

# Public Document Pack



**Service Director – Legal, Governance and  
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Wednesday 30 November 2022

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **9.30 am** on **Thursday 8 December 2022**.

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

(A coach will depart the Town Hall, at **9.30 a.m. on Tuesday 6<sup>th</sup> December** to undertake site visits).

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

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

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

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

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

### **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

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of the Previous Meeting**

1 - 8

To approve the minutes of the meeting of the Committee held on 3<sup>rd</sup> November 2022.

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**3: Declaration of Interests and Lobbying**

9 - 10

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

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**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.

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**5: Public Question Time**

To receive any public questions in accordance with Council Procedure Rule 11.

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**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.

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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.

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## 7: Planning Applications

11 - 12

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

Members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than **Monday 5<sup>th</sup> December 2022**.

To register, please email [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) or phone **Sheila Dykes, Richard Dunne or Andrea Woodside** on 01484 221000 (Extensions 73896 / 74995 / 74993).

Please note that, in accordance with the Council's Protocol for Speaking at Planning Committees:

- Verbal representations are limited to three minutes per person.
- The number of people who will be allowed to speak is at the Chair's discretion, and his/her decision is final.
- If there is a large number of attendees who wish to comment on the same application, the Chair may ask the group involved to organise representatives so that the case for/against may be put collectively. This is to avoid undue repetition and to ensure that there is sufficient time available for the Committee to discuss the applications.

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.

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## 8: Site Visit - Application No. 2020/92307

Outline application, including the consideration of access, for erection of residential development (up to 75 units) - Penistone Road/, Rowley Lane, Fenay Bridge, Huddersfield.

(Estimated time of arrival on site: 9:50 a.m. 6/12/22)

Contact: Nick Hirst, Planning Services

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**9: Planning Application - Application No. 2020/92331**

13 - 94

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 (amended and further information received) - Land east of Leeds Road, Chidswell, Shaw Cross, Dewsbury.

Ward(s) affected: Batley East and Dewsbury East

Contact: Victor Grayson, Planning Services

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**10: Planning Application - Application No: 2020/92350**

95 - 122

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 (amended and further information received) - Land south of Heybeck Lane, Chidswell, Shaw Cross, Dewsbury.

Ward(s) affected: Batley East

Contact: Victor Grayson, Planning Services

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**Note: The following items will be considered in the afternoon and will not commence before 1.00 p.m.**

**11: Planning Application - Application No. 2020/92307**

123 -  
168

Outline application, including the consideration of access, for erection of residential development (up to 75 units) - Penistone Road/, Rowley Lane, Fenay Bridge, Huddersfield.

Ward(s) affected: Almondbury

Contact: Nick Hirst, Planning Services

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**12: Planning Application - Application No. 2021/90800** 169 - 212

Redevelopment and change of use of former mill site to form 19 residential units (within a Conservation Area) - Hinchliffe Mill, Water Street, Holmbridge, Holmfirth.

Ward(s) affected: Holme Valley South

Contact: Richard A Gilbert, Planning Services

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**13: Planning Application - Application No. 2022/92718** 213 - 228

Demolition of fire training building, extension and landscaping of RTC yard, including erection of fuel pump and tank, bin store and dog kennels, recladding of the BA building and erection of an enclosed link between BA and TRTC, provision of a new sub-station and new boundary treatments, retaining and landscaping works - Oakroyd Hall, West Yorkshire Fire and Rescue Service Headquarters, Bradford Road, Birkenshaw.

Ward(s) affected: Birstall and Birkenshaw

Contact: Callum Harrison, Planning Services

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**14: Planning Application - Application No. 2022/92651** 229 - 244

Use of land as 'glamping site' with 6 glamping pods with decking, alterations to access to Moor Lane with formation of access road and parking areas, change of use of stables to form gym and Class E shop and café, installation of package treatment system - Moorgate Farm, Moor Lane, Netherthong, Holmfirth.

Ward(s) affected: Holme Valley South

Contact: William Simcock, Planning Services

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### **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 3rd November 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 6<sup>th</sup> October 2023 be agreed as a correct record.
- 3 **Declaration of Interests and Lobbying**  
Councillors Hall and Pinnock advised that they had been lobbied in respect of Application No.2022/91849.
- 4 **Admission of the Public**  
It was noted that all items were to be considered in public session.
- 5 **Public Question Time**  
No questions were asked.
- 6 **Deputations/Petitions**  
No deputations or petitions were received.
- 7 **Planning Applications**
- 8 **Site Visit - Application No. 2021/93689**  
Site visit undertaken.
- 9 **Site Visit - Application No. 2022/92355**  
Site visit undertaken.

**10 Planning Application - Application No: 2021/93689**

The Committee considered Application No. 2021/93689, a hybrid application for full planning permission for engineering works, drainage and utilities connection for the provision of site access from Forge Lane and Ravensthorpe Road and associated works; and for outline permission for erection of residential development and mixed use development (including community facilities) with associated works including the provision of internal estate roads and parking, landscape works (including provision of public open space, tree clearance/replacement/woodland management and ecological management) and sustainable urban drainage works drainage principles on land to the south of Ravensthorpe Road / Lees Hall Road, Dewsbury.

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

Under the provisions of Council Procedure Rule 37, the Committee received representations from Mr Hussain, Mr Kadu and Mr Ismail (local residents and users of Lees Hall Community Centre) and representatives of Lees Hall Playgroup.

**Resolved –**

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

*Outline conditions*

1. Standard outline condition (approval of reserved matters prior to commencement).
2. Standard outline condition (implementation in accordance with approved reserved matters).
3. Standard outline condition (reserved matters submission time limit – within three years of outline approval).
4. Standard outline condition (reserved matters implementation time limit – within two years of reserved matters approval).
5. Development in accordance with plans and specifications.
6. Completion of a Section 106 prior to commencement, securing:
  - 20% affordable housing, and details including tenure split, locations, designs, unit size mix and delivery.
  - Off-site open space contribution to address shortfalls in specific open space typologies (if necessary).
  - Education and childcare contributions (to be reviewed at reserved matters stage when number of units is confirmed and full unit size mix is known).
  - Formula-based contribution towards off-site highway works at the Forge Lane / Station Road / Thornhill Road junction.
  - Contribution towards junction improvements at Calder Road / Huddersfield Road junction (£80,000).
  - Contribution towards monitoring of parking on Lees Hall Road and funding to enable additional “no waiting” restrictions (if necessary).
  - Sustainable Travel Fund contribution (£179,025).
  - Public transport improvement contribution.
  - Travel Plan monitoring contribution (£15,000).



## Strategic Planning Committee - 3 November 2022

- Biodiversity net gain contribution (if necessary).
  - Drainage management and maintenance arrangements, and establishment of a HS61-wide drainage working group.
  - Agreement to enable adjacent development, and to not create and/or exploit ransom scenarios.
  - Arrangements for the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, including open space.
7. Travel Plan (including residential and non-residential components) to be submitted.
  8. Flood risk and drainage – full scheme to be submitted.
  9. Separate systems of foul and surface water drainage to be provided.
  10. Ecological mitigation and enhancement details (including an Ecological Design Strategy, and measures to address impacts on birds including ground-nesting farmland birds), revised biodiversity net gain assessment (including river assessment) and details of mitigation and delivery measures to be submitted.
  11. Air quality mitigation measures to be submitted.
  12. Further noise assessment and mitigation measures to be submitted.
  13. Contaminated land – phase II intrusive site investigation report to be submitted.
  14. Contaminated land – remediation strategy to be submitted.
  15. Contaminated land – remediation strategy to be implemented.
  16. Contaminated land – validation report to be submitted.
  17. Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted, including assessment of safety risks (and, where necessary, remediation) relating to coal mining legacy in Lady Wood.
  18. Archaeological site investigation.

### *Full conditions*

19. Development to commence within three years.
20. Development in accordance with plans and specifications.
21. Construction (Environmental) Management Plan to be submitted.
22. Temporary (construction phase) drainage measures to be submitted.
23. Provision of site entrance and visibility splays prior to works commencing.
24. Details of replacement community facilities to be approved prior to commencement. Forge Lane / Lees Hall Road junction to be completed and replacement community facilities to be provided prior to occupation of more than 150 dwellings.
25. Details (including road safety audits and arrangements for implementation under Section 278) of Forge Lane / Lees Hall Road junction works to be submitted.
26. Details (and arrangements for implementation under Section 278) of yellow box markings be provided at the Vicarage Road / Savile Road junction, and pedestrian refuge island on Ravensthorpe Road.
27. Details (including road safety audits and approval under Section 38) of internal highways to be submitted.
28. Details of design, implementation, maintenance and retention of works to public rights of way to be submitted.

## Strategic Planning Committee - 3 November 2022

29. Arboricultural Impact Assessment and Method Statement to be submitted.
30. Tree protection measures to be submitted.
31. Restriction on timing of removal of hedgerows, trees and shrubs.
32. Details of landscaping to be submitted.
33. Ecological mitigation and enhancement details (including an Ecological Design Strategy, and measures to address impacts on birds including ground-nesting farmland birds), revised biodiversity net gain assessment (including river assessment) and details of mitigation and delivery measures to be submitted.
34. Contaminated land – phase II intrusive site investigation report to be submitted.
35. Contaminated land – remediation strategy to be submitted.
36. Contaminated land – remediation strategy to be implemented.
37. Contaminated land – validation report to be submitted.
38. Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
39. Archaeological site investigation.

