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

Julie Muscroft

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

Tel: 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Wednesday 28 September 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 6 October 2022**.

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

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

Councillor Steve Hall (Chair)
Councillor Paul Davies
Councillor Carole Pattison
Councillor Mohan Sokhal
Councillor Bill Armer
Councillor Mark Thompson
Councillor Andrew Pinnock

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

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

C Greaves
A Lukic

Labour

A Anwar
F Perry
M Kaushik E Firth
T Hawkins

Liberal Democrat

A Munro
PA Davies
J Lawson
A Marchington

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 - 4

To approve the Minutes of the meeting of the Committee held on 8 September 2022.

3: Declaration of Interests and Lobbying

5 - 6

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

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must register to speak by no later than 5.00 p.m. (for phone requests) or 11:59 p.m. (for email requests) on Monday 3 October 2022.

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

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

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: Site Visit - Application No: 2020/92331

Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury.

(Estimate time of arrival at site – 10:30 am)

Contact Officer: Victor Grayson, Planning Services

Ward(s) affected: Batley East and Dewsbury East

9: Site Visit - Application No: 2020/92350

Outline application for residential development (Use Class C3) of up to 181 dwellings, engineering and site works, demolition of existing property, landscaping, drainage and other associated infrastructure Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury.

(Estimated time of arrival at site – 10:30 am)

Contact Officer: Victor Grayson, Planning Services.

Ward(s) affected: Batley East

10: Planning Application - Application No: 2021/94120

9 - 20

Change of use from haulage and distribution to a breakers yard Foxhill Owl Lane Birstall Batley.

Contact Officer: Liz Chippendale, Planning Services.

Ward(s) affected: Birstall and Birkenshaw

11: Planning Application - Application No: 2022/90505

21 - 30

Change of use of agricultural land to Sui Generis for private dog walking with associated works Land adj, Moor Top Lane, Huddersfield.

Contact Officer: Callum Harrison, Planning Services.

Ward(s) affected: Kirkburton

12: Position Statement - Application No: 2020/92331

31 - 56

Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury.

Contact Officer: Victor Grayson, Planning Services.

Ward(s) affected: Batley East and Dewsbury East

13: Position Statement - Application No: 2020/92350

57 - 64

Outline application for residential development (Use Class C3) of up to 181 dwellings, engineering and site works, demolition of existing property, landscaping, drainage and other associated infrastructure Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury.

Contact Officer: Victor Grayson, Planning Services.

Ward(s) affected: Batley East

Planning Update

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

Contact Officer: Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 8th September 2022

Present: Councillor Steve Hall (Chair)
Councillor Bill Armer
Councillor Paul Davies
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

1 Membership of the Committee

All Members of the Committee were in attendance.

**2 Minutes of the Previous Meeting
Resolved –**

That the minutes of the meeting of the Committee held on 11th August 2022 be agreed as a correct record.

3 Declaration of Interests and Lobbying

No interests were disclosed.

4 Admission of the Public

All items were considered in public.

5 Public Question Time

No questions were received.

6 Deputations/Petitions

No deputations or petitions were received.

7 Planning Application - Application No: 2021/92086

The Committee considered Application 2021/92086 in respect of the erection of 277 residential dwellings and associated infrastructure and access (amended scheme) on land at Bradley Villa Farm, Bradley Road, Bradley, Huddersfield.

RESOLVED -

(1) That, subject to the Secretary of State not calling-in the application, approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to:

- (a) Complete the list of conditions, including those contained within the report (with the exception of the condition relating to the delivery of Bradley Bar roundabout works) and the Planning Update, and as set out below:

Strategic Planning Committee - 8 September 2022

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan, including details of engagement with local residents.
4. Submission of a Construction Environmental Management Plan (biodiversity).
5. Provision of site entrance and visibility splays prior to works commencing.
6. Submission of details of temporary drainage.
7. Submission of details of temporary waste collection.
8. Archaeological investigation.
9. Delivery of Bradford Road junction works and details of allowance for possible future junction works.
10. Submission of details of spine road / Shepherds Thorn Lane junction.
11. Submission of details relating to internal adoptable roads.
12. Cycle parking provision to be provided within the site.
13. Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
14. Restriction on occupation until odour source has ceased.
15. Submission of details of electricity connection serving HS11 site.
16. Provision of waste storage and collection.
17. Submission of details of any highway retaining structures.
18. Further site investigation related to coal mining legacy.
19. Submission of a revised drainage strategy.
20. Submission of flood routing details.
21. Site to be developed by separate systems of drainage for foul and surface water on and off site.
22. Submission of details of parking surface treatments.
23. Submission of an Intrusive Site Investigation Report (Phase II Report).
24. Submission of Remediation Strategy.
25. Implementation of Remediation Strategy.
26. Submission of Validation Report.
27. Submission of a noise report specifying measures to be taken to protect future occupants of the development from noise, and details of ventilation.
28. Submission of air quality assessment and details of mitigation measures.
29. Submission of details of crime prevention measures.
30. Submission of details of external materials (and site-wide review of materials).
31. Submission of details of electricity substation(s).
32. Submission of details of boundary treatments.
33. Submission of details of air source heat pumps (appearance, noise and maintenance).
34. Submission of details (including surface treatment, bollards and any boundary treatment) of foul water pumping station.
35. Submission of details of external lighting.
36. Submission of full landscaping scheme, including details of open space and playspace.

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37. Submission of a Biodiversity Enhancement Management Plan.
38. Submission of a Tree Protection Plan and Arboricultural Method Statement.
39. No removal of vegetation during bird nesting season.
40. Removal of permitted development rights and control of development within space adjacent to unit 143.
41. Control of accretions to elevations fronting highways, open space and green belt,

and an additional condition requiring the submission of details (including full details of levels and re-grading) of the drainage infrastructure works (and works providing access thereto) proposed within the green belt.

- (b) Secure a Section 106 agreement to cover the following matters (with all contributions being index-linked):
1. Affordable housing – 55 affordable dwellings (30 affordable/social rent, 14 First Homes and 11 other intermediate) to be provided in perpetuity.
 2. Open space – Off-site contribution of £558,138 to address shortfalls in specific open space typologies.
 3. On-site open space inspection fee – £250.
 4. Education and childcare – Contributions of: i) £91,956 towards early years and childcare provision; ii) £1,414,708 towards a new two form entry primary school; and iii) £473,391 towards secondary provision.
 5. Off-site highway works – Contributions of: i) £820,474 towards the Cooper Bridge highway improvement scheme; and ii) £287,950 towards future capacity improvements at the Bradley Bar roundabout.
 6. Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £141,685.50 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £15,000 towards Travel Plan monitoring; and iv) a £92,000 contribution towards new bus stops and bus stop improvements.
 7. Air quality mitigation – Damage cost contribution of £30,757.
 8. Biodiversity – Contribution of £230,690 towards off-site measures to achieve biodiversity net gain.
 9. Odour – Cessation of egg production at adjacent farm.
 10. Masterplanning – No ransom scenario to be created at junction of spine road and Shepherds Thorn Lane.
 11. Sports and recreation reprovision – Contribution of £575,786 towards reprovision of existing facilities within HS11 site.
 12. Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker) and of street trees (if planted on land not adopted). Establishment of / participation in a drainage working group (with regular meetings) to oversee implementation of a HS11-wide drainage masterplan.

(2) 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

Strategic Planning Committee - 8 September 2022

application will 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.

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

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

Against: Councillor Thompson (1 vote)

<p>KIRKLEES COUNCIL</p> <p>DECLARATION OF INTERESTS AND LOBBYING</p> <p>Strategic Planning Committee</p>			
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: 06-Oct-2022

Subject: Planning Application 2021/94120 Change of use from haulage and distribution to a breakers yard Foxhill Oowler Lane Birstall Batley WF17 9BW

APPLICANT

Abdul Waheed,
Yorkshire Light
Commercials Ltd

DATE VALID

22-Jan-2022

TARGET DATE

19-Mar-2022

EXTENSION EXPIRY DATE

11-Oct-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Birstall and Birkenshaw

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The application is brought to the Strategic Committee due to the scale of the application site over 0.5 Hectares. This is in accordance with the Scheme of Delegation set out in the Constitution.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is an existing Haulage distribution depot which is made up of a central portal framed building and the siting of storage containers around the periphery which are stacked 3 no. containers high.

2.2 To the North East of the site are a shot blasting company and a company specialising in clinical/hazardous waste. To the North of the site is the M62 which is set down a steep embankment; to the East is the Oakwell industrial estate with open fields to the West leading to scattered residential dwellings.

2.3 Access to the site is via Owler Lane on the East side of Field Head Lane

2.4 The application site is allocated as Green Belt land as defined within the Kirklees Local Plan.

3.0 PROPOSAL:

3.1 Permission is sought for the change of use of the existing Haulage distribution yard to a Breakers Yard.

3.2 The exiting building and access will be retained. All shipping containers will be removed from the site and replaced with End-of-Life Vehicles (ELVs) which will be stored to the North and North West of the central building.

3.3 End of life vehicles would be delivered to site. The vehicle would then be inspected, and all fluids removed safely into an onsite storage tank. Once safe to work on, the vehicle would be broken down into parts. The spare parts would be stored on racks within the building and the remaining carcass of the vehicle, stored in the rear compound for potential larger body part spares.

3.4 The site will take delivery of end-of-life vehicles five times per week and anticipates visitors to the site two to five time per day.

3.5 The proposed use will employ 6 members of staff at the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2009/91540 Erection of storage and HGV maintenance facilities
Conditional full permission

2007/90962 Renewal of previous permission 2002/90060 for erection of
workshop/store extension
Conditional full permission

2002/90060 Erection of workshop/store extension
Conditional full permission

99/90102 Erection of transport equipment store with offices
Refused – Appeal upheld

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

5.1 Through the course of the application, an amended red line boundary plan was submitted to show the application site up to an adopted highway. The amended red line boundary was readvertised, as necessary.

6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

6.2 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 pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda

6.3 Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP7 – Efficient and effective land and buildings
- LP 21 – Highway Safety and Access
- LP 22 – Parking Provision
- LP 24 – Design
- LP30 – Biodiversity and geodiversity
- LP43 – Waste Hierarchy

- LP44 – New Waste management facilities
- LP45 – Safeguarding waste management facilities
- LP 52 – Protection and improvement of environmental quality
- LP 53 - Contaminated and unstable land
- LP60 – The re-use and conversion of buildings

6.4 Supplementary Planning Guidance / Documents:

KC Highways Design Guide SPD

6.5 National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt Land
- Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised via neighbour notification letter. As a result of site publicity, two representations have been received. The comments can be summarised as follows:

Against (2)

- Impact of the noise on grazing horses
- Impact of increased traffic on Owler Lane
- Impact on residential amenity
- Decreased value of private property

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways DM: *No objection subject to condition*

Environment Agency: *No objection*

8.2 Non-statutory:

KC Environmental Services: *No objection subject to the following conditions:*

Contaminated Land
Hours of operation/use
Noise from Fixed Plant & Equipment

9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Sustainability and climate change

- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social, and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay unless material considerations indicate otherwise.
- 10.3 The application site is set within green belt land as designated within the Kirklees Local Plan. Paragraph 137 of the NPPF states that ‘the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt are openness and permanence’.
- 10.4 Paragraph 147 of the NPPF states that ‘inappropriate development is by definition, harmful to the Green Belt’. When considering a planning application, the Local Planning Authority should give great weight to any harm to the Green Belt. Very Special circumstances will only exist where harm caused by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. For this application, exception (d) and (e) are relevant:
- d. The re-use of buildings provided that the buildings are of permanent and substantial construction*
- e. Material changes in the use of land*
- 10.5 For the purpose of paragraph 150e, it is considered that there is already an impact on the openness of the green belt caused by the existing use from the presence of two large buildings, stacked containers, the parking of HGVs, the movement of vehicles to and from the site as well as the noise and general disturbance associated with the use as a haulage and distribution yard. As such, an assessment is required as to whether the proposed use would have any further material impact on the openness of the green belt than the existing use.

