21/2) and a condition is recommended for any unexpected contamination. Subject to this, the proposal can be considered to ensure the safety of the end user and accord with Local Plan policy LP53 with regard to contaminated land, and all relevant national policy and guidance.

Representations

- 10.19 As a result of the publicity period, no representations were received.

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 proposed development accords with the purposes of national and local policy in regard to development in the green belt and supporting the rural economy through agricultural diversification. The proposal will cause no visual harm to the rural character of the area, or harm the amenity of neighbouring or future occupiers, including the forthcoming housing development.
- 11.3 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 it 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. Standard timeframe for commencement of development - 3 years.
2. In accordance with the approved plans.
3. Operations between 07:00-19:00 Monday to Sunday.
4. A maximum of three dogs using the exercise park at any one time.
5. No artificial lighting.
6. Reporting of unexpected contaminated land.

Background Papers:

Certificate of Ownership – Certificate A signed: 03/03/2021

[Link to application details](#) – Link to application details.

[Link to application details](#) – Link to Outline Application on the neighbouring housing site (2019/90527)

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