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

For: Councillors Armer, Davies, Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

Against: (0 votes)

### 11 **Planning Application - Application No: 2022/92355**

The Committee considered Application No.2022/92355 in respect of the erection of an enclosure of an existing ménage at Bradshaw Road Stables, Bradshaw Road, Honley, Holmfirth.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Hamish Gledhill (agent) and Chris Charlesworth (in support).

#### **Resolved –**

That the application be refused for the following reasons:

The proposed development would constitute inappropriate development within the Green Belt since it would be the erection of a building which does not meet any of the exceptions in paragraph 149 of the National Planning Policy Framework. It would cause significant harm to the openness of the Green Belt and would undermine the purposes of including land within it, in particular paragraph 138(c), in that it would amount to an encroachment of built development into open countryside. It is considered that the benefits of the new building would not constitute “very special circumstances” that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to its openness.

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

For: Councillors Armer, P Davies, S Hall and A Pinnock (4 votes)

Against: Councillors Pattison, Sokhal and Thompson (3 votes)

**12 Planning Application - Application No: 2022/91849**

The Committee considered Application No.2022/91849 in respect of a variation of Condition 21 (highways and occupation) on previous outline permission 2016/92298 for the re-development of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8) at the former North Bierley Waste Water Treatment Works, Cliff Hollins Lane, Oakenshaw.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from James Hicks (the agent).

**RESOLVED –**

- 1) That 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, as set out below:
    1. Reserved matters to be submitted prior to commencement
    2. Reserved matters to be submitted to the Local Planning Authority and carried out per plans
    3. Reserved matters time limit for submission
    4. Reserved matters time limit to commence
    5. Phasing plan to be submitted
    6. Biodiversity Enhancement and Management Plan to be submitted
    7. Construction Ecology Management Plan to be submitted
    8. Construction Environment Management Plan to be submitted
    9. Lighting Design Strategy for Biodiversity to be submitted
    10. Sewer easement
    11. Access to Moorend combined sewer overflow and syphon sewer details
    12. Separate foul and surface water required
    13. Drainage details to be submitted
    14. Outfall details to be provided
    15. Development done in accordance with Flood Risk Assessment
    16. Coal working site investigations
    17. Layout and landscape reserved matters to include consideration of coal working investigations
    18. Layout and landscape reserved matters to include Arboricultural Survey and Method Statements
    19. Layout and landscape reserved matters to include treatment of PROW on site
    20. Limiting floorspace constructed to 17,642m<sup>2</sup> until given highway works are approved or Highway England works undertaken
    21. No more than 21,882m<sup>2</sup> of floorspace shall be occupied and come into use until either:
      - a. the highways works on the Bradford Road approach to M62 Junction 26 Chain Bar, identified in Condition 20) a) are implemented and open to traffic to Kirklees Council's approval in consultation with Highways England; or

## Strategic Planning Committee - 3 November 2022

- b. the improvement scheme to remove M62 westbound to M606 northbound traffic from the M62 Junction 26 Chain Bar roundabout circulatory carriageway is implemented by Highways England
22. Development restricted to the areas shown on plateau plan
  23. Reserved matters shall include a 'Residual Uncertainty Assessment' in relation to flood risk
  24. Reserved matters to include surface water disposal strategy
  25. Before occupation, SUDS features management, maintenance, and adoption to be submitted
  26. Temporary surface water details to be provided
  27. Prior to occupation, confirmation of highway works to be provided (improvements to Mill Carr Hill Road and Cliff Hollins Lane)
  28. Fixed mechanical services and plan to be noise controlled.
  29. Layout and landscape reserved matters to include noise attenuation
  30. Unexpected contamination procedure
  31. Layout and landscape reserved matters to include low emission and charging point details
  32. Limitation on B2 and total floor space
- b) secure a Section 106 agreement to cover the following matters:  
A deed of variation, which ties the Section 106 obligations from 2016/92298, the original consent, to the new Section 73 consent.  
(For reference, the original contributions were:  
A. All off site associated highway works approved under s278 to be completed and made operational prior to any part of the commercial development on this application site being brought into use  
B. A financial contribution of £71,370 (calculated damage costs) to be used towards air quality mitigation measures within the vicinity of the site in the absence of detailed low emission projects equating to the identified damage costs or above, being submitted at reserved matters stage, and  
C. £20,000 towards real time passenger information displays to two existing bus stops (reference nos. 14572 and 14567)
- 2) In the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Armer, P Davies, S Hall, Pattison and Sokhal (5 votes)

Against: Councillors Pinnock and Thompson (2 votes)

**13 Planning Application - Application No: 2022/92308**

The Committee considered Application No.2022/92308 relating to the temporary siting of Dewsbury Market on Foundry Street/Market Place/ Longcauseway/Town Hall Way, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Committee received representations from David Staniland (agent) and Karen Roche (Markets Manager).

**Resolved -**

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

1. In accordance with the approved plans.
2. Development to begin within 3 years.
3. Pre-commencement condition for the submission of hostile vehicle mitigation measures.
4. Hours of operation between 07:00 until 19:00.
5. Temporary permission for 3 years, beginning from when the Local Planning Authority are notified in writing.
6. Site to be reinstated as before development within 6 months from the use ceasing.
7. The development shall be carried out in accordance with the submitted flood risk assessment.
8. Details of the shutters and locks to secure the containers to be provided.
9. Details of the fencing to secure the rear of containers 23-26 and 31-35 to be provided.
10. Submission of waste management plan, including details of the bin storage.
11. Details of any modifications to the highway, including pavements to be submitted.

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

For: Councillors Armer, P Davies, S Hall, Pattison, Pinnock, Sokhal and Thompson (7 votes)

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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



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

## **PLANNING POLICY**

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

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- 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.**

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 08-Dec-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 (amended and further information received) 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

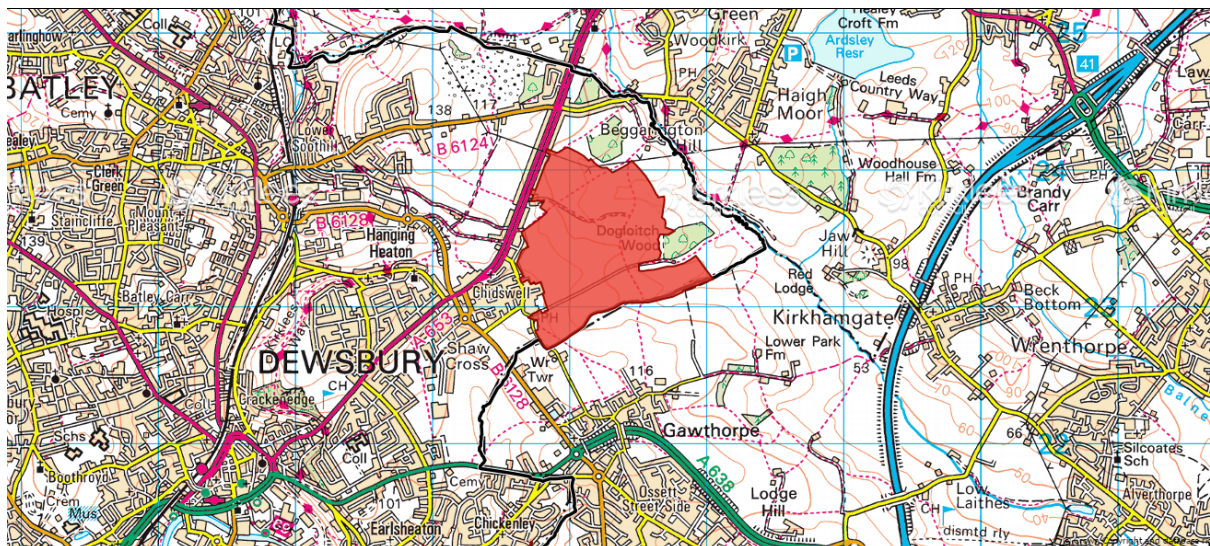
08-Jan-2021

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Batley East and Dewsbury East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

Subject to the Secretary of State not calling in the application, DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

1) Highway capacity / improvement / other works

- a) M62 junction 28 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
- b) M1 junction 40 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
- c) Monitoring of left-turn movements into Chidswell Lane from spine road, Traffic Regulation Order and implementation of works if signed restriction proves ineffective (contributions totalling £23,500).
- d) Contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).

2) Sustainable transport

- a) Pump-priming of a Dewsbury-Leeds bus route along spine road, triggered by occupation of 1,000 homes across both sites, contribution to be agreed, duration of pump-priming to be agreed, and provision for contributions to cease if bus service becomes self-financing.
- b) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).
- c) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

3) Education

- a) £700,000 contribution towards interim primary provision to be paid in two tranches (£350,000 upon first occupation, £350,000 upon occupation of 119 homes).
- b) Primary school (including early years and childcare) provision cascade:
  - i) Applicant / developer to decide on whether to build school on site or pay contribution no later than point of occupation of 200 homes;
  - ii) If the former, applicant / developer to provide land and build school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes;
  - iii) If the latter, contribution amount to be reviewed at the time of payment, contribution to be paid in instalments between the occupation of 229 and 919 homes, council to put contribution towards on-site school or alternative provision.
- c) Secondary education contribution of £2,257,029.