- 10.6 The existing buildings would be re-used, and the site already has access to the highway which would be retained. The storage of external vehicles will be limited by the scale of the site and location and number of vehicles. Based on the location of the site, the proposed change of use is considered unlikely to further impact the noise environment. However, some equipment used can generate high levels of noise. The noise from these operations can be restricted by the use of conditions to limit noise to not exceed the existing background levels.
- 10.7 NPPF paragraph 150 also requires an assessment as to whether the development would conflict with the purposes of including land within the green belt, the relevant purpose in this case being to assist in safeguarding the countryside from encroachment. The site itself does not constitute countryside. It is on the edge of the built-up area and is closely associated with Oakwell industrial site to the South, neighbouring industrial activity to the East and the M62 motorway to the North, all of which generate a certain degree of noise and disturbance. However, there is open land to the West which should not be harmed by any materially significant additional noise and disturbance from the site.
- 10.8 Policy LP60 relates to the re-use and conversion of existing buildings. The policy states:
- Proposals for the reuse and conversion of buildings within the green belt will normally be acceptable where;*
- a. The building to be reused or converted is of permanent and substantial construction;*
 - b. The resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as a means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings;*
 - c. The design and materials used, including boundary and surface treatments are of high quality and appropriate to the setting and the activity can be accommodated without the detriment to landscape quality, residential amenity and highway safety.*
- 10.9 The application site has access to the highway and is already enclosed. There are existing parked HGVs and stacked containers on the site so there is an existing degree of external visual intrusion.
- 10.10 The application does not propose any new built form on the site. The proposal will see the removal of a high number of existing containers from the site and the existing building retained. The proposed use will store vehicles to the rear of the site where the current shipping containers are placed. As the site is screened and has a clear boundary from the wider green belt setting there is considered to be no additional impact on the openness and character of the green belt.
- 10.11 Policy LP43 of the Local Plan states that the Council will encourage and support the minimisation of waste production and support the re-use and recovery of waste materials. In the submitted Design and Access Statement, the agent states that the operation will involve breaking up old vehicles and re-selling the components on as spare parts.

- 10.12 The development would enable greater re-use and recycling of waste materials in Kirklees, and therefore allow waste to be moved up the waste hierarchy in accordance with criterion a of Policy LP43.
- 10.13 Local Plan Policy LP44 relates to the creation of new waste management facilities. The creation of new waste management facilities is considered acceptable within sustainable locations appropriate to the proposed waste management use and its operational characteristics, where potentially adverse impacts on people, biodiversity and the environment can be avoided or adequately mitigated. In addition, proposals should have regard to a series of sequential priorities unless the use of an appropriate alternative site can be justified.
- 10.14 Although the applicant has not demonstrated that there are no available waste management sites in the district where this business could be located, Officers have reviewed the latest information available on existing waste allocations including (but not limited to) information from the Environment Agency, planning histories and aerial images.
- 10.15 Officers consider that there are no available sites of a similar size or larger than the application site that could accommodate the proposed use, as they are all currently occupied and/or operational. The potential impacts on people, biodiversity and the environment are assessed and considered to be acceptable as set out elsewhere in the report.
- 10.16 Whilst the application site is not within a safeguarded waste site, it is still adjacent to one, and as such, Policy LP45 must be considered. This policy states that proposals for development in the vicinity of an existing waste management facility will be required to demonstrate that the proposed development does not prevent, hinder, or unreasonably restrict the operation of the waste development.
- 10.17 Therefore, the applicant has to demonstrate that the proposal will not impact on the operation of the adjacent waste site at Foxhall Farm. Considering the information provided by the applicants alongside the information held by the Council in relation to land uses, the proposed use is considered to be compatible in relation to neighbouring uses.
- 10.18 For the reasons outlined above, the proposed development is considered to comply with guidance within Policies LP43, LP44, LP45 and LP60 of the Kirklees Local Plan.
- 10.19 Policy LP 24 is relevant in that it states that proposals should promote good design in accordance with a specific set of considerations. All the considerations are addressed within the assessment. Subject to these not being prejudiced, this aspect of the proposal would be considered acceptable in principle.

Urban design issues

- 10.20 Policy LP24 states that good design should be at the core of all proposals. Proposals should incorporate good design by ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape and landscape. This is supported by The National Planning

Policy Framework (NPPF) which sets out that, amongst other things, decisions should ensure that developments are sympathetic to local characterwhile not preventing or discouraging appropriate innovation or change (para.130 of the NPPF).

- 10.21 The application site is an existing haulage yard set within a wider industrial site. The proposed development does not propose new built form on the site. The existing building will be retained as existing to be used for the storage of vehicle parts
- 10.22 The external area of the site to the West will be used for the storage of end-of-life vehicles. The vehicles will replace a high number of shipping containers on the site which are tightly packed into the site to the East and West at a height of three containers. The removal of all containers from the site will improve the visual amenity of the site and the impact on the openness of the green belt setting.
- 10.23 The end-of-life vehicles will be stored to the West of the site only in 4 no. rows which is screened by mature vegetation. The clearing of the site would be considered to be an improvement to visual amenity.
- 10.24 In all, the proposal is considered acceptable from a visual amenity perspective, in accordance with Kirklees Local Plan policy PLP 24 and LP60.

Residential Amenity

- 10.25 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.26 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP 24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.
- 10.27 The application site neighbours the M62 to the north and existing industrial businesses to the east and south. The nearest noise sensitive residential properties are in excess of 250m away. To the immediate West are fields which are used for grazing horses. Based on the location, the proposed change of use is unlikely to further impact the noise environment, however some equipment used in the process of breaking vehicles can generate high levels of noise. Therefore, a condition is necessary to limit any noise so as not to exceed existing background levels. A condition will also be recommended for the restriction of the hours of operation of the site as follows:

No activities shall be carried out on the premises, including sales, deliveries to or dispatches from the premises, outside the hours of 7:00 and 19:00 Monday to Saturdays. No activities shall take place on Sundays and Bank Holidays.

10.28 In light of the above, it is considered that subject to conditions, there would not be an undue detrimental impact on the residential amenity of neighbouring properties, in accordance with the aims of policy LP24 of the Kirklees Local Plan.

Highway issues

10.29 The NPPF states that all new development should be assessed in terms of their impact on the existing transport infrastructure, impacts on the safety of users and the impact of encouraging sustainable transport modes. Kirklees Local Plan policy LP21 sets out the matters against which new development will be assessed in terms of highway safety.

10.30 The application site is accessed via Owler Lane which is a narrow road. It is considered that the proposed change of use will reduce the number of vehicular trips to the site from HGVs as there will be no articulated lorries required. However, it is expected that the number of trips from car deliveries and visitors may increase.

10.31 It is stated within the application that there will be 6 no. employees at the site. This is a significant reduction from the 14 employees which currently work at the site. There is considered to be adequate parking for the employees with a further 7 visitor parking spaces which is considered to be sufficient.

10.32 It is therefore considered that the proposed development is acceptable from a highway safety and efficiency perspective, in accordance with Policy LP21 of the Kirklees Local Plan and key principles of the Housebuilders Design Guide SPD.

Contaminated Land

10.33 The site has been identified as potentially contaminated land due to the former use as a transport depot. As the proposal will involve the repurposing of the site only with no proposed ground works apart from the removal of the diesel tank, a condition will be added for the reporting of unexpected land contamination only.

Coal Mining Legacy

10.34 The Application site is set within a high coal mining risk area, however, as the proposed development is for the change of use of the land only with no proposed operational development, a Coal Mining Assessment is not required. A note would be added to advise the applicant that should there be any operations required for the change of use then details would need to be submitted to the LPA for assessment.

Climate change

10.35 Chapter 12 of the KLP relates to climate change and states that "Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development." This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic,

social, and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.

Representations

10.36 The representations received have been carefully considered. Officers would respond to the matters raised as follows:

- Impact of noise on grazing horses
Response: The comment is acknowledged, however, given the context of the site adjacent to the M62 and existing use of the site the existing background noise is not considered to be significantly detrimental. Conditions will also restrict hours of operation and levels of noise from the site.
- Impact of increased traffic on Owler Lane
Response: The generation of traffic from the site will be a reduction of the existing level of the site as detailed above.
- Impact on residential amenity
Response: A condition will be attached to a permission to control the level of noise emitted from the site to ensure that the level of residential amenity currently enjoyed by the neighbouring residents is retained.
- Decreased value of private property
Response: The impact of the value of a private property as a result of a development is not considered to be a material planning consideration.

11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development is acceptable within the green belt location given the existing use of the site. The proposed use would not be considered to further impact the openness and character of the green belt setting, both spatially and with regards to noise disturbance. The Proposal is set within a sustainable location which will re-use existing buildings and brownfield site whilst not causing harm to nearby residential dwellings or highway safety. The proposal would, therefore, constitute sustainable development and is therefore recommended for approval.

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

1. Commencement of the development within 3 years
2. Development to be in accordance with the approved plans
3. Restriction on height and location of stored end of life vehicles
4. Restriction on noise from fixed plant and equipment
5. Hours of operation
6. Reporting of unexpected land contamination

Background Papers:

Website link to be inserted here

[Planning application details | Kirklees Council](#)

Certificate of Ownership –Certificate A signed and dated 27.10.2021

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Oct-2022

Subject: Planning Application 2022/90505 Change of use of agricultural land to Sui Generis for private dog walking with associated works Land adj, Moor Top Lane, Huddersfield, WF4 4BU

APPLICANT

S Macken

DATE VALID

14-Feb-2022

TARGET DATE

11-Apr-2022

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

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 Development and Master Planning in order to complete the list of conditions including those contained within this report

1.0 INTRODUCTION

1.1 The application has been brought before the Strategic Planning Committee given that the site exceeds 0.5ha in size and is non-residential.

2.0 SITE AND SURROUNDING

2.1 The application relates to a field to the northeast side of Moor Top Lane. The field has been used for agricultural uses. The field is bound by fencing and hedges on all four sides. The field covers an area of 0.74 Ha.

2.2 The field benefits from vehicular access from Moor Top Lane to the west south western side of the site, with an existing hardstanding area beyond it, which is albeit overgrown at present.

2.3 The wider site is rural and allocated as Green Belt land. There are sporadic threads of residential development in the surrounding area. The closest dwelling to the application site is situated 70m away to the northwest. Dwellings can also be found 85m away to the south and 134m away to the northwest.

3.0 PROPOSAL

3.1 The application is seeking permission for the change of use of agricultural land to a private dog walking (Sui Generis Use) with associated works.

3.2 The proposal development would see two pens formed, each secured by fencing, for private use of the customer. Each pen would include activities and enrichment for the dogs. There will be a restriction of five dogs per area.

3.3 Parking for each pen would be provided on the existing hard standing area. This would be resurfaced with crushed stone. The site will provide 4 vehicle parking spaces. This is to allow two vehicles per booking per pen, and to facilitate the swap over time whilst the next customer waits for the previous booking to leave. The existing access gates from Moor Top Lane would be widened to have a width of 5m and set 6m back from the highway. The access would be tarmacked.

3.4 The agent has proposed operating hours of 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive).

4.0 RELEVANT PLANNING HISTORY

4.1 Application Site

4.2 2004/95381 - Erection Of 4 No. Loose Boxes, Siting Of 7 No. Poultry Coops, Formation Of Exercise Area And New Access – Refused.

2005/90490 - Alterations To Existing Agricultural Access To Highway – Approved.

5.0 HISTORY OF NEGOTIATIONS

5.1 There have been constant discussions between the Agent and the Authority on this application. Discussions have taken place regarding the proposed operation of the site and potential conditions. With regard to amendments, plans have been revised to widen, surface and position the access appropriately as sought by KC Highways Development Management.

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
LP23 - Core walking and cycling network
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP32 - Landscape
LP51 - Protection and improvement of local air quality
LP52 - Protection and improvement of environmental quality
LP56 - Facilities for outdoor sport and recreation

National Planning Guidance:

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 1st April 2022. 15 representations were received, 7 in support, 7 against and 1 general comment. These representations have been summarised as follows:

General Supporting Comments

- Would provide a good and safe asset for the community.
- Provide a good rural service.
- Provide a use for the site.
- Would not cause harm through noise.

Highway Safety Matters

- The use would cause accidents on the highway through its intensification.

Amenity Issues

- The development would cause harm through noise.

Other Matters

- Concerns whether fence is secure enough to keep dogs within the site.
- The use would increase crime in the area.
- Development would impact the water table cause surface flooding issues.
- The development would cause ecological harm.

Non-material planning considerations

- The temperament of the dogs and potential harm to people and farm animals close by.
- The noise barking may startle horses passing by on the highway.
- Worries of how dog waste will be disposed of.
- Alleged commencement of development

- 7.2 Officer also received comments from Cllr B Armer. In summary Cllr B Armer Noted highways concerns with the proposed scheme. This included highlighting that without 'no parking' restrictions the scheme could not prevent on street parking threatening road safety. Cllr B Armer also raised issue regarding vehicles entering and exiting the site, causing a hazard to the highway. Cllr B Armer stated that the provision of the on-site parking spaces would 'compromise the purpose of the Green Belt, in that the land would acquire a more urban character through the formation of a significant area of hard surfacing for parking and turning'.