4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.

5) Affordable housing – 20% provision.

6) Local centre (including community facilities) – arrangements to ensure buildings / floorspace is provided, and details of size, timing, uses and location to be clarified.

7) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

8) Biodiversity

a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);

b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).

9) 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.

10) 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.

11) 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) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.

13) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.

All contributions are to be index-linked.

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

## **1.0 INTRODUCTION**

- 1.1 This application is presented to the Strategic Planning Committee as the proposal is for a major mixed-use development, including more than 60 residential units.
- 1.2 This report relates to an application for outline planning permission (ref: 2020/92331) which 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.
- 1.3 Position statements relating to these proposals were considered by the Strategic Planning Committee on 11/07/2019 at pre-application stage (refs: 2018/20078 and 2018/20077), and on 17/11/2020 and 06/10/2022 at application stage.
- 1.4 This committee report provides comprehensive assessment of all planning issues relevant to this application. It draws together assessment and commentary from the earlier position statements (updated where necessary), and includes responses to queries raised by Members on 06/10/2022. The officer presentation on 08/12/2022 will include further illustrative information.
- 1.5 The council has been informed that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolved to grant permission. The position regarding the SoS is reflected in the officer recommendation.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is 112 hectares in size. Its southern edge meets the Kirklees / Wakefield borough boundary, and its northeastern edge comes within 300m of the Kirklees / Leeds borough boundary. The application site is flanked on its west and southwest edges by existing residential development. To the south and northeast are fields in agricultural use, and the ancient woodlands of Dum Wood and Dogloitch Wood.
- 2.2 The application site generally slopes downhill from southwest to northeast. An east-west depression follows a watercourse that crosses the site. The application site's lowest point is approximately 75m AOD on its northeast edge, and its highest point is approximately 120m AOD close to the former Huntsman PH on Chidswell Lane.
- 2.3 Most of the application site is currently in agricultural (arable) use, and is greenfield. No significant buildings exist within the site's boundaries, other than those listed at paragraph 3.6 below. High-level overhead power lines run east-west across the site.

- 2.4 The application site meets Chidswell Lane to the west, and has an existing vehicular access point off Leeds Road (the A653), between numbers 1060 and 1062. The application site can also be accessed from Chidswell Lane, Leeds Road and Heybeck Lane via several public footpaths. These public rights of way continue across the site. There are also informal paths within the site and through the adjacent woodlands.
- 2.5 No part of the application site is within a conservation area, and there are no listed buildings within the site. The nearest designated heritage assets within Kirklees are the Grade II listed toll gates on Grange Road to the west. Within Wakefield borough, the Gawthorpe Water Tower to the south is Grade II listed.
- 2.6 Several Tree Preservation Orders protect trees and groups of trees within and close to the application site.
- 2.7 Much of the application site is within a Development High Risk Area as defined by the Coal Authority. Other parts of the site are within the Development Low Risk Area.
- 2.8 The application site includes the majority of site MXS7, which is allocated for mixed use development (housing and employment) in the Local Plan.
- 2.9 Two adjacent sites are also allocated for development in the Local Plan. Lees House Farm to the west (site allocation MXS5) is allocated for mixed use development, and land between Chidswell Lane and Owl Lane to the southwest (site allocation HS47) is allocated for residential development.
- 2.10 The application site's characteristics have not materially changed during the life of the application, however the application site's context has materially changed 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.
  - 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.

- 2.11 Regarding highways and transport, 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.
- 2.12 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 committee report. 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, however the planning permission has not yet been issued.

### **3.0 PROPOSALS**

- 3.1 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.
- 3.2 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.
- 3.3 Most of the dwellings, and the school and local centre, would be to the south of the employment area.
- 3.4 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.
- 3.5 A short road connecting these primary roads, but preventing HGV movements into the main residential area, is also proposed.



3.6 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 1016 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.

3.7 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.

3.8 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).

3.9 This is an outline application. Access is the only matter not reserved.

3.10 The applicant has submitted parameter plans relating to:

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

3.11 Of note, the application was submitted prior to the Government's changes to the Use Classes Order, which came into effect on 01/09/2020 and which merged the A1, A2, A3, B1, D1 and some D2 uses into a new E use class, among other changes. Given the timing of the submission, the application is to be determined with reference to the previous use class definitions.

3.12 Development proposed under application ref: 2020/92350 is described in the accompanying committee report.

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

4.1 97/92234 – Planning permission refused 15/04/1998 for extraction of coal by open cast methods with subsequent restoration to agriculture, woodland and varied habitats with an extended rights of way network and improved wildlife corridor linkage. The council's four reasons for refusal related to green belt, landscape, character, amenity, public rights of way, and archaeological impacts. Subsequent appeal dismissed 20/12/1999.

## 5.0 HISTORY OF NEGOTIATIONS

- 5.1 A concept masterplan was prepared by the applicant in 2017 for the purpose of informing discussions at the Local Plan Examination in Public. While this concept masterplan had merit, the council and the applicant agreed that it would be appropriate to restart the masterplanning process, looking again at the site's constraints and opportunities, consulting with residents, Members and other stakeholders, and devising a new masterplan through an iterative design process. This masterplanning work began in summer 2018, and culminated in the submission of the current applications in July 2020. Should outline planning permission be granted, masterplanning work would continue, to inform subsequent Reserved Matters applications.
- 5.2 Officers from several council departments have attended regular meetings with the applicant team.
- 5.3 On 24/05/2018 the council issued an EIA Screening Opinion, stating that the proposed development of the application site constituted EIA development, for which an Environmental Statement would need to be submitted (ref: 2018/20078). The council subsequently issued an EIA Scoping Opinion on 03/12/2018 (ref: 2018/20408).
- 5.4 On 25/02/2019 the applicant team presented the emerging proposals to the Yorkshire and Humber Design Review Panel. The Panel commended the working partnership between the council and the applicant. The Panel stated that the principles that inform the emerging masterplan were "on the right track", and that the emerging development principles should be safeguarded so that the next stage of the design process shares the same vision and achieves high quality placemaking – this could be achieved through strict design guidance or coding. Visual demonstrations of the site's shape and topography (and information on how these features informed the proposed layout) were requested. Further work on street widths, character areas, road hierarchy and building heights was recommended. More thought should be given to character, hierarchy, scale and massing, legibility, wayfinding and landmarks. Some pedestrian areas could be made more convenient and be given greater natural surveillance.
- 5.5 Prior to submitting the current planning applications, the applicant held two public consultation events. Three-hour drop-in events were held on 19/06/2019 at Dewsbury Rams rugby ground, and on 25/06/2019 at Woodkirk Valley Country Club. Attendees were able to complete comment cards at these events, and were invited to email the applicant with comments up to 31/07/2019.
- 5.6 On 07/06/2019 the applicant team met all six Members for Batley East and Dewsbury East (at the time: Cllr Akhtar, Cllr Loonat, Cllr Zaman, Cllr Kane, Cllr Lukic and Cllr Scott). The applicant team presented the emerging proposals, and the following comments and questions were raised:
- Site requires a plan that delivers what local people want, that involves extensive engagement with local people, and that is supported locally.
  - Details of local consultation events (including their advertisement and accessibility, how proposals would be presented, and how comments would be recorded) were requested.

- Online consultation was suggested. Applicant should allow for submission of comments after the consultation events.
- Chambers of commerce/trade, schools and colleges, mosques, church organisations, Dewsbury Forward, tenants and residents associations and other parties should be consulted.
- Members asked what weight the applicant would attach to local consultation responses, and how these responses would shape the proposed development.
- Members requested details of timescales of development.
- Flood alleviation measures required. Site entrances on Leeds Road are already vulnerable to flooding from a beck within the site.
- Concerns raised regarding possible coal extraction from the site.
- Members asked how “employment” was defined.
- The proposed location of the community hub was queried.
- A straighter, more direct road alignment from Chidswell Lane to the new school and community hub was suggested.
- Details of specialist accommodation (Extra Care etc) were requested.
- An on-site modular housing construction facility could be provided.
- If several developers bring forward separate developments, they need to work to the same aesthetic guidelines, although some variety in dwellings is needed.

5.7 At pre-application stage, a Position Statement was considered by the Strategic Planning Committee on 11/07/2019.

5.8 A pre-application advice letter was issued by the council on 11/11/2019. The main points of that advice letter are summarised as follows:

- Council shares applicant’s intention to deliver a high quality, sustainable, mixed use development that addresses borough and local needs and that seeks to address all relevant planning considerations, and that mitigates its impacts (including in relation to infrastructure).
- Full planning permission required. List of application documents (required for validation) provided.
- Application for full planning permission preferred, however outline and Reserved Matters applications can be submitted.
- Submission of two applications (one being for c180 units at Heybeck Lane site) acceptable, as this responds to Inspector’s query regarding early delivery.
- Continued public consultation and engagement encouraged.
- Environmental Statement will need to address impacts of development at both sites.
- Indicative phasing plan required.
- Indicative capacities of site allocation MXS7 (1,535 dwellings and 122,500sqm of employment floorspace) should be met.
- Site is within a wider mineral safeguarding area, however overriding housing and employment needs allow for approval of development.
- Applications should demonstrate development would achieve net gains in respect of all three sustainable development objectives (economic, social and environmental).
- Development should respond positively to Climate Emergency declaration and zero carbon target.

- Subject to details and other relevant matters, mixed use at this site can be considered sustainable, given site's location adjacent to an accessible, already-developed area, its proximity to public transport and other facilities, and other material considerations.
- Masterplanned approach required.
- Adjacent site MXS5 should not be sterilised. Access from site HS47 required.
- Parameter plans would provide sufficient high-level detail at outline application stage, provided that sufficient supporting and indicative information is also submitted.
- Proposed retention of existing features (including trees, hedgerows and Public Rights of Way) welcomed.
- Proposed arrangement of uses and the proposed development's four main physical components is well thought out, and is acceptable. Separation of residential and employment uses with open space and landscaping is acceptable.
- Developers should work with existing topography, however some levelling will be necessary. Details required of any importing of infill material.
- 35 dwellings per hectare should be achieved, with variety in densities informed by context and other considerations.
- Landscape and Visual Impact Assessment required. Viewpoints previously agreed with officers.
- Few heritage assets exist close to the site, however impacts must still be assessed.
- Design advice provided for consideration at Reserved Matter stage.
- Further design review encouraged.
- Significant infrastructure required to render the site ready to take development, to support development during its operational phase, and to mitigate its impacts. Application submissions must ascertain what is required, when these works and provisions are required, their costs, and who would be responsible for their delivery.
- Scope exists for a district heat or energy network. On-site energy centre would be appropriate.
- A range of employment uses and unit sizes would be appropriate. B8 (storage and distribution) floorspace should be limited. Site is not suitable for non-ancillary offices. Indicative split of 50% B2 use, 25% B8 use, 15% ancillary offices, and 10% B1b and c use is appropriate for informing the relevant assessments.
- Strong response required to the Kirklees Economic Strategy's emphasis on advanced manufacture and precision engineering is expected.
- High numbers of quality, skilled jobs and apprenticeships expected.
- Opportunities for local employment should be maximised.
- Space should be provided for expansion (without having to relocate) of businesses within the site.
- An on-site modular housing construction facility could be provided.
- Signalised junctions, rather than roundabouts, appropriate for Heybeck Lane, Leeds Road and Chidswell Lane access points.
- Prevention of HGV access to residential spine road is appropriate.
- Potential for significant impacts upon the Strategic Road Network. Cumulative impacts would also need assessing. Development will need to mitigate its highway impacts.

- Strategy for pedestrian and cyclist movement required. Positive response to Core Walking, Cycling and Riding Network required.
- Draft Travel Plan required.
- High quality and design required for housing, with a high standard of amenity for future and neighbouring occupants.
- Details of 20% affordable housing provision to be provided at Reserved Matters stage. Of 1,535 residential units, 307 would be required to be affordable (169 units for social or affordable rent, and 138 intermediate). Affordable housing should be pepper-potted and visually indistinguishable.
- Specialist residential accommodation, such as homes for retirement or sheltered living and/or an Extra Care facility, welcomed.
- Potential locations for bungalows and for self-build development should be explored.
- Applicant should note need for dementia-friendly design, the Government's Nationally Described Space Standard, and the need to accommodate a wide variety of household formats.
- Need for a two form entry primary school likely to be triggered by between 274 and 429 dwellings (subject to review). Two hectares typically required for school. School should be designed to council's standards.
- Early years and childcare provision also required.
- Provision of a local centre supported, subject to sequential testing. For a centre with a total floorspace of 1,500sqm (of which no more than 500sqm would be commercial floorspace – other floorspace would be allocated to doctor and dentist uses), an impact assessment would not be required.
- Health Impact Assessment required.
- Noise, air quality, odour and other matters relevant to environmental health will need to be addressed. Damage cost of air quality impacts may need to be considered.
- Site is potentially contaminated. Phase I contamination report required.
- Site is within the Development High Risk Area. Coal Mining Risk Assessment required.
- Size of the site provides opportunity for on-site measures such as swales and attenuation ponds that could assist in limiting run-off to greenfield rates, and can additionally serve as amenity and biodiversity features within an appropriately landscaped setting.
- Biodiversity designations apply. Biodiversity net gain will need to be demonstrated.
- TPOs protect trees on-site, and adjacent Dogloitch Wood and Dum Wood are ancient woodlands. Arboricultural impact assessment required. Buffers required adjacent to ancient woodlands. White Rose Forest initiative should be responded to.
- Neighbourhood Equipped Area for Play (NEAP), including a multi-use games area, will need to be provided within 720m (or a 15 minute walking distance) of the majority of the proposed dwellings. 30m separate zone (away from dwellings) required around it.
- Section 106 required to secure mitigation and benefits. Heads of Terms likely to relate to:
  - Infrastructure works and provision.
  - Highways and transportation impacts.
  - Two form entry primary school.

- Education contributions.
- Early years and childcare provision.
- Open space, including playspaces and sports provision.
- Affordable housing.
- Drainage.
- Sustainable transport.
- Decentralised energy.
- Costs of development are likely to be significant, and should be reflected in purchase price(s) of site. Developers should not overpay for land, and then argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. Development at this site can reasonably be assumed to be viable at this stage.

5.9 During the life of the application, 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;
- 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, bat survey, and biodiversity net gain calculation and assessment submitted); and
- Public consultation (responses to comments made by the Chidswell Action Group submitted).

## 6.0 PLANNING POLICY AND GUIDANCE

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (2019)

6.2 The application site is allocated for mixed use development in the Local Plan (site allocation ref: MXS7). The site allocation sets out an indicative housing capacity of 1,535 dwellings, and an indicative employment capacity of 122,500sqm for the site.

6.3 Site allocation MXS7 identifies the following constraints relevant to the site:

- Third party land required for access
- Multiple access points required
- Public rights of way cross the site
- Additional mitigation on the wider highway network may be required
- Power lines cross the site
- Multiple watercourses cross the site
- Air quality issues
- Noise source near site

- Odour source near site
- Potentially contaminated land
- Part of the site lies within a UK BAP priority habitat
- Site is within the Wildlife Habitat Network
- Part of the site contains a Habitat of Principal Importance
- Site is close to an archaeological site
- Part/all of the site is within a High Risk Coal Referral Area

6.4 Site allocation MXS7 also identifies several other site specific considerations in relation to landscape impacts, economic development and regeneration, local education provision, access points, the site's relationship with allocated site HS47, residential amenity, cycling, mitigation of highway network impacts, the provision of a new Local Centre (subject to sequential testing and impact assessment) and protective buffers for the adjacent ancient woodlands. The site allocation confirms that a masterplan is required for the site.

6.5 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP13 – Town centre uses
- LP18 – Dewsbury Town Centre
- LP19 – Strategic transport infrastructure
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP29 – Management of water bodies
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP36 – Proposals for mineral extraction
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP67 – Mixed use allocations

## Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents are:

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

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

### Climate change

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

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



policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

#### National Planning Policy and Guidance:

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of minerals

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

6.12 Relevant national guidance and documents:

- National Design Guide (2019)
- National Model Design Code (2021)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Design Guidelines for Development Near Pylons and High Voltage Overhead Lines (2019)
- Securing developer contributions for education (2019)
- Biodiversity Metric 3.0 (2021)

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

## **7.0 PUBLIC/LOCAL RESPONSE**

7.1 The application was advertised as a major development that affects Public Rights of Way, and that is Environmental Impact Assessment development accompanied by an Environmental Statement. Nine site notices were posted on 27/08/2020, and corrected site notices were posted on 05/09/2020. A press notice was published on 13/08/2020, and a further press notice (providing details relating to the Environmental Statement) was published on 03/09/2020. Letters were sent to addresses close to the application site and within the surrounding area. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/10/2020.

7.2 543 representations were received in response to the council's consultation on application 2020/92331, including representations from the Chidswell Action Group, the Woodland Trust, CPRE West Yorkshire and Members of Leeds City Council. These have been posted online. Many of the representations referred to both applications. The following is a summary of the comments made:

- Objection to principle of development.
- Loss of green belt land, greenfield site and open space. Space serves as a green lung. Area is of outstanding natural beauty. Site should be returned to green belt.
- Brownfield sites should be used instead. Vacant properties should be used.
- Loss of valuable agricultural land. Loss of capacity for food production. Increased food miles.
- Open-cast mining was previously rejected at this site.
- Built-up areas would merge. Urban sprawl.
- Proposal is out of scale with village. Local character would be impacted. Area would resemble London.
- Site has archaeological potential. Archaeological watching brief required.
- Existing houses shouldn't be demolished to provide site entrances.
- Increased congestion. Local roads are already at capacity. Queuing is already a problem. Congestion occurs even with large numbers working from home. Local roads would become rat runs. Increased traffic in Ossett, and towards Leeds and motorways. Traffic assessments were carried out during lockdown and school holidays. M2D2L proposals wouldn't be adequate to address increased traffic. Highways England objected.
- Area lacks public transport.
- Highway safety impacts. Accidents (some fatal) already occur on Leeds Road. Accidents will happen at new junction on Heybeck Lane.
- Heybeck Lane site needs a second entrance for emergency access.
- Site's coal mining legacy not accounted for. Unsafe to grant permission for development. Site is at risk of subsidence.
- Loss of privacy.
- Proposals lack buffer zones with existing residential properties.
- Increased pollution.
- Air quality impacts. Land currently absorbs carbon dioxide.
- Creation of dust.
- Increased noise from traffic and employment uses.
- Increased light pollution.
- Adverse impact on mental health. Countryside needed more during pandemic.
- Local work/life balance would be affected.
- Crime prevention not considered.
- Local jobs would not be created. Jobs would be imported.
- Insufficient GP and dental services locally.
- Insufficient capacity at local schools. Proposed school would not solve problems. No provision for secondary schools proposed.