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 Environmental Health – No objections in principle, however requested the following conditions: opening hours of 0800hrs to 2000hrs (April to September) and 0800hrs to 1800hrs (October to March) each day of the week.

KC Highway – Initial concerns regarding number of parking spaces, visibility and lack of vehicle refuge area when entering and exiting the site. KC Highway were reconsulted following amendments to the access and parking arrangement and the submission of highway data. Upon re-consultation KC Highways stated that they, on balance, considered the access was safe subject to a condition to ensure that visibility splays were to be kept clear.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt and Visual Amenity
- Residential Amenity
- Highway Safety
- 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 on the Kirklees Local Plan and therefore consideration needs to be given to Chapter 13 of the National Planning Policy Framework. Paragraph 145 of the National Planning Policy Framework indicates that the provision of appropriate facilities for outdoor sport and outdoor recreation could be acceptable in principle 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 reasonable 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 exercise, is considered outdoor recreation. The site will be operated by the landowner. There will be a maximum of three dogs using the site at any one given time. The proposed development would utilise the existing access and hard-surfacing for vehicles. The access and hardstanding was approved under 2005/90490. The extent of the hardstanding has organically extended since this permission, however, has been in situ since 2009 as per the Council GIS imagery and is therefore immune from any enforcement action. The proposal will therefore not introduce any new urban into the Green Belt. The proposed deer fence can be erected under permitted development rights, nonetheless officers consider it visually appropriate in a rural setting. Therefore, the proposed use is

considered appropriate in the Green Belt as set out by 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. The National Planning Policy Framework and Kirklees Local Plan also encourages the Authority to support rural businesses. The creation of a dog exercise facility would create a small rural business without any harm to the Green Belt visually, therefore, the scheme would help the wider rural community as per the aims of LP10 of the KLP and Chapter 6 of the NPPF.
- 10.4 For the reasons set out above, the principle of development in the Green Belt and visual amenity of the development is considered acceptable.

Residential Amenity

- 10.5 The impact of the proposal on the amenity of surrounding properties and future occupiers of the dwellings needs to be considered in relation to Policy LP24 of the Local Plan. Policy LP24 seeks to “provide a high standard of amenity for future and neighbouring occupiers.” This is further supported by policies set out in Chapters 12 and 15 of the NPPF.
- 10.6 In this case, the application site is very rural and the closest dwelling is set circa 80m to the north west of the site. All other dwellings are in excess of 100m from the site. Considering this, the ability for the proposed dog exercise use to harm the residential amenity of nearby dwellings is very limited. Nonetheless, during night time hours, when background noise levels are low, harm could be caused as the barking would travel further. Also, a night-time use could see artificial lighting use on the site. As such hours of operation shall be conditioned. Officers note the hours proposed by KC Environmental Health but have no material reason to object to the hours proposed by the applicant, thus, officers will restrict the hours of use to between the hours of 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive). Officers will also condition no artificial lighting is to be erected at the site. Officers note that KC Environmental Health have requested a noise mitigation scheme however officers do not consider this reasonable as per the six tests for conditions, given the vast separation distance between the application site and dwellings and considering the proposed level of development.
- 10.7 Officers consider that given the separation distance between the application site and the dwelling, the proposed use, subject to the conditions referenced above, would not materially harm their amenity. Thus, the proposed development is considered to accord with Local Plan Policies LP24 and LP52 and Chapter 12 of the NPPF with regard to residential amenity.

Impact on Highway Safety

- 10.8 Local Plan Policies LP21 and LP22 set out the local policy with regard to highway safety and parking. The Highways Design Guide SPD helps offers implement these policies. KC Highways were consulted as a part of this application also.

- 10.9 The Proposed Site Plan shows the existing vehicular access and hard surfaced area shall be utilised. The gate shall be moved backward to create a 6m pull in area between the highway and gate. Inward opening security gates are proposed at the site access, which will be operated by a combination padlock. Other proposed works to the access includes to 5m and a 2m kerb radii. These alterations will allow large cars to safely enter and exit the site in forward gear and are acceptable considered to accord with Local Plan Policies LP21 and LP22 and The Highways Design Guide SPD.
- 10.10 4 No. on-site car parking spaces are proposed, which are 5.0x2.5m. Sufficient turning space has been proposed within the site, with 6m+ reversing spaces provided for all car parking spaces, which has been confirmed as being adequate by vehicle tracking. The level of parking spaces proposed are considered adequate, subject to the development operating as suggested by the applicant, with a maximum of 2 bookings at any one time, and a restriction of a single vehicle per booking. To ensure that no overspill parking takes place on the highway, which would adversely affect highway safety, the above restrictions and car parking operation shall be secured by a planning condition.
- 10.11 Based on the latest 'Visibility Splays and Entrance drawing – ref 186-66-002D', visibility splays to an oncoming vehicle of 2.4x128 and 2.4x127 can be provided to the northwest and southeast respectively, which are acceptable. However, to achieve the visibility splays it will be necessary to cut back and/or replant the boundary hedge to the southeast of the access to achieve the necessary visibility splay. The applicant has at present cut back and officers have rechecked the visibility splay on site. This demonstrated that the trunk of the first hawthorne bush to the southeast of the access will need to be cut back further on the highway side, to ensure that the full visibility splay is achieved, with regular cutting back of the hedges required to ensure that the splays are maintained. Subject to a condition to secure the further cutting back of the hawthorne bushes appropriate and to ensure the splay is kept clear in the future, the site access is considered to not detriment the safety of the wider highway network, thus according with Local Plan Policies LP21 and LP22 and The Highways Design Guide SPD.
- 10.12 Subject to the conditions set out above, the scheme is considered acceptable with regard to highway safety and to accord with Local Plan Policies LP21 and LP22 set out the local policy with regard to highway safety and parking. The Highways Design Guide SPD helps offers implement these policies. This is in accordance with the advice given by KC Highways Development Management.

Other Matters

Ecology

- 10.13 The field is currently grassed. It does not have a watercourse running through it or have any obvious habitats present. The proposals in their current form, given that they are a change of use with very limited development will result in no impacts on biodiversity. However, it shall be conditioned that if any hedgerow is lost to provide suitable visibility splays as addressed in paragraph 10.11, this hedgerow shall have to be adequately replaced elsewhere within the site as to accord with Local Plan Policy LP30 and Chapter 15 of the NPPF.

Carbon Budget

- 10.14 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. As per the standards set for commercial development, typically one electric vehicle charging point would be required for an application of this nature. However, as the site does not benefit from an electricity, or require an electrical system to be installed for the main purpose of the proposal, it would be unreasonable, as per the six tests for conditions, to seek a condition for the provision of an electric vehicle charging point.

Contaminated Land

- 10.15 Local Plan policy LP53 states that 'For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment.' The development site lies within 250m of a historic landfill site (our map ref 71/23). A condition is therefore required for the finding of any unexpected contamination to be reported to the Local Planning Authority in order to comply with Kirklees Local Plan policy LP53.

Representations

- 10.16 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 1st April 2022. 15 representations were received, 7 in support, 7 against and 1 general comment. These representations have been summarised as follows:

10.17 General Supporting Comments

- Would provide a good and safe asset for the community.
- Provide a good rural service.
- Provide a use for the site.
- Would not cause harm through noise.

Response: Noted

Highway Safety Matters

- The use would cause accidents on the highway through its intensification.

Response: Noted and considered in the assessment above.

Amenity Issues

- The development would cause harm through noise.

Response: Noted and considered in the assessment above.

Other Matters

- Concerns whether fence is secure enough to keep dogs within the site.
Response: Noted and deer fencing considered appropriate.

- The use would increase crime in the area.
Response: Noted.

- Development would impact the water table cause surface flooding issues.
Response: Noted but the application site is set within Flood Zone 1 and consists of limited built development, thus, is not considered materially harmful.

- The development would cause ecological harm.
Response: Noted and considered in the assessment above.

Non-material planning considerations

- The temperament of the dogs and potential harm to people and farm animals close by.

- The noise barking may startle horses passing by on the highway.

- Worries of how dog waste will be disposed of.

- Land ownership disputes.

- Alleged commencement of development

Response: Noted, however cannot be considered as these are not material planning considerations.

11.0 CONCLUSION

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that proposed use is appropriate in the Green Belt and would not materially cause any harm with regards to its purposes. The associated development is considered to be tightly limited to that required to practically facilitate the developed and would not materially harm the Green Belt either. The scheme would also boost the rural economy, without any material harm to the residential amenity of dwellings or to the detriment of highway safety. For this reason officers are recommending the application be approved.

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

Below is a summary of the proposed conditions:

1. In accordance with the approved plans.
2. Development to begin within 3 years.
3. Hours of operation between 07:00 until 21:00 (April to September inclusive) and 08:00 to 19:00 (October to March inclusive).
4. No artificial lighting to be installed.
5. Details of scheme to clear and maintain clearance of the visibility splay.

6. Replacement hedge to be planted where removed in conjunction with condition 5.
7. Access gate to be repositioned and parking spaces to be provided prior to the site being bought in to use.
8. Operated via a booking system, with a maximum of 2 bookings at any one time, and a restriction of a single vehicle per booking.
9. Report of unexpected contaminated land.

Background papers:

Application case file: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/90505>

Ownership Certificate B signed: 13/02/2022

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Oct-2022

Subject: Planning Application 2020/92331 Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure Land east of, Leeds Road, Chidswell, Shaw Cross, Dewsbury

APPLICANT
C C Projects

DATE VALID
21-Jul-2020

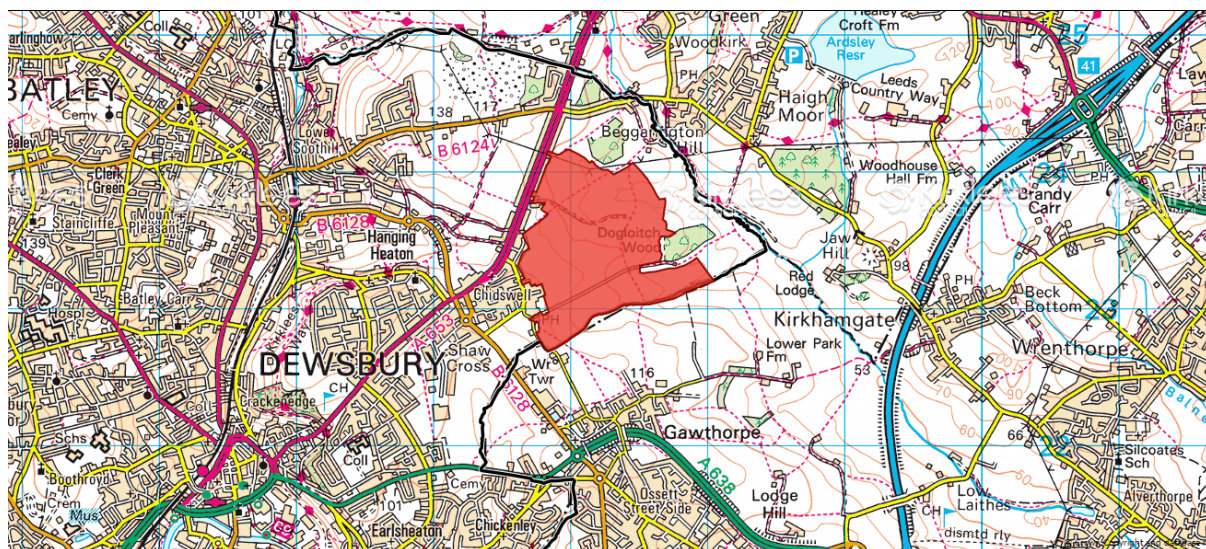
TARGET DATE
20-Oct-2020

EXTENSION EXPIRY DATE
08-Jan-2021

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Batley East and Dewsbury East

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

Members to note the contents of this report for information.

1.0 INTRODUCTION

- 1.1 This application is presented to the Strategic Planning Committee as the proposals are for a major mixed-use development, including more than 60 residential units.
- 1.2 The council's Officer-Member Communication Protocol provides for the use of position statements at Planning Committees. A position statement sets out the details of an application, the consultation responses and representations received to date, and the main planning issues relevant to the application.
- 1.3 Members of the Committee are invited to comment on the main planning issues to help and inform ongoing consideration of the application, and discussions between officers and the applicant. This position statement does not include a full assessment of the proposals or formal recommendations for determination. Discussion relating to this position statement would not predetermine the application and would not create concerns regarding a potential challenge to a subsequent decision on the application made at a later date by the Committee.
- 1.4 This position statement relates to an application for outline planning permission (ref: 2020/92331) and accompanies another outline application (ref: 2020/92350) relating to adjacent land. Both applications were submitted by the same applicant, and both relate to allocated site MXS7.
- 1.5 A position statement relating to these proposals was considered by the Strategic Planning Committee on 11/07/2019, at pre-application stage (refs: 2018/20078 and 2018/20077). A further position statement relating to the two planning applications was considered by the committee on 17/11/2020.

2.0 PROPOSALS

- 2.1 The proposals remain largely unchanged since 17/11/2020. Under this application (which relates to the larger (Leeds Road) part of the allocated site), the applicant proposes the demolition of existing dwellings, and the development of a phased, mixed use scheme comprising:
 - Residential development (up to 1,354 dwellings);
 - Employment development (up to 35 hectares of B1(part a and c), B2, B8 uses);

- Residential institution (C2) development (up to 1 hectare);
 - A local centre (comprising A1/A2/A3/A4/A5/D1 uses);
 - A two form entry primary school including early years provision; and
 - Green space, access and other associated infrastructure.
- 2.2 D2 use is no longer proposed among the local centre uses.
- 2.3 The proposed employment element would provide up to 122,500sqm of floorspace in an area along the site's east-west depression between one of the site's Leeds Road vehicular entrances and Dogloitch Wood.
- 2.4 Most of the dwellings, and the school and local centre, would be to the south of the employment area.
- 2.5 The proposed development would be laid out around two new, primary roads:
- A spine road (serving most of the dwellings, the school and local centre) running through the site between new vehicular entrances on Leeds Road and Chidswell Lane; and
 - A spine road (serving the employment uses) forming a long loop accessed from the site's existing vehicular site entrance on Leeds Road.
- 2.6 A short road connecting these primary roads, but preventing HGV movements into the main residential area, is also proposed.
- 2.7 Four vehicular entrances are proposed at:
- Chidswell Lane (spine road) – This would involve the demolition of buildings at Chidswell Farm, and would enable the continuation of the spine road between Owl Lane and the MXS7 site (approved under application ref: 2019/92787).
 - Chidswell Lane – This would involve the demolition of 97 Chidswell Lane.
 - Leeds Road (spine road) – This would involve the demolition of two pairs of semi-detached dwellings at 1010, 1012, 1014 and 1062 Leeds Road.
 - Leeds Road (employment) – At an existing field entrance where public footpath BAT/49/10 meets Leeds Road, and beneath existing overhead electricity cables. This would involve the demolition of 1062 Leeds Road.
- 2.8 Existing public footpaths would largely be retained (some minor diversions are proposed), and new footpaths, footways and cycle routes would be created throughout the site.
- 2.9 The proposed development includes public open space, a multi-use games area, playspaces, allotment gardens, drainage swales and ponds, treeplanting and soft landscaped areas (indicatively shown).
- 2.10 Access is the only matter not reserved.

2.11 The applicant has submitted parameter plans relating to:

- Developable area and use;
- Maximum building heights;
- Access;
- Blue infrastructure; and
- Green infrastructure.

2.12 Development proposed under application ref: 2020/92350 is described in the accompanying position statement.

3.0 UPDATES SINCE 17/11/2020

3.1 This position statement updates Members in relation to the following key considerations:

- Planning policy and guidance
- Representations
- Consultation responses
- Applicant's amendments and further information
- Phasing and delivery
- Highways and transport
- Sustainability and climate change
- Biodiversity and ancient woodlands
- Section 106 and viability matters
- Other planning matters

3.2 This position statement does not repeat all of the assessment set out in the previous position statement and committee update which can be viewed online at:

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2020/92331&file_reference=837729

and:

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2020/92331&file_reference=838921.

3.3 Instead, this position statement responds to queries raised by Members on 17/11/2020, details further submissions made by the applicant since that date, details further responses from consultees, and provides new assessment related to those matters and submissions. The officer presentation on 06/10/2022 will include further illustrative information.

3.4 The application site's characteristics have not materially changed since 17/11/2020.

3.5 The application site's context has materially changed since 17/11/2020, in the following respects:

- Gawthorpe Water Tower was added to the statutory list by Historic England on 04/12/2020. The tower is now a Grade II listed building.
- The Huntsman Inn on Chidswell Lane (adjacent to one of the proposed site entrances) has closed.
- Development has commenced at land between Owl Lane and Chidswell Lane (allocated site HS47) to the southwest where full planning permission for a development of 260 dwellings was granted on 24/06/2021 under application ref: 2019/92787.
- Initial works have commenced at the east corner of the Shaw Cross junction following the approval at appeal (on 22/03/2022) of full planning permission for a restaurant (refs: 2020/90450 and APP/Z4718/W/21/3285518).
- Development has commenced at land between High Street and Challenge Way (allocated site HS51) where full planning permission for a development of 55 dwellings was granted on 27/01/2022 under application ref: 2021/91871.
- Development has commenced at land off Soothill Lane (allocated site HS72) where Reserved Matters approval has been issued in relation to a development of 319 dwellings under application ref: 2021/91731.
- Planning permission for the erection of two dwellings within the grounds of the former Huntsman Inn was granted on 14/12/2020 under application ref: 2020/91451.

3.6 Regarding highways and transport, the council is progressing a major junction improvement scheme at the Leeds Road / Challenge Way / John Ormesby VC Way junction (the Shaw Cross junction). Work has commenced on the Transpennine Route Upgrade, which is intended to deliver faster, more frequent and more reliable services along the route that serves Dewsbury and Batley stations (the two stations nearest to the site). New and improved routes for pedestrians and cyclists have been secured under permission ref: 2019/92787.

3.7 A hybrid planning application submitted to Leeds City Council in December 2020 is of relevance to some of the highways and transport matters considered in this position statement. That application (ref: 20/08521/OT) relates to an employment-use (use classes B2 and B8 with ancillary office) development at land at Capitol Park, Topcliffe Lane, Morley. That scheme has capacity implications for junction 28 of the M62. On 14/07/2022 Leeds City Council's City Plans Panel resolved to approve the application.

4.0 PLANNING POLICY AND GUIDANCE

4.1 The following relevant planning policy and guidance documents were adopted or published after 17/11/2020:

- National Planning Policy Framework (revised July 2021)
- National Model Design Code (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Planning Applications Climate Change Guidance (2021)

- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees First Homes Position Statement (2021)
- Biodiversity Metric 3.0 (2021)

4.2 On 20/09/2022 the council commenced consultation on a draft Affordable Housing and Housing Mix SPD.

4.3 The Environment Act 2021 passed into UK law on 09/11/2021.

4.4 The following guidance documents are also considered relevant:

- Waste Management Design Guide for New Developments (2020, updated 2021)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Securing developer contributions for education (2019)

5.0 REPRESENTATIONS

5.1 Details of representations received from local residents were provided in the previous position statement.

5.2 Five further representations were received after 17/11/2020, all from the Chidswell Action Group, as follows:

- Letter dated 29/04/2021 from solicitors representing the Chidswell Action Group raising concerns regarding Environmental Impact Assessment, climate change, non-residential uses and affordable housing.
- Document titled “Chidswell Heybeck Climate Challenge” dated 06/03/2022.
- Emails dated 04/06/2022, 19/06/2022 and 25/07/2022 regarding biodiversity.

6.0 CONSULTATION RESPONSES

6.1 The following consultee responses were received after 17/11/2020:

6.2 Statutory

6.3 Historic England – No comment. Views of the council’s specialist conservation and archaeological advisers should be sought.

6.4 National Highways (formerly Highways England) – Holding objection renewed. Application should not be approved until the Stage 1 Road Safety Audit (relating to the M62 junction 28 mitigation scheme) has been satisfactorily completed. The mitigation scheme could then be secured. Regarding M1 junction 40 a maximum mitigation scheme has undergone a redesign, and potential departures (from the Design Manual for Roads and Bridges standard) will need to be agreed with Wakefield Council. A Stage 1 Road Safety Audit would then be required. A monitoring strategy (requiring agreement between National Highways, Wakefield Council and the applicant) would also be required.

6.5 Non-statutory

- 6.6 KC Conservation and Design – The proposed development would cause minimal (less than substantial) harm to the settings of St Paul’s Church, Gawthorpe Water Tower and Haigh Hall. The settings of other designated heritage assets would not be harmed. Advice provided regarding design and layout. At Reserved Matters stage, further understanding of the local vernacular should be demonstrated and reflected in the design of the development and opportunities should be taken to create views and vistas of Lees House Farm (undesignated) and Gawthorpe Water Tower (Grade II listed).
- 6.7 KC Ecology – Applicant’s Ecological Design Strategy outlines important themes and concepts to be incorporated into the development, but fails to address key concerns. No woodland management plan is mentioned. No planting has been specified between the proposed development and ancient woodlands. Submission fails to provide for farmland birds – compensation should focus on providing habitat for skylark and yellowhammer, such as incorporating skylark plots. Phasing would need to accommodate biodiversity considerations. Further information required regarding important hedgerows. Biodiversity metric calculations haven’t been revised, and the required 10% net gain has not been demonstrated. Proposed development is not compliant with Local Plan policy LP30 or the NPPF.
- 6.8 KC Education – Secondary school contribution of £2,257,029 required.
- 6.9 KC Highways Development Management – Advice provided throughout discussions.
- 6.10 KC Planning Policy – Deletion of D2 use noted. An impact assessment would not be required if specified D1 uses (museums and exhibition halls) were to be deleted from the proposals – this could be conditioned. Revised submission refers to Ossett Town Centre, where no available or suitable development sites have been identified that could accommodate the proposed new local centre. The sequential test has therefore been passed.
- 6.11 Forestry Commission – Ancient woodlands at Dum Wood and Dogloitch Wood could potentially be impacted by the proposed development. Impacts should be minimised in accordance with the Standing Advice for Ancient Woodland. Proposed 20m ancient woodland buffer zone noted. Tree Preservation Orders should be considered as part of the decision-making process. Advice provided regarding Government guidance, buffering, climate change and resilience, woodland management, Environmental Impact Assessment and felling.
- 6.12 Wakefield Council – Local highway network within Wakefield may be impacted, and mitigation may be needed. Left turns from spine road into Chidswell Lane should not be allowed. Agree that closure of section of Chidswell Lane north of spine road would make movement from Leeds Road to Gawthorpe less attractive. Concept of a spine road through the site is accepted. A condition should require compliance with the submitted masterplan at Reserved Matters stage. High quality boundary treatment required along the site’s southern edge (which is also the green belt and borough boundary). Proposed green strip and retention of trees and hedgerows are supported.

- 6.13 West Yorkshire Archaeology Advisory Service – Applicant’s submission is helpful in forming an opinion of the site’s archaeological potential (regarding field systems, trackways and farmstead enclosures from the later prehistoric period and Romano-British period, and later mining). The heritage assessment therefore establishes that there is currently up to regionally significant archaeologically significant remains within the site. Should outline permission be granted, further archaeological evaluation, to determine the reliability of the surveys and complexity of the remains, should be carried out prior to determining any Reserved Matters applications. A programme of archaeological mitigation can then be developed to preserve significant remains by record. Condition recommended.
- 6.14 West Yorkshire Combined Authority – Support principle of mixed-use development. Submission includes contradictory information regarding existing public transport provision. Parts of the development would be more than 400m away from existing bus services, and provision to enable buses to move through the site is supported. Bus access to employment element should also be considered. Bus stop locations should be clarified, and laybys considered. Applicant should engage with bus operators. Advice provided regarding possible diversion of existing bus services. Appropriate bus service provision may require a £300,000 per annum contribution. Provision of discounted Metro Cards would be supported, however their use would be limited unless a bus service penetrated the development. Bus priority measures on Leeds Road may be appropriate.
- 6.15 Yorkshire Wildlife Trust – Applicant’s Ecological Design Strategy does not address concerns regarding ancient woodland and local wildlife sites. Areas of greenspace and sustainable drainage solutions should deliver multifunctional benefits. Biodiversity metric should demonstrate net gain, and should be updated with each phase at Reserved Matters stage. Breeding birds have not been appropriately considered. Ground nesting birds were identified on site and require bespoke mitigation such as skylark plots. As no wintering bird surveys have been undertaken at this time, a precautionary approach to the impacts of the loss of wintering and breeding bird habitat should be taken with regards to development design. Open habitats along watercourses should be proposed.

7.0 APPLICANT’S AMENDMENTS AND FURTHER INFORMATION

- 7.1 Since 17/11/2020, the applicant has provided further information, including in relation to:
- Phasing and delivery;
 - Section 106 and viability matters;
 - Highway impacts and mitigation, including in relation to M62 junction 28, M1 junction 40, Shaw Cross junction and other junctions within Kirklees;
 - Local centre uses (D2 use no longer proposed, and Planning Statement amended, with a revised sequential assessment included);
 - Gawthorpe Water Tower (Archaeology and Historic Environment Addendum submitted);
 - Biodiversity (Ecological Design Strategy submitted); and
 - A response to comments made by the Chidswell Action Group.