- Increased flood risk. Unclear what off-site work required. Links between flood risk mitigation and coal mining legacy mitigation not clear.
- River pollution.
- Ecological impacts. Loss of habitats. Objections of KC Ecology and Yorkshire Wildlife Trust are agreed with. Ecological matters shouldn't be deferred to Reserved Matters stage. 3% biodiversity net gain is not enough – 10% is required. Bats and birds would be affected. Surveys were inadequate.
- Wildlife teaching opportunities would be lost.
- Impacts on ancient woodlands. Enhanced (50m) buffer required.
- Loss of hedgerows.
- Adverse impacts on public footpaths.
- Contrary to Climate Emergency declaration. Development won't be carbon-neutral.
- Proposals contrary to Local Plan and NPPF.
- Developer's financial gain should not be more important than local wishes.
- Development would set a precedent for other green belt loss.
- Kirklees residents would not benefit. Proposed homes would be bought by people from outside Kirklees.
- These and other applications and developments should be considered together. Cumulative impacts will occur.
- Conditions and required mitigation could make the site undevelopable due to cost.
- Impact on property value.
- Heybeck Lane site red line boundary should include connections to watercourse.
- Online documents unclearly labelled.
- Application submission is contradictory, incomplete and vague.
- Residents of Leeds haven't been consulted.
- Forestry Commission should have been consulted.

7.3 The vast majority of the representations were objections to the application. Four were in support, or set out conditional support.

7.4 Cllr Lukic made the following comments in relation to application 2020/92331:

*I object to this application because it would result in irreversible ecological harm, unsustainable traffic generation and merging of neighbouring towns. Consultees have highlighted that significant flaws mean the application is not compliant with Local Plan policies.*

*It is obvious to anyone who lives or works in this area that Dewsbury and North Kirklees are already developed beyond the capacity of local services and infrastructure. Instead of making our problems worse this council should be preserving the precious little countryside we have left.*

*Effective planning should protect neighbouring towns from expanding into each other and the removal of green belt protection for this beautiful landscape in February 2019 was a serious error. This application straddles and further erodes the already perilous boundary between Dewsbury and Batley without any recognisable physical demarcation, and therefore fails to respect the distinct identities and characters of the two towns.*

*These development proposals are also a clear threat to protected species and habitats, and do not demonstrate a net gain for biodiversity. This landscape contains watercourses, hedgerows and ancient woodlands that need to be properly managed and safeguarded in perpetuity.*

*This proposal is over-development and the scale would not be sustainable for local public services that are already full, along with local and strategic highways networks. There is insufficient detail on public and active transport provision. If this scheme was implemented then very high frequency bus services would be needed along with contributions towards extending high quality walking and cycle routes towards Dewsbury and Batley Town Centres and Leeds.*

*Unfortunately the application tends to demonstrate a lack of commitment to measures that would mitigate some of these adverse impacts, instead merely offering suggestions that can be withdrawn at a later stage if outline permission is granted.*

*On a specific technical point, the indicative masterplan shows a cycle route adjacent to Dogloitch Wood but this is not contained within the red line boundary of the application. There is an existing public right of way along that line but this does not currently allow for cycling. The red line boundary should include all indicated components of the proposed scheme so that the committee knows exactly what they are deciding on.*

*Finally I am also concerned that if this mixed-use scheme is approved then the lucrative residential portions would be rushed into construction while the employment offer being dangled like a 'carrot' would be neglected, followed by attempts to replace it with more housing. I understand that this has already transpired at a long-running mixed-use allocation in the Lindley area. If this scheme at Chidswell is approved we should therefore require that development does not commence on the residential portions until the employment portion has a reasonable level of occupancy.*

7.5 Mark Eastwood MP made the following comments in relation to applications 2020/92331 and 2020/92350:

*I am writing to object [to both planning applications], the approval of either application would be a disaster. I base my objection on the following grounds:*

- *Impact on current residents, infrastructure and agriculture;*
- *Concerning responses from key bodies including Highways England, the Yorkshire Wildlife Trust and the Coal Authority;*
- *Historical precedent;*
- *Alternative sites; and*
- *The timing of the consultation*

*The addition of over 1500 new homes, in the event of both applications being approved, would place an enormous strain on existing residents. The level of noise and air pollution generated in the construction phase, and the routine pollution from additional vehicles post-construction, pose a worrying risk to public health, especially to those with respiratory diseases. This is in stark contrast to the area's present position as a 'green lung'.*

*The residents would not only be deprived of air quality but also of recreational space for sport and exercise, of the beauty of area's ancient woodlands and of the enjoyment of the working farm on the plot. This marks a serious reduction in the quality of life for current residents.*

*Current infrastructure is inadequate to support such a large development. Public service infrastructure such as General Practitioner's surgeries, dental surgeries and schools face being overwhelmed by an influx of new residents. The area's physical structure would not be able sustain thousands of extra cars on the roads, indeed, many residents feel that present provision is already lacking with regular congestion at peak hours. There has been insufficient allocation of highways infrastructure and transport provision from the Council. Highways England in their responses to both consultations have recommended that planning permissions not be granted at this time.*

*The Yorkshire Wildlife Trust (YWT) has also issued a thorough and damning report on both planning applications. The potential impact on Local Wildlife Sites and the Kirklees Wildlife Habitat Network were described as 'significant', alongside negative impacts on breeding farmland bird species. WYT criticises the application of metrics in the supporting documents to the application, and they query some of the methodology deployed in the preparation of the supporting surveys. The loss of habitats does not just deprive local residents of vibrant local wildlife but also represents a loss to district and the nation. The application cannot be approved while glaring concerns remain over the protection of wildlife.*

*It is not just wildlife that is at risk from this proposed development, but also human life. The Coal Authority has assessed that there may be a high risk to the development from the area's coal mining legacy, including unrecorded workings, mine entries and opencast workings. It would be unsafe to allow development to proceed, potentially putting life and structures at risk.*

*The area was included around the turn of the millennium as part of proposals to use the area for opencast mining. Following a successful appeal to the Secretary of State, the decision was overturned. This demonstrates clear historical precedent for protecting this area of beauty, and this ought to be followed when considering these applications.*

*The area should never have been released from the Green Belt for development consideration. Insufficient consideration was given to alternative areas for development in the Local Plan. This is particularly pertinent when one considers the range of other developments that have received (or are in the process of receiving) planning permission in the nearby area, including applications:*

- 2016/93929
- 2018/94189
- 2019/92787
- 2019/91476

*The Yorkshire Wildlife Trust alluded to the cumulative impact of approving the applications I am objecting to, when considering the already approved developments nearby, stating:*

*“Careful consideration must be made by the LPA of cumulative impacts of this and other nearby developments upon sensitive habitats, species and ecological connectivity.”*

*The recent case of Aireborough Neighbourhood Development Forum v Leeds City Council [2020] EWHC 2183 (Admin), following the judge’s findings in the substantive case [2020] EWHC 1461 (Admin), resulted in the remittance to the Secretary of State of all allocations of housing on released Green Belt in the local authority’s plan. The failure to provide adequate reasoning for the release of Green Belt land, site selection decisions, and a lack of consideration for reasonable alternatives led to the judge’s decision. It is my view that the proposed developments at Chidswell may be subject to a similar remittance given the similarity in circumstances.*

*Finally, these consultations come at time when the country, and particularly Kirklees, is under restrictions. It is inadequate to gauge the true opposition to the proposals while many may be unable to contribute to the consultations, especially the elderly. Such a large overall development would change the landscape and the face of the area irreparably and such considerations ought to be made only with full participation from those it affects. At the very least, the opposition of those unable to partake in this abnormal process ought to be taken into account.*

*Both planning applications share the same pitfalls. The threats to ecology, quality of life & health are daunting. The nature of the decision to release the area from the Green Belt is also wrought with concern. As a whole, the proposals amount to various breaches of the National Planning Policy Framework and ought to be rejected outright.*

7.6 Five further representations were subsequently received, 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.

7.7 Cllr Bolt, Cllr Firth and Cllr Lukic also raised queries regarding the application throughout its life.

7.8 A significant volume of further information was submitted by the applicant after the council carried out its consultation in late 2020. Reconsultation was therefore considered necessary before the council makes a decision on the application. On 26 and 27/10/2022 reconsultation letters were sent or emailed to all who were previously consulted on the application, and all who had previously commented. Nine further site notices were posted on 02/11/2022, and further press notices were published on 03/11/2022.