8.0 PHASING AND DELIVERY

8.1 The applicant's phasing plan remains unchanged and indicative. Recent discussions regarding Section 106 matters, however, have necessitated further consideration of how development would be brought forward at the allocated site, and the applicant has provided more information regarding a possible delivery chronology, as follows:

- Employment element – Likely to be delivered early in the programme, due to high demand for new employment floorspace.
- Heybeck Lane development – Likely to be delivered early in the programme, due to this phase being less reliant on key infrastructure proposed elsewhere within the allocated site. Approximately 181 dwellings. Proposed under application ref: 2020/92350.
- Phase 1a – 457 dwellings between Chidswell Lane and the new spine road.
- Phase 1b – Primary school, local centre and allotments.
- Phase 2 – 240 dwellings immediately east of the new spine road.
- Phase 3 – 277 dwellings in the furthest east phase, south of Dogloitch Wood.
- Phase 4 – 173 dwellings between the new spine road phase 3.
- Phase 5 – 207 dwellings in the furthest south phase, close to Chidswell Lane.

8.2 To inform discussions regard the point at which the new primary school would need to be provided, the applicant has provided the following indicative information regarding housing delivery:

Year	Dwellings delivered (cumulative)
2025	27
2026	99
2027	171
2028	243
2029	315
2030	387
2031	459
2032	531
2033	603
2034	675
2035	747
2036	819
2037	891
2038	963
2039	1,035
2040	1,107
2041	1,179
2042	1,251
2043	1,323
2044	1,395
2045	1,535

- 8.3 The above programme is, however, dependent upon several factors, including whether outline permission is granted and Reserved Matters approvals are issued (and the timing of any such approvals), and the interest and actions of the applicant's developer partners.
- 8.4 Some of the uncertainties reported on 17/11/2020 are now less of an influence (and less of a concern) in relation to phasing. For example, the adjacent Owl Lane development now has planning permission, and work on that development (and its section of the spine road that would ultimately connect Owl Lane with Leeds Road) has commenced, meaning there is less risk of delay to those phases that would be reliant on the completed spine road for access.
- 8.5 Notwithstanding the above, the applicant still seeks a degree of flexibility in relation to delivery, and would not wish the precise phasing of development to be fixed at this outline stage.
- 8.6 While it is considered that a degree of flexibility can indeed be accepted, relevant mechanisms in a Section 106 agreement would be necessary to ensure mitigation is delivered at an appropriate stage (for example, the timely delivery of the new primary school and other on-site infrastructure needed to support the development is essential). Also, phasing of development at this site should be organised to minimise impacts on existing residents, and on residents of the development's early phases, as far as is possible. Phasing should also take into account the availability of construction access routes, biodiversity (if wildlife is to be given time to relocate to land beyond the application site), and the need to ensure development spreads outward from the existing built-up area (to ensure no phase appears as a sprawling, outlying limb that does not read as a planned or logical extension to the existing settlement).
- 8.7 The applicant has not yet identified a master builder/developer, infrastructure provider or other developer partner, however talks with various parties have commenced. Rather than entirely dispose of the site prior to commencement of development, the applicant intends to remain involved over the long term, to retain control over development quality, and to help ensure development (including infrastructure delivery) is co-ordinated. The applicant would also retain ownership of adjacent land to the east of the application site, including Dum Wood and Dogloitch Wood, and land within Wakefield borough. This ongoing involvement, overseer approach and intended stewardship model may assist in the effective delivery of mitigation required in connection with the proposed development (for example, in relation to ancient woodland access management, and biodiversity). The applicant has also advised that it would enable delivery of the Church Commissioners for England's strategies relating to sustainability, climate change and social value.

9.0 HIGHWAYS AND TRANSPORT

- 9.1 Of relevance to highways and transport, the proposals, planning policy and guidance, consultee responses and existing highway conditions around the site remain as per what was set out in the previous position statement, however some considerations have changed or have emerged since 17/11/2020 (see paragraphs 3.5 to 3.7, 4.1, 4.2, 6.4, 6.9 and 6.14 above).

- 9.2 Discussions between officers and the applicant since 17/11/2020 have largely concerned junction assessment and mitigation. Those discussions relating to M62 junction 28 and M1 junction 40 have also involved National Highways (previously Highways England), Leeds City Council and Wakefield Council. The applicant for the Capitol Park scheme in Leeds has been involved in discussions regarding M62 junction 28.
- 9.3 The applicant's proposed trip generation rates and predicted background traffic growth rates are considered acceptable. The list of committed schemes (taken into account by the applicant in traffic modelling) is considered appropriate. The applicant's junction impact modelling takes into account assumed traffic growth predicted for the year 2030, except in the case of junction 28 of the M62, where the year 2033 has been used (2033 is the end date of the Leeds Local Plan period). The applicant's modelling does not account for Travel Plan-induced modal shifts, or for the possibility of a West Yorkshire mass transit system being implemented in the future. The applicant has therefore argued that the traffic created by the proposed development may prove to be less than they have predicted.

M62 Junction 28

- 9.4 Following extensive discussion, modelling and design work, an acceptable highway mitigation scheme for junction 28 (the Tingley roundabout) has been agreed between all interested parties (the applicant, the council, the Capitol Park applicant, National Highways and Leeds City Council).
- 9.5 This highway mitigation scheme has been designed to take into account assumed traffic growth predicted for the year 2033, as well as the traffic of the two above-mentioned developments, and that of a major residential development already approved at Haigh Moor in Leeds (ref: 17/08262/OT). Of the additional traffic expected at junction 28 (created by those three major developments), approximately 60% would be generated by the Chidswell development, 30% by Capitol Park, and 10% by the Haigh Moor development. The highway mitigation scheme also incorporates sustainable transport improvement works (intended to be of benefit to pedestrians and cyclists) that Leeds City Council had planned to carry out at junction 28.
- 9.6 The proposed scheme includes no departures (from the Design Manual for Roads and Bridges standard) on the parts of the junction for which National Highways is responsible. A minor departure is proposed on part of the junction for which Leeds City Council is responsible, however Leeds City Council have indicated that this can be accepted. A formal departure procedure need not be followed in relation to this.
- 9.7 Of note, although the proposed scheme would mitigate the traffic impacts of the Chidswell and Capitol Park developments, it would not fully mitigate all impacts when predicted background growth is taken into account (there is still likely to be some queueing at junction 28, although this residual impact is not predicted to be severe). All parties, however, are satisfied that the best possible scheme has been devised within the constraints applicable to that junction.

- 9.8 For the motorway junctions affected by the proposed development, the applicant has expressed a preference for moving away from a “predict and provide” approach. The applicant would instead prefer to postpone implementation of the proposed scheme, and monitor traffic growth at this junction to ascertain whether the scheme (or a part thereof) is in fact needed. The applicant is of the view that traffic growth at this junction may not be generated to the extent predicted. If this approach is accepted, conditions could be applied to prevent the occupation of a number of dwellings before the highway mitigation scheme is delivered. A draft Monitoring Strategy Framework has been prepared by the applicant. This would be used to ascertain whether the mitigation scheme proves necessary, and the comments of Leeds City Council on this draft strategy are awaited. Of note, although the applicant does not propose early implementation of the scheme, the applicant has earmarked funding for it in an early stage of the development programme.
- 9.9 The scheme has been costed at approximately £10m. Of note, the outline planning permission for the Haigh Moor development secured a contribution of £816,000 towards improvements at junction 28. A condition regarding delivery of a proportion of the works (via Section 278) is expected to be secured by Leeds City Council in connection with the Capitol Park development. Leeds City Council are also expected to contribute, as that authority had already intended to carry out sustainable transport improvement works at that junction. In discussions regarding development viability, the applicant has allowed for a cost of £5.5m to £6m relating to the scheme.
- 9.10 The applicant would prefer to make a financial contribution towards the scheme (rather than deliver the works), and it is understood that Leeds City Council are agreeable to this. The applicant would prefer to make any such payment to Kirklees Council, so that Leeds City Council would not need to be a signatory to the Section 106 agreement.
- 9.11 The scheme has been designed so that it can be implemented in two phases of roughly equal scale. Although it is likely that the Capitol Park development would be implemented before development at Chidswell is implemented, should the Chidswell development be implemented first, the applicant would need to implement phase 1 of the highway mitigation scheme (phase 1 must be implemented first – the order of implementation is not flexible), and also contribute towards the later implementation of phase 2. This contribution would be necessary because the Chidswell development would have a greater impact at junction 28, and the cost of mitigation would need to be distributed proportionately between the two developers in light of their developments’ respective impacts.
- 9.12 Of note, while an acceptable highway mitigation scheme for junction 28 has been agreed between all interested parties, final sign-off from the relevant authorities has not yet been received. A designer’s response (to an earlier road safety audit and a walking/cycling/riding assessment) has been submitted by the applicant to National Highways and Leeds City Council, and responses from those authorities are awaited.

- 9.13 National Highways will maintain their holding objection (most recently renewed on 08/07/2022) for the time being, however withdrawal of this objection in relation to this junction is expected in the near future, given the significant progress made to date.

M1 Junction 40

- 9.14 Extensive discussion, modelling and design work has also taken place in relation to junction 40 of the M1. This has involved the applicant, the council, National Highways and Wakefield Council.
- 9.15 A maximum mitigation scheme has been designed for this junction by the applicant. This is a scheme intended to mitigate the maximum possible traffic impacts of the proposed development at this junction, however – as with junction 28 of the M62 – the applicant has proposed to postpone implementation of that scheme, and to monitor traffic growth at this junction to ascertain whether the scheme (or a part thereof) is in fact needed. The applicant is of the view that traffic growth at this junction may not be generated to the extent predicted. A draft Monitoring Strategy Framework has been prepared by the applicant. This would be used to ascertain whether the mitigation scheme proves necessary, and the comments of Wakefield Council on this draft strategy are awaited.
- 9.16 A related walking/cycling/riding assessment has been completed by the applicant. A road safety audit has also been prepared, and this may necessitate some amendments to the design of the scheme (a designer's response is yet to be completed). The principle of the scheme has, however, been accepted by the relevant authorities.
- 9.17 The proposed maximum mitigation scheme includes departures (from the Design Manual for Roads and Bridges standard) which would need to be agreed with Wakefield Council. No departures are proposed on the parts of the junction for which National Highways are responsible.
- 9.18 National Highways will maintain their holding objection (most recently renewed on 08/07/2022) in relation to this junction for the time being.
- 9.19 The mechanism for the delivery of the maximum mitigation scheme (in the event that it is needed) – be it a financial contribution or a conditioned delivery of works / Section 278 approach – is yet to be agreed with National Highways and Wakefield Council.

Shaw Cross junction

- 9.20 Major junction improvements are required at the Leeds Road / Challenge Way / John Ormesby VC Way junction (the Shaw Cross junction) to accommodate predicted traffic growth and the traffic of several developments in the surrounding area. A design for this improvement scheme has been prepared by the council, and was subsequently amended to include better provision for cyclists. The cost of this scheme was initially expected to be around £600,000. The planning permission for the HS47 allocated site (ref: 2019/92787) secured a £200,000 contribution towards this scheme, and the High Street / Challenge Way permission (ref: 2021/91871) secured a £40,307 contribution. Work on both those developments has commenced. Should outline permission be

granted for development at the Chidswell site, a further proportionate contribution (or delivery of works) would need to be secured. Noting the contributions already secured, the applicant intends to make up the difference in the cost of implementing the improvement scheme.

- 9.21 A planning application for the Shaw Cross junction improvement works is due to be submitted on behalf of the council in the near future. If approved, implementation of the scheme is expected in 2023 to 2025.

Other junctions in Kirklees

- 9.22 The applicant proposed road safety works and improvements for pedestrians and cyclists at the Leeds Road / Heybeck Lane / Soothill Lane junction. Of note, works were previously proposed at this junction in connection with the development of land off Soothill Lane (allocated site HS72) – a draft proposal was submitted under application ref: 2018/94189, and condition 8 of that permission (repeated as condition 8 of permission ref: 2020/94202) required further details of those works, however condition 8 was subsequently amended following the proposal of a more appropriate alternative mitigation scheme at this junction (condition 8 of permission ref: 2022/90889 now applies).

Other junctions outside Kirklees

- 9.23 To the north of the application site, within Leeds, the applicant proposes road safety works and improvements for pedestrians and cyclists at the Dewsbury Road / Syke Road / Rein Road junction.
- 9.24 No other junction improvement works are proposed within the adjacent boroughs (Leeds and Wakefield).

Site entrances

- 9.25 The applicant has completed road safety audits for the four proposed site entrances listed at paragraph 2.7 above, and designer's responses are being prepared. The applicant has advised that the road safety audits have identified no need for significant amendments, and that previous junction modelling would not be affected by the minor amendments that will need to be made.
- 9.26 Officers remain of the view that, while a new roundabout is to be created at the junction of the spine road and Owl Lane (as part of the development at the HS47 allocated site, ref: 2019/92787), a signalised junction (rather than a roundabout) is appropriate for the spine road's junction with Leeds Road. Similarly, priority or signalled junctions (rather than roundabouts) are considered appropriate for the other three proposed site entrances. Such junctions would enable better control of traffic flows, would provide better pedestrian access, would require less land, and would address topographical constraints.
- 9.27 Regarding the southernmost site entrance (proposed at Chidswell Lane), the requirements of site allocations HS47 and MXS7 are noted – these require the banning of right and left turns into the southern stretch of Chidswell Lane, which are requirements supported by Wakefield Council. The concern is that southwestbound drivers using the spine road may see queueing traffic at the new Owl Lane roundabout, and may decide to turn into Chidswell Lane to

reach Ossett and other destinations via Gawthorpe. There is a secondary concern that northbound drivers on Owl Lane may see queueing traffic at the new roundabout and may try to cut through Gawthorpe via Pickering Lane and Chidswell Lane. Wakefield Council officers have previously commented that the southern section of Chidswell Lane, due to its narrow carriageway and traffic calming, is not suited to take additional traffic.

- 9.28 Under application ref: 2019/92787, consideration was given to junction designs that would not significantly restrict access to the former Huntsman Inn, Boundary End Cottage and other properties on Chidswell Lane south of the spine road, that would not cause rat-running along Chidswell Lane between the spine road and Leeds Road, and that could be accommodated within existing highway land and land available within the two development sites. Officers favoured a simple T-junction (a crossroads is not considered appropriate here (except in relation to cycle traffic), and the stopping up of the section of Chidswell Lane between the spine road and Windsor Road is supported) with signs banning left and right turns. This is considered preferable to physical barriers, which would restrict access to existing properties (and some of the dwellings of the Owl Lane development, which would be accessed from Chidswell Lane), and would force residents to make unnecessarily long detours via the spine road, Owl Lane and Pickering Lane. It is considered that a signed solution would be compliant with the requirements of site allocations HS47 and MXS7, and would be sufficient to discourage rat-running down the southern section of Chidswell Lane. However, in relation to application ref: 2019/92787 it was recommended that the adequacy of this solution be monitored, and that physical measures (such as enforcement cameras and/or the provision of a plug prioritising northbound traffic) be considered at a later stage if the signed solution proves unsuccessful. Arrangements for, and contributions towards, this monitoring and subsequent measures (if required) were included in the Section 106 completed in connection with permission ref: 2019/92787.

Spine road

- 9.29 The proposed spine road would be a residential connector street (Type A) as per the Kirklees Highway Design Guide SPD, with a cross section of a 3m shared cycle/footway; a 2m verge; a 6.75m carriageway; a 2m verge; and a 3m shared cycle/footway. This would reflect the design of (and tie into) the section of spine road already approved under application ref: 2019/92787, and is considered to be an appropriate response to the guidance set out in Cycle Infrastructure Design – Local Transport Note 1/20 (LTN 1/20).
- 9.30 The need for, and relative benefits of, full separation of pedestrian and cyclist traffic has been given careful consideration, however it is considered that 3m wide shared cycle/footways, separated from the carriageway by a soft landscaped verge, are appropriate. Of note, this arrangement would segregate cyclists and pedestrians from the spine road's vehicular traffic, which would ensure much safer travel for those more vulnerable road users – the shared cycle/footways are expected to be used by slow-moving, less confident cyclists, including older people and children. Faster, more competent and confident cyclists are considered more likely to use the carriageway of the spine road (sharing that space with vehicular traffic), as their journey would not be interrupted by side streets.

- 9.31 For amenity, safety and placemaking reasons, HGVs would be excluded from the spine road, although buses may be present. A design speed of 25mph would inform the detailed design of the spine road, however a 30mph speed limit would be applied. The spine road would not be signed at either end as a through-route to Leeds or Ossett.
- 9.32 The spine road would be a significant infrastructure cost to the development, and it may not be possible for this cost to be fully met by the first phase of development alone. This may mean a number of dwellings would need to be completed and occupied (and accessed from Leeds Road via a northern section of the new spine road) before the spine road provides a complete connection between Owl Lane and Leeds Road.

Public transport

- 9.33 In their detailed comments of 18/12/2020, the West Yorkshire Combined Authority (WYCA) welcomed the applicant's proposal to allow bus access into the site, along the proposed spine road. Noting that Arriva are the main bus operator within the vicinity of the application site, WYCA advised:
- Bus route 202/203 – “MAX” service every 15 minutes between Leeds, Dewsbury and Huddersfield. Arriva are of the view that diversion of this service into the application site would not be appropriate.
 - Bus route 117/X17 – Arriva have advised that diverting this service into the site could be considered, however this would require additional funding.
 - Bus route 205 – Arriva have advised that diverting this limited service into the site could be considered.
- 9.34 WYCA additionally relayed Arriva's comment that, for a development of the size proposed, a service at least every 30 minutes (Monday to Saturday) and hourly during evenings and Sundays to local key trip generators would be appropriate. In this area Arriva recommend that a service every 30 minutes between Leeds and Dewsbury via White Rose shopping centre would be appropriate. By making some network alterations in the area, Arriva believe that costs could be reduced to around £300,000 per annum. WYCA invited the applicant to discuss a pump-prime funding solution which could enable a self-sustaining commercially viable service to become established after a short-term initial funding period.
- 9.35 The applicant has accepted the principle of contributing towards local bus services, however the precise nature and amount(s) of contribution(s) are yet to be agreed. The applicant met with Arriva in 2021, and reported that Arriva are agreeable to the possibility of buses entering and turning within the site as an interim measure while completion of the spine road is awaited.
- 9.36 Much of the application site is within 400m walking distance of existing bus stops on Heybeck Lane, Leeds Road, Chidswell Lane and Windsor Road. This means public transport would be reasonably accessible to residents of many of the proposed dwellings before new or diverted bus services are brought into the site. New bus stops along the proposed spine road would bring the majority of the proposed development within 400m walking distances, however dwellings within the easternmost edge of the site (south of Dogloitch Wood) would remain outside those walking distances.

Other highways and transport matters

- 9.37 Local and national policies and guidance adopted and published since 17/11/2020 have further highlighted the need for developments to be designed to enable the use of sustainable modes of transport. The creation of walkable neighbourhoods and provision for cycling are particularly important. The applicant's indicative masterplan makes good provision for pedestrians and cyclists, including in respect of walking-to-school routes, and movement between the proposed residential and employment uses. Further consideration of these routes and provisions would be carried out at Reserved Matters stage, if outline permission is granted.
- 9.38 As shown in the applicant's indicative masterplan, existing public footpaths would largely be retained (some minor diversions are proposed). Further consideration of these matters would be carried out at Reserved Matters stage, if outline permission is granted. Diversions of existing public rights of way would be subject to applications, fees and consultation under a legislative process separate to planning.

10.0 SUSTAINABILITY AND CLIMATE CHANGE

- 10.1 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. At pre-application stage, the applicant was advised to respond positively to the net zero carbon emission targets referred to earlier in this report. At application stage, an assessment is necessary to ascertain whether the proposed development would achieve net gains in respect of all three of the NPPF's sustainable development objectives.
- 10.2 The application site is considered to be 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 site is not within walking distance of a railway station, however Leeds Road is relatively well served by buses, and bus routes also operate along Heybeck Lane and Chidswell Lane (although the comments of Leeds City Council regarding these services being limited are noted). Chidswell, Shaw Cross and Woodkirk have a small number of shops (including a shop offering Post Office services), eating establishments, a church, pubs, petrol stations, social infrastructure, employment uses and other facilities, such that at least some of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 10.3 Since the submission of the current application, the council approved a Planning Applications Climate Change Guidance document which advises applicants to submit a Climate Change Statement with all applications. Effectively, the applicant had already done this – a Sustainability Statement was submitted with the current application, and the applicant has referred to sustainability and climate change in other submission documents. This is welcomed.

10.4 The applicant's Sustainability Statement looks at how the proposed development has responded to relevant national and regional sustainability policies, and provides an account of how the applicant team have considered and implemented sustainable design when formulating the current proposals. Efficient use of land and buildings, energy efficiency, sustainable transport, waste management, materials sourcing and recycling, built heritage and archaeology, flood risk, land use and ecology and pollution are examined. The report asserts that further information relevant to sustainability would be brought forward at later (Reserved Matters and conditions) stages, but concludes that, subject to those later details, the proposed development shall meet the sustainability requirements of local and national planning policy.

10.5 The application must demonstrate that the proposed development delivers net gains in respect of all three sustainable development objectives (economic, social and environmental). Assessment in relation to these three objectives is ongoing (and would continue into Reserved Matters and conditions stages, if outline permission is granted), however at this stage the following can be noted:

Economic sustainability

10.6 Economic sustainability can concern employment and training opportunities during the construction phase. The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant thresholds (housing developments which would deliver 60 dwellings or more, and employment developments delivering 3,500sqm or more of business or industrial floorspace), officers will be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements at outline stage – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.

10.7 Post-construction employment opportunities are relevant to the consideration of the proposed development's economic sustainability. With the inclusion of up to 122,500sqm of employment floorspace and the provision up to 2,500 new jobs, the proposed development has the potential to contribute significantly to the economic development of Kirklees and West Yorkshire. The related provision of post-construction training and apprenticeships could significantly contribute to the borough's skills base and economic resilience. The proposed location of employment uses relatively close to new and existing housing would create new opportunities for local employment (potentially minimising journey-to-work times), and residents of the development would have access (via the bus services of Leeds Road) to employment opportunities further afield. The provision of space for expansion (without having to relocate) of businesses within the site would be beneficial for sustainability and business continuity reasons.

Social sustainability

- 10.8 In relation to the proposed development's residential component, a significant element of social sustainability concerns the creation of places that people will want to live in and remain living in, and that are convivial and create opportunities for interaction and community building. Places offering low standards of residential amenity and quality are often inhabited by short-term and transient populations who do not put down roots – such places are less likely to foster a sense of community, civic pride and ownership. Design, residential amenity and quality, open space, community facilities and other relevant matters would be subject to further consideration at Reserved Matters stage, if outline permission is granted.
- 10.9 The inclusion of a two form entry primary school, a local centre and sports and leisure facilities would help ensure the proposed development would address social sustainability objectives by meeting at least some of the development's social infrastructure needs on-site. Other needs can be met through good integration with (and connections to) the surrounding neighbourhood, and planning obligations.

Environmental sustainability

- 10.10 The proposed development would involve the use of a large area of previously-undeveloped (greenfield) land. However, measures have been proposed, or would be secured, to ensure environmental objectives are met. A biodiversity net gain would need to be achieved. Extensive green and blue infrastructure is required to support the proposed development. As noted at pre-application stage, ample opportunity exists at this site to include significant, beneficial passive and active measures, such as solar gain, measures to facilitate and encourage the use of sustainable modes of transport, and decentralised energy. An on-site modular housing construction facility could also have benefits in relation to sustainability.
- 10.11 Renewable and low carbon energy proposals are encouraged by Local Plan policy LP26. Given the range of uses proposed at the allocated site, at pre-application stage (and in accordance with Local Plan policy LP26) officers advised that there was scope for the creation of a district heat or energy network for which provision (including leaving space for the future provision of an energy centre and pipework beneath footways) should be made at application stage, although it now must be noted that the higher Part L standards applicable since 15/06/2022 will reduce the potential energy savings that could have been achieved through district heating. Local Plan paragraph 12.11 refers to the heat mapping work already carried out for the Leeds City Region – the applicant was advised to refer to this work.
- 10.12 In the submitted Sustainability Statement the applicant proposes to explore the potential for a district heat network within the site at the detailed design stage, once the layout of the development has been established and the range of commercial property types and potential occupants are defined.
- 10.13 For a development at this site, of the scale proposed, transport is among the key considerations of relevance to sustainability assessment. Measures would be necessary to encourage the use of sustainable modes of transport, and to minimise the need to use motorised private transport. A development at this

site that was entirely reliant on the use of the private vehicle is unlikely to be considered sustainable. Further consideration of these matters is set out elsewhere in this position statement, however it is noted that the proposed development includes:

- Shared cycle/footways along the development's spine road;
- Other routes for pedestrians and cyclists throughout the proposed development;
- Provision for future routing of bus services along the spine road; and
- Implementation and monitoring of a travel plan.