7.9 157 representations were received in response to this reconsultation, including representations from the Chidswell Action Group and the Kirklees Cycling Campaign. The following is a summary of the comments made:

- Amendments and further information do not address concerns.
- Too many important considerations are being left to Reserved Matters stage.
- Proposal is contrary to Local Plan policies and relevant guidance.
- Comprehensive redevelopment of the area would be prejudiced.
- Impacts of nearby developments have not been taken into account.
- Loss of green belt land. Inappropriate development in the green belt.
- Loss of green fields.
- Site should still be green belt. Green belt should only be released in exceptional circumstances.
- Loss of space separating Leeds, Wakefield and Kirklees.
- Loss of traditional field patterns.
- Site is an area of outstanding natural beauty.
- Green space has proven valuable during Covid pandemic and is a free resource of increasing importance due to inflation and recession.
- Walkers' enjoyment would be affected.
- Site should be de-allocated.
- Brownfield land and infill sites should be used instead / first.
- No need for employment development. Many existing warehouses and industrial units are empty.
- Loss of agricultural land. Unclear if site includes best and most versatile land. Assessment requested by Natural England hasn't been provided. Housing and employment need does not outweigh loss of agricultural use. War in Ukraine and Brexit have highlighted need for the UK to produce its own food.
- Human population growth should be limited.
- Overdevelopment.
- Too many developments in the area. Area is overcrowded.
- Increased congestion. Recent and current development is already adding to delays. Development will cause gridlock.
- Risk to highway safety. Roads are already dangerous. Drivers regularly speed. Accidents regularly happen. Danger to children.
- Chidswell Lane will become a rat run.
- Applicant's traffic survey was carried out during lockdown.
- Traffic assessment doesn't take into account approved developments.
- Inadequate provision for walking and cycling, including along routes in the surrounding area.
- Pedestrians are already unable to cross Leeds Road.
- Spine road / Chidswell Lane junction would not prioritise pedestrians or active travel.
- Inadequate travel planning measures.
- Public transport improvements would be inadequate.
- Proposed rapid transit network hasn't been taken into account.
- Insufficient parking.
- Development would be car-dependant. Opportunities to reduce car dependence are not being pursued.
- Parked cars would block Leeds Road.
- Loss of public rights of way.

- Harm to Leeds Country Way.
- Increased flood risk. Site floods in winter. Exception test required. Flood risk hasn't been assessed. Existing watercourses couldn't cope with additional run-off.
- Detailed drainage plan required.
- Existing stream running under adjacent house would be affected by higher water table.
- Climate change and wetter winters will increase flood risk at the site.
- Residents will not be able to obtain insurance due to increased flood risk.
- Public sewers are inadequate.
- Local water supply inadequate.
- Increased pollution. Air quality impacts. Increased vehicle fumes.
- Increase in noise. Noise pollution hasn't been tested.
- Odour impact.
- Loss of natural light.
- Light pollution.
- Loss of views.
- Harm to mental health.
- Impact on wellbeing.
- Applications have caused stress.
- Respiratory illness will increase.
- General amenity impact.
- Amenity impacts of 20 years of construction.
- Loss of wildlife.
- Protected species are present at the site.
- Harm to bats and other species.
- Harm to ground-nesting farmland birds.
- Wildlife surveys inadequate and out-of-date. Several species have been missed. Regular visits required. Independent assessment required. Single walkover after a drought provided an inadequate update.
- Yorkshire Wildlife Trust comments have been ignored.
- Claimed biodiversity net gain not accepted. Earlier independent assessment identified a 14% net loss.
- Threat to an SSSI.
- Ancient woodland at risk. Buffer planting is inadequate. Contamination, new residents and changes to water levels will harm woodland.
- Adverse impact on trees. Loss of TPO-protected trees.
- Site currently contributes to climate change resilience. Watercourses, woodlands and fields contribute to cooling.
- Release of carbon dioxide.
- Approval would be contrary to Kirklees Council's declaration of a climate emergency.
- Development would not be zero carbon.
- Net zero needs to be achieved in Kirklees.
- Release of contamination would adversely affect neighbouring residents.
- A Biodiversity Management Plan, Construction Environmental Management Plan and Invasive Weed Management Plan have not been provided.
- Lighting strategy has not been provided.



- Increased crime.
- Adverse economic impact.
- Existing buildings should be retained.
- Harm to setting of a listed building.
- Destruction of archaeology.
- Excessive bulk and scale.
- Buildings will be ugly.
- Landscape impacts. Applicant's assessment of existing landscape is erroneous.
- Harm to character of the area.
- Coal mining legacy risks.
- Geotechnical survey results have not been submitted.
- Existing buildings are subsiding.
- Insufficient local infrastructure.
- Local schools are already oversubscribed.
- Unwise to build additional primary school when existing schools are unviable.
- Additional high school needed.
- Local doctors and dentists have no capacity.
- Inadequate local hospitals.
- The need for the development should be reviewed in five years' time.
- Development is for profit.
- Houses will not be affordable. Affordable housing is not proposed.
- Housing needs would not be met.
- Impact on property values.
- Council should not have redacted representations.
- Some local residents were not reconsulted.
- Majority of local residents are opposed to the development.
- Ward Members should oppose proposals.
- Objections have been ignored.
- Benefits of development do not outweigh shortcomings.
- Decision should be deferred.
- Applications should be refused.

7.10 To date, a total of 705 representations have been received in relation to the application.

7.11 Any further representations received after 24/11/2022 and before the committee meeting of 08/12/2022 will be reported in the committee update or verbally.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

8.2 Coal Authority – No objection, subject to conditions. Coal Authority concurs with the recommendations of the applicant's Coal Mining Risk Assessment, and the conclusion that there is currently a moderate to high risk to the proposed development from coal mining legacy. In order to mitigate the risk and inform the extent of remedial or mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations should be undertaken prior to commencement of development.

- 8.3 Environment Agency – No objection or comments to make on this application. There are no environmental constraints/issues within the Environment Agency’s remit that would be affected by the proposals.
- 8.4 Historic England – No comment. Views of the council’s specialist conservation and archaeological advisers should be sought.
- 8.5 National Highways – Mitigation schemes required at M62 junction 28 and M1 junction 40 have been subject to the required operational review, road safety (stage 1 road safety audit and Design Manual for Roads and Bridges compliance checks) and are now considered agreed. We are in the final stages of agreeing the monitoring strategy that will inform when these schemes will be required to be delivered. All that remains is for the applicant, the relevant local authorities and National Highways to agree the wording of the planning conditions that will secure this monitoring strategy and mitigation schemes against any grant of planning consent. Subject to reaching agreement on condition wording National Highways will imminently be replacing the current temporary non-determination recommendation with a “no objection” subject to the relevant conditions being attached to any grant of planning consent.
- 8.6 Natural England – No objection. Proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Generic advice provided regarding other natural environment issues. Local planning authorities are responsible for ensuring that they have sufficient detailed Agricultural Land Classification (ALC) information to apply NPPF policies. Request that an ALC and soil assessment be undertaken.
- 8.7 Lead Local Flood Authority – Support proposals, subject to conditions. Fully detailed drainage masterplan required prior to Reserved Matters submissions, to ensure an integrated drainage approach is followed. Working group recommended, to ensure successful masterplanning in relation to drainage. More detailed drainage and flood risk assessment required at Reserved Matters stage. Maintenance and management of sustainable drainage systems must be incorporated into a Section 106 agreement. Discharge restrictions based on a greenfield run-off of 5l/s/ha would be appropriate. Further detailed advice provided.
- 8.8 Non-statutory**
- 8.9 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.
- 8.10 Leeds City Council (Planning Services) – Proposals may have significant adverse impact on road network in Leeds. Transport Assessment needs to take into account journeys in Leeds, and the impacts of developments in Leeds. Risk of rat-running to avoid Tingley roundabout. Sustainability of site questioned due to limited bus service. Buffer required to protect green belt from further encroachment that would put pressure on the strategic gap between the two authorities.

- 8.11 Leeds City Council (Transport Development Services) – Cannot support the development proposals due to lack of complete assessment of the impact of development in terms of required junctions within the Leeds district that are not included in the study area and hence lack of traffic count data and development impact assessment at those junctions; revisions required to the trip generation and committed development; trip distribution and assignment; and measures to mitigate the impact of the development.
- 8.12 National Grid – No objection.
- 8.13 Sport England – Objection. £1,438,683 (£1,676,111 in total for both sites) sports contribution required (based on population of development) if no on-site provision proposed. This includes provision for grass pitches, artificial grass pitches, changing rooms and life cycle costs. Objection could be resolved through on-site provision of playing pitches or a planning contribution to allow their provision off-site (or a combination of the two).
- 8.14 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. Earlier comments reiterated. Additional concern raised regarding impacts at Owl Lane / Chancery Road / Leeds Road / Ossett bypass roundabout.
- 8.15 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.
- 8.16 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.