10.14 In addition, detailed and tailored travel planning, and details of cycle storage and electric vehicle charging, would follow at Reserved Matters stage, if outline permission is granted.

10.15 Drainage and flood risk minimisation measures would need to account for climate change.

10.16 In light of the assessment set out above, it is considered that the proposal can be regarded as sustainable development, however further assessment of matters relevant to sustainability and climate change would be carried out at Reserved Matters stage (if outline permission is granted).

11.0 BIODIVERSITY AND ANCIENT WOODLANDS

11.1 The biodiversity designations reported in the previous position statement remain unchanged. These are:

- Biodiversity Opportunity Zone – Pennine Foothills (entire site);
- Habitat of Principal Importance (parts of the site);
- Site of Special Scientific Interest Impact Risk Zone (part of the site);
- Wildlife Habitat Network (parts of the site and adjacent);
- Local Wildlife Sites (adjacent, at Dogloitch Wood and Dum Wood); and
- Habitat-rich ancient replanted woodlands (adjacent, at Dogloitch Wood and Dum Wood).

11.2 In addition, several hedgerows within the site provide valuable habitats, and several trees within the site and nearby are subject to Tree Preservation Orders. Bats are known to be present in the area.

11.3 Chapter 15 of the NPPF, and policy LP30 of the Local Plan, remain applicable.

11.4 During the life of the current application, the council published its Biodiversity Net Gain Technical Advice Note, the Environment Act 2021 passed into UK law on 09/11/2021, and Natural England launched the Biodiversity Metric 2.0 in 2019 and the Biodiversity Metric 3.0 (the current applicable version) in 2021. On 02/08/2022 the Government began consultation on Biodiversity Metric 3.1. This consultation ended on 27/09/2022. If that latest version is adopted as the statutory metric in the near future, it would be appropriate for the applicant to refer to it, given that later Reserved Matters applications would be expected to use it.

- 11.5 Representations relating to biodiversity have been received from KC Ecology, the Yorkshire Wildlife Trust, Natural England, and from local residents. The Chidswell Action Group have submitted a document dated 06/03/2022 and titled “Chidswell Heybeck Climate Challenge” which includes commentary and raises questions regarding the proposed development’s impacts upon biodiversity. The Chidswell Action Group has also referred officers to the iNaturalist website to which residents have uploaded evidence of the presence of species (including kingfishers) within or close to the site.
- 11.6 It is noted that – given the age of the current application – the applicant’s ecological survey information is now four years old. Although further, up-to-date surveys would in any case be required at Reserved Matters (if outline permission is approved), the applicant has been asked to respond on this matter at outline stage.
- 11.7 In light of the above, the applicant has stated that the following is to be submitted:
- Bat surveys of the houses to be demolished;
 - Results of further site walkovers (to address concerns regarding the age of the applicant’s ecological surveys, and concerns regarding species not previously noted in the applicant’s submissions);
 - Details of proposed skylark plots (following further discussion with tenant farmers); and
 - Revised Biodiversity Net Gain assessment (using the latest adopted metric). Of note, the applicant believes a 10% net gain can be achieved on-site.
- 11.8 Once the above further information is received, further comments from consultees and local residents will be sought.
- 11.9 Further discussion has taken place with the applicant regarding public access to the ancient woodlands at Dogloitch Wood and Dum Wood, and the significant increase in the local population that would be brought about by the proposed development. Both areas of woodland are owned by the applicant, but are within the tenancies of the adjacent farms. Both are informally used by local residents for leisure, play, enjoyment of nature, and dog walking. Public rights of way run along some of the edges of the woodlands, but not through them. The following options have been considered:
- Uncontrolled access to the woodlands – This would enable continued use by existing and new residents, however given the anticipated increase in the nearby population, this could result in significant harm to the woodlands.
 - Prohibition of access – This would be of benefit to the woodlands and their biodiversity, however it would reduce residents’ opportunities to access nearby leisure and nature assets, may prove unpopular with local residents, may be ignored, and would create new enforcement responsibilities.
 - Controlled access to the woodlands – This would not be without risk, but could limit harm while maintaining access and the related benefits to the public.

- 11.10 Officers are of the view that controlled access to the woodlands would be the most preferable and realistic way forward. This controlled access could be managed in accordance with details submitted pursuant to Section 106 obligations. These may include details of permissive routes through the woodlands (possibly following the already-trodden routes, unless there are biodiversity and arboricultural reasons for not doing so), and details of any necessary signage and fencing. No-go areas, dog waste bins and interpretation may also be appropriate. In their comments of 17/12/2020, the Forestry Commission recommended that any such woodland management be carried out in accordance with the UK Forestry Standard, and that the use of a Forestry Commission Standard Management Plan be considered. All woodland management proposals would need to be based on a thorough understanding of the biodiversity and arboricultural value of the woodlands. Provision for monitoring of impacts, and remediation (should problems arise) would also need to be included in the details.
- 11.11 Concern has been expressed regarding the risk of the proposed development lowering the area's water table, drying out the land beneath the adjacent ancient woodlands, and harming them and their biodiversity. While it is accepted that this could occur where extensive development involves introducing hard surfaces to previously-permeable land (and where geology and topography are factors), at the Chidswell site the applicant is proposing 20m buffers adjacent to the ancient woodlands, as well as significant areas of green space. Furthermore, the adjacent ancient woodlands would not be left perched on higher land while land around it is lowered and hard surfaced.

12.0 SECTION 106 AND VIABILITY MATTERS

- 12.1 The following draft Heads of Terms (regarding matters to be included in Section 106 agreements, should outline planning permission and Reserved Matters approvals be granted) have been discussed with the applicant:
- Highway capacity/improvement/other works
 - M62 junction 28 capacity improvement.
 - M1 junction 40 capacity improvement.
 - Shaw Cross junction works.
 - Other capacity/improvement works (subject to ongoing consultation with Highways Development Management officers, Leeds City Council and Wakefield Council).
 - Other Section 278 works, including at Dewsbury Road / Syke Road / Rein Road junction.
 - Delivery of spine road, and arrangements to secure its adoption.
 - Monitoring of left-turn movements into Chidswell Lane from spine road, and implementation of works if signed restriction proves ineffective.
 - Sustainable transport
 - Securing of a Dewsbury-Leeds bus route along spine road, 30-minute frequency Monday to Friday (all day), hourly frequency at weekends (all day), for five years, commencing at date to be agreed (a number of dwellings near to existing bus stops can be occupied prior to bus route being provided).
 - Travel Plan implementation and monitoring including fees – normally £15,000 (£5,000 for three years), however a more nuanced approach to travel planning and monitoring would be appropriate at Reserved Matters stage.

- Other measures to encourage the use of sustainable modes of transport.
- Other infrastructure works and provision – commitment to investigate potential for decentralised energy, and implement.
- Education
 - Provision of land and funding for a two form entry primary school. Delivery trigger likely to relate to completion of a certain number of dwellings. Responsibility for delivery to be clarified.
 - Secondary education contribution of £2,257,029 (to be reviewed as more detail of unit size mix is known).
 - Early years and childcare provision – details of size, timing, and delivery method to be confirmed.
- Open space, including sports and recreation and playspaces – including sum based on SPD methodology (instead of Sport England’s methodology), and on-site provision (to be confirmed at Reserved Matters stage) may further reduce contribution. Site-wide strategy required to ensure provision across all phases/parcels/Reserved Matters applications is co-ordinated.
- Affordable housing – 20% of 1,354 dwellings would be 271 (149 social/affordable rent, 122 intermediate).
- Local centre (including community facilities) – arrangements to ensure buildings/floorspace is provided, and details of size, timing, uses and location to be clarified.
- Employment element – arrangements to enable development, including funding of infrastructure and development plateaux, in lieu of early delivery.
- Placemaking – site-wide strategy including design principles, coding and other arrangements to ensure high quality, co-ordinated development that appropriately responds to existing guidance including Housebuilders Design Guide SPD.
- Air quality – contribution (amount to be confirmed) up to the estimated damage cost to be spent on air quality improvement projects within the locality.
- Biodiversity – contribution (amount to be confirmed once applicant’s calculations are updated) towards off-site measures to achieve biodiversity net gain (if 10% can’t be achieved on-site).
- Management – 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. May include street trees if not adopted.
- Drainage – management company to manage and maintain surface water drainage until formally adopted by the statutory undertaker. Establishment of drainage working group (with regular meetings) to oversee implementation of a site-wide drainage masterplan.
- Ancient woodland – management plan (and works, if required) for public access to Dum Wood and Dogloitch Wood (outside application site, but within applicant’s ownership).

12.2 The applicant provided an initial response to the draft Heads of Terms on 11/05/2022. Discussion regarding these matters is ongoing. It is possible that some of the above matters may be more appropriately secured by condition, rather than via a Section 106 agreement.

- 12.3 During the life of the current application, the applicant commissioned consultants Bentley and Savills to carry out further assessments of costs and to then prepare a development appraisal with the intention of establishing whether development of the site would be financially viable, taking into account the further site investigation work carried out at the end of 2021, and the above-listed planning obligations. As part of this appraisal, Savills made reasonable assumptions regarding profit and the site's existing use value, and a uniform 20% affordable provision was applied to every residential phase.
- 12.4 On 22/07/2022 the applicant confirmed that the proposed development was indeed viable, and that the required planning obligations could indeed be provided. However, that viability was dependent upon flexibility being applied in respect of the timing of some of the more costly planning obligations. One key cost relates to the provision of the two form entry primary school which is required under site allocation MXS7. Based on the applicant's indicative programme and having regard to up-to-date Number on Roll forecasts, the need for this school is likely to be triggered when between 279 and 387 dwellings are occupied, which may happen in or around the year 2029. With the cost of the school likely to be at least £10m, this is a major piece of social infrastructure required relatively early on in the programme, before receipts from the sale of the majority of the residential element have been collected. In early phases, sales income would be low, but mitigation costs would be high. The provision of the school at this stage adversely affects viability early on in the programme, not only during the first phase (where the applicant is willing to accept a lower profit level) but also beyond.
- 12.5 In light of the applicant's viability findings and in response to officer requests, the applicant tested various scenarios involving later provision of other contributions (such as certain highway works and open space provision, although the applicant has advised that there is little scope for postponing and/or bringing forward the various provisions), and moving greater proportions of affordable housing to later phases (which the applicant would rather not do). The applicant also tested the council's revised affordable housing transfer values, which are currently being consulted on in a draft Affordable Housing and Housing Mix SPD. Having run these further tests, however, the applicant again concluded that the primary school could not be delivered when needed – instead, it could be provided once approximately 750 dwellings are delivered (at the earliest).
- 12.6 These discussions are ongoing, and it is possible that the applicant may be able to identify savings in the cost of delivering the school (which may enable its earlier provision) if it is built by the applicant's developer partner, and once the applicant has assessed the council's primary school specification.
- 12.7 Notwithstanding this pending further testing, it is likely that Members will be asked to consider what, if any, postponement of provisions could be accepted in order to enable the delivery of housing and employment development at this strategic site.

13.0 OTHER PLANNING MATTERS

- 13.1 Gawthorpe Water Tower was added to the statutory list by Historic England on 04/12/2020. This striking and much-loved local landmark is now Grade II listed for the following principal reasons:

Architectural interest:

- *it has a strikingly elegant neoclassical design executed in reinforced concrete that is atypical in its level of detailing and aesthetic treatment;*
- *it is a prominent landmark structure that makes a strong architectural statement reflecting civic pride;*
- *it compares favourably with other listed water towers nationally and is a distinguished example of a municipal water tower.*

Historic interest:

- *it is an important physical reminder of the significant advancements in health and sanitation made in the latter half of the C19 and early C20, and developments in public water supply provision.*

- 13.2 The tower is located approximately 90m away from the application site's red line boundary, and stands on land approximately 125m AOD.
- 13.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to have special regard to the desirability of preserving the nearby listed building, its setting and any features of special architectural or historic interest which it possesses. Furthermore, paragraphs 199 and 200 of the NPPF state that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), and that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Local Plan policy LP35 states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset.
- 13.4 The proposed development would result in the loss of part of the open agricultural landscape to the northeast of the water tower, however it is considered that this would not diminish the architectural and aesthetic interest of the building, which is best appreciated from within its immediate environs to the west of Chidswell Lane. The topography of the application site, sloping in a northeasterly direction away from the water tower, in combination with the low massing of the nearest residential properties proposed, would ensure that the water tower remains a prominent feature along the course of Chidswell Lane. In addition, the water tower would remain prominent in the long ranging views available from the neighbouring villages to the east where the water tower would be visible above the low massing of the residential properties proposed within the southwestern part of the application site. The appreciation of the water tower's distinctive design and prominence as a landscape feature would largely be retained, and the proposed extension of the built-up area towards the water tower would not significantly diminish the architectural or historic interest of the structure as a heritage asset.
- 13.5 The proposed development would cause minimal harm to the setting of Gawthorpe Water Tower. KC Conservation and Design have identified this harm as less than substantial. Paragraph 202 of the NPPF states that such harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 13.6 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. The SoS would only call in the application if the Strategic Planning Committee resolved to grant permission.
- 13.7 The points raised by the solicitor acting for the Chidswell Action Group (letter dated 29/04/2021) are noted. Regarding the fact that two outline applications have been submitted by the applicant, it must be noted that any applicant or developer of a large site is free to submit several applications at the same time for different parts of their site – there is nothing in planning law to stop them doing this. What is important, however, is how these applications are then assessed. At Chidswell, the two applications (and the impacts of both proposals) are being considered together, including in relation to Environmental Impact Assessment (EIA). This is not an unusual scenario, and the council already has experience of assessing such applications at other sites. A separate EIA Environmental Statement (ES) did not need to be submitted for the Heybeck Lane site.
- 13.8 National Grid have submitted a holding objection. Clarification regarding the proposed development would need to be submitted to National Grid to address the objection.