- 8.17 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.
- 8.18 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 (undesigned) and Gawthorpe Water Tower (Grade II listed).
- 8.19 KC Ecology – Concur with assessment set out in this committee report.
- 8.20 KC Education – Secondary school contribution of £2,257,029 required.
- 8.21 KC Environmental Health – Regarding air quality, applicant’s methodology is acceptable, however omissions (relating to monetary costs and sensitivity testing) mean report cannot be fully accepted, and condition requiring air quality assessment is necessary. Condition recommended regarding construction-phase dust. Condition requiring electric vehicle charging facilities recommended. Regarding odour, applicant’s methodology is generally satisfactory, however omitted baseline and other information means report cannot be accepted, therefore condition requiring odour impact assessment is necessary, and greater distance between dwellings and neighbouring farm would be necessary. Regarding site contamination, applicant’s Phase I report is satisfactory, and conditions are recommended. Noise from various sources could affect the site, and conditions are recommended. Construction Environmental Management Plan required by condition. External lighting condition recommended.
- 8.22 KC Highways Development Management – No objection subject to conditions and Section 106 agreement.
- 8.23 KC Highways Structures – Conditions recommended requiring details of any highways structures.
- 8.24 KC Landscape – Detailed information required to demonstrate compliance with Local Plan policy LP63 in relation to outdoor sports and the necessary detailed design of the required Local Areas for Play, Local Equipped Areas for Play, Neighbourhood Equipped Areas for Play and Multi Use Games Areas. Welcome the inclusion of buffers to the green belt and existing woodland areas – these should be linked to the green infrastructure within the development site. Landscaped, multifunctional greenspaces and the linking routes between

them are welcomed and should be designed to promote a fully-integrated Sustainable Drainage Network and provide broad opportunities for enhancing green corridors, tree planting and mitigation. Rain gardens encouraged. Masterplanning approach required, and individual planning applications for phases or parcels of land within the red line boundary should not come forward without an integrated and strategic approach to greenspace green corridor provision.

- 8.25 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.
- 8.26 KC Public Health – No comments at this stage. Welcome further opportunities to consider health impact matters through Reserved Matters submissions.
- 8.27 KC Public Rights of Way – No objection in principle to development. The applications are outline with access reserved, and it is understood that this would only be the main access points from the existing ordinary road network and not any internal access arrangements. An appropriate arrangement should be made for the off-carriageway links, including that to Leeds Road at the northern entrance to the site near Dum Wood. Outline may be the necessary stage to do this. The site designs must appropriately incorporate or make alternative appropriate provision for public rights of way. No details submitted are sufficient to consider those matters in detail. Significant submissions regarding alignments, widths, construction, levels, sections etc for and affecting public rights of way, will be required prior to any detail being agreed or consented.
- 8.28 KC Strategic Housing – Council seeks 20% affordable housing provision in developments of 11 or more dwellings. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be accepted. In the Dewsbury and Mirfield Sub-Area there is a significant need for affordable three-bedroom (and larger) homes. 307 affordable homes required. A mix of housing that reflects local need and will contribute towards a balanced and sustainable development is required. Affordable homes must be distributed throughout the development (not in clusters), and must be indistinguishable from market housing both in terms of quality and design. A 55% social or affordable rent / 45% intermediate tenure split is required. 169 social or affordable rented dwellings and 138 intermediate dwellings would be appropriate.
- 8.29 KC Strategic Waste – According to council records, there are no closed landfill sites within 250m of the application site address.
- 8.30 KC Trees – General principle of the outline proposal and the access on this site is supported. The illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the design and avoiding adverse impact on these features. Significantly more detail required at Reserved Matters stage. Effects on ancient woodland, and woodland management, should be considered.

- 8.31 KC Waste Strategy (Refuse and Cleansing) – No objection to the outline application provided Refuse Collection Vehicle access is adequately considered at all site access points. Advice provided to enable development to meet the operational requirements of the Waste Collection Authority.

## **9.0 SUMMARY OF MAIN ISSUES**

9.1 The main planning issues relevant to this application are:

- Environmental Impact Assessment
- Land use and principle of development
- Employment, skills and social value
- Masterplanning
- Quantum and density
- Phasing and delivery
- Sustainability and climate change
- Urban design matters
- Heritage assets
- Landscape impacts
- Infrastructure requirements and delivery
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Site contamination and stability
- Ecological considerations
- Trees, ancient woodlands and hedgerows
- Open space, sports and recreation
- Planning obligations and financial viability
- Representations
- Other planning matters

## **10.0 MAIN ISSUES – ASSESSMENT**

### Environmental Impact Assessment (EIA)

- 10.1 As confirmed in the council's EIA Screening Opinion of 24/05/2018 (ref: 2018/20078), the proposed development of the application site constitutes EIA development, for which an Environmental Statement (ES) would need to be submitted.
- 10.2 The council issued an EIA Scoping Opinion on 03/12/2018 (ref: 2018/20408) regarding the scope of the required ES.
- 10.3 The applicant duly submitted an ES with the current application. The applicant's ES refers to the development as described at paragraphs 3.1 to 3.10 above, but takes into account the development proposed under the accompanying application ref: 2020/92350 (which on its own does not constitute EIA development). The matters considered in the ES are:
- Chapter 6 – Socio Economic
  - Chapter 7 – Landscape and Visual Impact

- Chapter 8 – Archaeology and Historic Environment
- Chapter 9 – Noise and Vibration
- Chapter 10 – Air Quality
- Chapter 11 – Flood Risk and Drainage
- Chapter 12 – Contamination
- Chapter 13 – Transport
- Chapter 14 – Ecology
- Chapter 15 – Cumulative Effects

- 10.4 Other environmental matters (namely wind and microclimate, electrical interferences, daylight, sunlight, overshadowing, light pollution, solar glare, arboriculture, human health, climate change and odour) are not assessed in the ES.
- 10.5 The ES is cross-referenced to other application documents, where necessary.
- 10.6 The ES was expanded during the life of the application. On 05/02/2021 an addendum to chapter 8 (Archaeology and Historic Environment) of the ES was submitted.
- 10.7 Officers' assessment of the submitted ES is set out throughout this committee report.

#### Land use and principle of development

- 10.8 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.9 Full weight can be given to site allocation MXS7. The reference made by Mark Eastwood MP to a legal challenge to the Leeds Site Allocations Plan is noted, however the judicial review period for the Kirklees Local Plan passed with no challenge being made.
- 10.10 Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector stated that there were no significant constraints that would prevent the site being delivered, that there were exceptional circumstances to justify the release of the site from the green belt, and that the site allocation was soundly based.

#### *Loss of agricultural use*

- 10.11 The Agricultural Land Classification (ALC) system was established by the Government in the 1960s. It provides a method for assessing the quality of farmland to enable informed choices to be made about its future use within the planning system. The latest guidance from the Government regarding ALC

states that the principal physical factors influencing agricultural production are climate, site and soil. These factors, together with the interactions between them, form the basis for classifying land into one of five ALC grades (grade 1 land being of excellent quality and grade 5 land of very poor quality). Grade 3, which constitutes about half of the agricultural land in England and Wales, is divided into two subgrades designated 3a and 3b. The NPPF and paragraph 001 (ref: 8-001-20190721) of the Natural Environment chapter of the Government's online Planning Practice Guidance define "best and most versatile agricultural land" as land in grades 1, 2 and 3a of the ALC. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land. Paragraph 175 states that, with regard to plan making, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

10.12 The Local Plan reflects Government guidance regarding agricultural land, and notes at page 34 (Strategy and Policies document) that the borough's Spatial Development Strategy will promote development that helps to reduce, adapt and mitigate climate change by – inter alia – avoiding the best and most versatile agricultural land where possible. The Local Plan does not, however, state that no agricultural land can be developed for residential use, and neither the Local Plan nor the council's current application validation requirements stipulate that an ALC assessment needs to be submitted with applications for developments at allocated sites that would involve the loss of agricultural use.

10.13 During the preparation of the Local Plan, a high-level assessment of the quality of agricultural land was carried out. The relevant Sustainability Appraisal Report noted that the proposed site allocation MX1905 (which is now adopted site allocation MXS7) would have a significant negative effect in relation to objective 11 (securing the efficient and prudent use of land), and stated:

*Where development takes place on greenfield land or areas of high quality agricultural land it is a less efficient use of land than development on brownfield sites or sites of lower quality agricultural land. This is a relatively large site (122.37 ha) on mainly on greenfield land; therefore a significant negative effect is likely. Most of this site is located on Grade 3 agricultural land, aside from a small area in the west which is located on urban land.*

10.14 However, the same report also identified potential significant positive effects of mixed use development at the site. Having regard to a range of sustainability advantages and disadvantages (of allocating the land for mixed use development), the council concluded that the site was suitable for allocation.

10.15 The relevant Sustainability Appraisal Report stated that the negative effects (of development) would need to be considered further in terms of mitigation and/or enhancement, and that this may be achieved through Local Plan policies. However, in her report of 30/01/2019 the Local Plan Inspector did not refer to the loss of the site's agricultural use, and did not require further consideration of this matter (the Inspector did not require confirmation as to whether any part of the proposed allocation was grade 3a land). Similarly, the



subsequently-adopted site allocation MXS7 requires no further consideration of this matter, and does not identify the quality of the site's agricultural land as a constraint.