14.0 NEXT STEPS

- 14.1 A significant volume of further information was submitted by the applicant after the council carried out its consultation in August 2020. Reconsultation is therefore considered necessary before the council makes a decision on applications 2020/92331 and 2020/92350.
- 14.2 Following that reconsultation and consideration of the responses to it, the applications will be brought back to the Strategic Planning Committee for determination. Comprehensive committee reports – including assessments of all relevant planning issues – will be provided at that stage.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 06-Oct-2022

Subject: Planning Application 2020/92350 Outline application for residential development (Use Class C3) of up to 181 dwellings, engineering and site works, demolition of existing property, landscaping, drainage and other associated infrastructure Land south of, Heybeck Lane, Chidswell, Shaw Cross, Dewsbury

APPLICANT
C C Projects

DATE VALID
22-Jul-2020

TARGET DATE
21-Oct-2020

EXTENSION EXPIRY DATE
08-Jan-2021

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

[Public speaking at committee link](#)

LOCATION PLAN



Maps not to scale – for identification purposes only

Electoral wards affected: Batley East

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

Members to note the contents of this report for information.

1.0 INTRODUCTION

- 1.1 This application is presented to the Strategic Planning Committee as the proposals are for a major mixed-use development, including more than 60 residential units.
- 1.2 The council's Officer-Member Communication Protocol provides for the use of position statements at Planning Committees. A position statement sets out the details of an application, the consultation responses and representations received to date, and the main planning issues relevant to the application.
- 1.3 Members of the Committee are invited to comment on the main planning issues to help and inform ongoing consideration of the application, and discussions between officers and the applicant. This position statement does not include a full assessment of the proposals or formal recommendations for determination. Discussion relating to this position statement would not predetermine the application and would not create concerns regarding a potential challenge to a subsequent decision on the application made at a later date by the Committee.
- 1.4 This position statement relates to an application for outline planning permission (ref: 2020/92350) and accompanies another outline application (ref: 2020/92331) relating to adjacent land. Both applications were submitted by the same applicant, and both relate to allocated site MXS7.
- 1.5 A position statement relating to these proposals was considered by the Strategic Planning Committee on 11/07/2019, at pre-application stage (refs: 2018/20077 and 2018/20078). A further position statement relating to the two planning applications was considered by the committee on 17/11/2020.

2.0 PROPOSALS

- 2.1 The proposals remain largely unchanged since 17/11/2020. Under this application (which relates to the smaller (Heybeck Lane) part of the allocated site), the applicant proposes the demolition of an existing dwelling at 39 Hey Beck Lane, and a residential development of up to 181 dwellings, engineering and site works, landscaping, drainage and other associated infrastructure.
- 2.2 A single vehicular entrance is proposed off Heybeck Lane. Other connections (for pedestrians and cyclists) would be created to the south and east.

- 2.3 An existing public right of way would be retained, and new footpaths, footways and cycle routes would be created throughout the site.
- 2.4 The applicant's indicative plans show public open spaces, a playspace, treeplanting and soft landscaped areas.
- 2.5 Access is the only matter not reserved.
- 2.6 The applicant has submitted a parameter plan showing maximum building heights, a 20m wide woodland buffer zone and a sewer easement.
- 2.7 Development proposed under application ref: 2020/92331 is described in the accompanying position statement.

3.0 UPDATES SINCE 17/11/2020

- 3.1 The accompanying position statement relating to application ref: 2020/92331 provides updates regarding the site's context, planning policy and guidance, representations, consultation responses, and the applicant's amendments and further information. Where relevant information is specific to application ref: 2020/92350 and differs to that relevant to application ref: 2020/92331, it is set out here in this position statement.

4.0 REPRESENTATIONS

- 4.1 Details of representations received from local residents were provided in the previous position statement.
- 4.2 After 17/11/2020, in addition to the five further representations from the Chidswell Action Group (referred to in the accompanying position statement relating to application ref: 2020/92331), a representation was received from a local resident, raising concerns regarding the use of heavy machinery at the application site.

5.0 CONSULTATION RESPONSES

- 5.1 The following consultee responses were received after 17/11/2020:

5.2 Statutory

- 5.3 National Highways (formerly Highways England) – Agree that the traffic impact from the smaller Heybeck Lane site (ref: 2020/92350) does not, as a standalone site, trigger the requirement for mitigation at motorway junctions. It is only when this is considered cumulatively with the larger Leeds Road site (ref: 2020/92331) that this requirement is triggered. Holding objection maintained until further travel planning work is completed.

5.4 Non-statutory

- 5.5 KC Education – Secondary school contribution of £223,957 required.
- 5.6 KC Highways Development Management – Advice provided throughout discussions.

- 5.7 KC Landscape – Comments made on indicative layout. Measured areas required for each open space typology. 181 dwellings triggers the need for a Local Equipped Area of Play (LEAP). Details of landscaping, management and maintenance, street trees and ecological measures would be required at Reserved Matters stage.
- 5.8 West Yorkshire Combined Authority – See position statement for application ref: 2020/92331.

6.0 PHASING AND DELIVERY

- 6.1 Of relevance to delivery, the applicant chose to submit two applications for outline planning permission – one for the larger (Leeds Road) part of the site, and one for up to 181 dwellings proposed at the north (Heybeck Lane) end of the site. This was intended to respond to a query raised by the Local Plan Inspector as to whether early delivery of housing at part of the site could be demonstrated.
- 6.2 Subject to planning permission being granted, the residential units at the Heybeck Lane site can (and are likely to) be delivered early in the development programme, due to this phase being less reliant on key infrastructure proposed elsewhere within the allocated site.

7.0 HIGHWAYS AND TRANSPORT

- 7.1 The applicant's proposals for the Heybeck Lane are co-ordinated with (and are not entirely separable from) those for the larger Leeds Road site (see application ref: 2020/92331). The Heybeck Lane site does, however, benefit from a degree of self-containment, as it could be served via an independent vehicular access from Heybeck Lane.
- 7.2 Where the proposed c181 units – considered in isolation – would not cause highway impacts requiring mitigation, their contribution towards cumulative impacts must still be addressed. As with the Bradley Villa Farm application (ref: 2021/92086, recently considered by the Strategic Planning Authority, where a 277-unit development did not necessitate mitigation at some junctions but would contribute towards cumulative impacts as and when the rest of the HS11 allocated site is developed), the c181-unit development proposed at the Heybeck Lane site would similarly be expected to make a proportionate contribution towards mitigation at certain junctions, particularly junction 28 of the M62. That contribution would be calculated with reference to the c181-unit development's share of the cumulative impact caused by this and other developments at the larger Leeds Road site, and at the Haigh Moor and Capitol Park sites.
- 7.3 In addition, the c181-unit development proposed at the Heybeck Lane site would need to mitigate any highway impacts it directly causes.
- 7.4 The design of the proposed vehicular site entrance on Heybeck Lane is undergoing assessment. A road safety audit and designer's response have been prepared by the applicant.

7.5 The indicative internal layout submitted by the applicant raises no fundamental highway concerns at this stage, however further assessment would be necessary at Reserved Matters stage, should outline planning permission be granted.

7.6 All of the Heybeck Lane site would be within a 400m walking distance of existing bus stops on Leeds Road and Heybeck Lane.

8.0 SECTION 106 AND VIABILITY MATTERS

8.1 The following draft Heads of Terms (regarding matters to be included in Section 106 agreements, should outline planning permission and Reserved Matters approvals be granted) have been discussed with the applicant:

- Highway capacity/improvement/other works
 - M62 J28 capacity improvement.
 - M1 J40 capacity improvement.
 - Shaw Cross junction works.
 - Other capacity/improvement works (subject to ongoing consultation with Highways Development Management officers and Leeds City Council).
 - Other Section 278 works, including at Dewsbury Road / Syke Road / Rein Road junction.
- Sustainable transport
 - Travel Plan implementation and monitoring including fees – normally £15,000 (£5,000 for three years), however a more nuanced approach to travel planning and monitoring would be appropriate at Reserved Matters stage.
 - Other measures to encourage the use of sustainable modes of transport.
- Other infrastructure works and provision – commitment to investigate potential for decentralised energy, and implement.
- Education
 - Proportionate contribution towards provision of a two form entry primary school.
 - Secondary education contribution of £223,957 (to be reviewed as more detail of unit size mix is known).
 - Proportionate contribution towards early years and childcare provision.
- Open space, including sports and recreation and playspaces – including sum based on SPD methodology (instead of Sport England's methodology), and on-site provision (to be confirmed at Reserved Matters stage) may further reduce contribution. Site-wide strategy required to ensure provision across all phases/parcels/Reserved Matters applications is co-ordinated.
- Affordable housing – 20% of 181 dwellings would be 36 (20 social/affordable rent, 16 intermediate).
- Employment element – pro-rata contribution towards enabling works.
- Placemaking – site-wide strategy including design principles, coding and other arrangements to ensure high quality, co-ordinated development that appropriately responds to existing guidance including Housebuilders Design Guide SPD.

- Air quality – contribution (amount to be confirmed) up to the estimated damage cost to be spent on air quality improvement projects within the locality.
- Biodiversity – contribution (amount to be confirmed once applicant's calculations are updated) towards off-site measures to achieve biodiversity net gain (if 10% can't be achieved on-site).
- Management – 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. May include street trees if not adopted.
- Drainage – management company to manage and maintain surface water drainage until formally adopted by the statutory undertaker. Establishment of drainage working group (with regular meetings) to oversee implementation of a site-wide drainage masterplan.
- Ancient woodland – management plan (and works, if required) for public access to Dum Wood and Dogloitch Wood (outside application site, but within applicant's ownership).

8.2 The applicant provided an initial response to the draft Heads of Terms on 11/05/2022. Discussion regarding these matters is ongoing. It is possible that some of the above matters may be more appropriately secured by condition, rather than via a Section 106 agreement.

8.3 Commentary regarding the applicant's development appraisal, and its implications for the timings of mitigation delivery, is set out in the position statement for application ref: 2020/92331.

9.0 OTHER PLANNING MATTERS

9.1 The Heybeck Lane site abuts the ancient woodland at Dum Wood. Commentary regarding public access to the woodland (set out in the position statement for application ref: 2020/92331) is of relevance to this application.

9.2 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. The SoS would only call in the application if the Strategic Planning Committee resolved to grant permission.

9.3 The points raised by the solicitor acting for the Chidswell Action Group (letter dated 29/04/2021) are noted. Regarding the fact that two outline applications have been submitted by the applicant, it must be noted that any applicant or developer of a large site is free to submit several applications at the same time for different parts of their site – there is nothing in planning law to stop them doing this. What is important, however, is how these applications are then assessed. At Chidswell, the two applications (and the impacts of both proposals) are being considered together, including in relation to Environmental Impact Assessment (EIA). This is not an unusual scenario, and the council already has experience of assessing such applications at other sites. A separate EIA Environmental Statement (ES) did not need to be submitted for the Heybeck Lane site.

10.0 NEXT STEPS

- 11.1 A significant volume of further information was submitted by the applicant after the council carried out its consultation in August 2020. Reconsultation is therefore considered necessary before the council makes a decision on applications 2020/92331 and 2020/92350.

- 11.2 Following that reconsultation and consideration of the responses to it, the applications will be brought back to the Strategic Planning Committee for determination. Comprehensive committee reports – including assessments of all relevant planning issues – will be provided at that stage.

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