- 10.16 Given known housing and employment need, and given the range of sustainability advantages and disadvantages (of allocating the land for mixed use development) that were identified during the preparation of the Local Plan, with sufficient justification the council may still have allocated site MXS7 for mixed use development even if it had been known that part of the site was grade 3a land.
- 10.17 Although there is no Local Plan policy requirement to provide ALC information at application stage, paragraph 5.75 of the applicant's Planning Statement and Sequential Assessment (rev a) reported:

*As per the Agricultural Land Classification Map for the Yorkshire and the Humber region (ref 10-111c), the Site is characterised as Grade 3 Agricultural Land. However, the proposals are considered to be supported in principle by the LPA as indicated by the Site's allocation for development which establishes the principle of development at this location*

- 10.18 The site investigation carried out by the applicant in late 2021 did not include gathering of evidence to inform an ALC and soil assessment. On 12/10/2022 the applicant stated:

*In this case it is not considered that an intrusive assessment to identify the precise grading of the agricultural land would provide the authority with any additional information that would be useful to determine what are outline planning applications. A decision has already been made by the LPA to allocate the site for development in the adopted Plan. In allocating the site consideration has already been given to the agricultural classification of the land, amongst other matters, having regard to the provisions of the NPPF. Having allocated the site for development, it has been accepted in principle that the benefits of much needed new housing and employment development outweigh the impact of the loss of the agricultural land in this case.*

- 10.19 In their comments of 14/08/2020, Natural England advised that local planning authorities are responsible for ensuring that they have sufficient detailed ALC information to apply NPPF policies (now paragraphs 174 and 175), and requested that an ALC and soil assessment be undertaken in connection with the application.
- 10.20 Natural England maintain a publicly-accessible online resource where the ALC grade of land can be ascertained. This resource confirms that the application site is grade 3 land, but does not clarify if this is grade 3a or 3b. Natural England have advised that information provided online is not appropriate for use at a site level.
- 10.21 DEFRA's online "Magic" mapping resource does not include up-to-date ALC information for the application site.

- 10.22 The Chidswell Action Group have referred to the case officer's report relating to a previous proposal for open cast mining at much of the current application site (application ref: 97/92234). Paragraph 1.2 of that report noted that the application site was predominantly (239.8 hectares of 95% of the application site) in agricultural use, and that 68.1 hectares of this was identified as "best and most versatile agricultural land", comprising 18.5 hectares of grade 2 land and 49.6 hectares of grade 3a land. That application, however, related to a much larger area (252 hectares, of which just under half was in Wakefield borough) than the application site currently under consideration, and in any case agricultural land quality can deteriorate or improve in the space of 20 years. That earlier information cannot now be confidently relied upon as sufficiently up-to-date evidence of agricultural land quality at the current application site.
- 10.23 Given the limitations of the available online and earlier information, and given that no ALC assessment has been submitted by the applicant (as no such assessment is required by policy), it cannot be confirmed that no grade 3a land exists at the application site, and it therefore cannot be confirmed that no "best and most versatile agricultural land" would be lost.
- 10.24 However, given the borough's known housing, affordable housing and employment needs (having regard to Local Plan delivery targets), acceptance of the loss of agricultural land at the application site would still have been recommended even if it was known that grade 3a land existed at the application site.
- 10.25 Although in many locations land could be improved (and practices that cause soil degradation could be ceased), and/or land could be used more efficiently, agricultural land is a finite resource. The proposed development would unavoidably involve a reduction in productive agricultural land. This loss would be permanent. This can raise concerns regarding sustainability, however it is noted that definitions of sustainable development do not explicitly rule out the use of a part (and do not require the preservation of all) of any finite resources. The NPPF and the Local Plan (including policy LP1 – presumption in favour of sustainable development) similarly do not state that no part of any finite resources can be used. Of course, the using up of *all* of a finite resource would fail to comply with these definitions and policies (as this would clearly compromise the ability of future generations to meet their needs), however this is not what is proposed under the current application.
- 10.26 Concerns regarding sustainability and the UK's food security have understandably heightened interest in ALC and losses of agricultural land. The proposed development would involve the single biggest loss of agricultural land in Kirklees for many years, the borough's agricultural land supply is finite, and the agricultural use of the land would be irretrievable. However, given current planning policy, and given the council's allocation of site MXS7 for mixed use development (which, by its very nature, prevents the continued use of the application site for agriculture), this matter need not be considered further at outline application stage.

*Proposed residential use*

- 10.27 Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.
- 10.28 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.29 With regard to the five-year housing land supply position in Kirklees, the most recently-updated information confirms that the council is currently able to demonstrate 5.17 years of deliverable housing land supply, and therefore Kirklees continues to operate under a plan-led system.
- 10.30 A residential development of up to 1,354 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.

*Proposed employment uses*

- 10.31 Chapter 6 (paragraph 81) of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.
- 10.32 The Local Plan seeks to deliver approximately 23,000 jobs between 2013 and 2031 to meet identified needs. Strategic objective 1 confirms that the council will support the growth and diversification of the economy, to increase skill levels and employment opportunities including the provision of a high quality communication infrastructure.
- 10.33 The Leeds City Region Strategic Economic Plan identifies a major employment growth opportunity (Employment Growth Area) at Chidswell. The Kirklees Economic Strategy supports the growth of employment uses and supporting infrastructure. The North Kirklees Growth Zone initiative identifies Chidswell as a major strategic employment location for the City Region, and a location for over 1,500 new homes. The allocated site (MXS7) is intended to be a key contributor to the council's economic growth aspirations, being one of the major employment sites allocated for development in the Local Plan. The site's role in the regeneration of Dewsbury, Batley and indeed North Kirklees is significant.
- 10.34 The proposed employment element would provide up to 122,500sqm of floorspace, served by a new looped spine road accessed from Leeds Road. The applicant has stated that 3,019 (full-time equivalent) jobs would be created. This aspect of the proposal responds strongly to the national, regional and local policies and initiatives listed above.

- 10.35 Noting the need to provide space for small and medium-sized enterprises (as well as major employers), the applicant's suggestion that 3,019 jobs would be created, and the council's intention to ensure this site serves as a key contributor to the council's economic growth aspirations, a range of employment uses and unit sizes should be provided at this site. Space for expansion (without having to relocate) of businesses should be provided within the site for sustainability and business continuity reasons.
- 10.36 The applicant's indicative masterplan suggests a range of unit sizes would indeed be provided – these would include large footprint buildings towards the centre of the site, and several smaller (and partitionable) units.
- 10.37 Officers have advised the applicant that B8 (storage and distribution) floorspace would need to be limited, that this is not an appropriate location for non-ancillary offices (formerly B1a use), and that a strong response to the Kirklees Economic Strategy's emphasis on advanced manufacture and precision engineering is expected. Members have additionally suggested that an on-site modular housing construction facility could be provided.
- 10.38 For the proposed development's employment element, the applicant does not intend to fix the proportions of uses at outline application stage, however for the purposes of assessing impacts (including in relation to traffic) the applicant has referred to an indicative split of (GEA figures):
- B1a office use: 18,375 sqm (15%);
  - B1c light industrial use: 12,250 sqm (10%);
  - B2 general industrial use: 30,625 sqm (25%); and
  - B8 warehousing: 61,250 sqm (50%).
- 10.39 The applicant has stated that no B1a use would be standalone – it would always accompany or be integral to a B1c, B2 or B8 use. Effectively, although B1a was specified as a proposed use in the applicant's submissions, this use would be ancillary to the other uses.
- 10.40 The above split would not be fixed if outline planning permission is granted. However, a condition restricting the proportions of employment uses is recommended, to ensure that low-employment uses would not dominate, to ensure that the applicant's traffic modelling is robust, to protect amenity, and to ensure no uses (that would otherwise have required sequential testing) are developed. The recommended condition requires all B1a floorspace to be ancillary to a B1c, B2 or B8 use, and requires the employment element's floorspace to comprise a maximum of 65% B8 use and a maximum of 50% B1c and B2 use.
- 10.41 Regarding the proposed employment element, the letter dated 29/04/2021 from solicitors representing the Chidswell Action Group suggested the applicant's reference to "35 hectares" is an error, as 35 hectares is equivalent to 350,000sqm (which differs to the 122,500sqm floorspace figure used by the applicant). However, the 35 hectare figure refers to the amount of employment land within the proposed development, and not to the proposed floorspace. Furthermore, in relation to planning applications floorspace is normally expressed in sqm and not in hectares.

*Local centre and sequential test*

- 10.42 Site allocation MXS7 requires the provision a new two form entry primary school (which is proposed). It also supports the creation of a new local centre commensurate with the scale of growth proposed, subject to sequential testing and impact assessment. A local centre with up to 1,500qm of A1/A2/A3/A4/A5/D1 flexible floorspace (including a maximum of 500sqm of retail floorspace) is indeed proposed.
- 10.43 During the life of the application, the applicant amended the range of uses proposed within the local centre. D2 use was deleted in accordance with officer advice.
- 10.44 At pre-application stage, officers advised the applicant that, for a local centre with a total floorspace of 1,500sqm (of which no more than 500sqm would be commercial floorspace), an impact assessment would not be required. The applicant was, however, still required to provide a sequential assessment. This has been provided at section 6 of the applicant's Planning Statement (as amended). It assesses the following seven centres:
- Wakefield Road (Earlsheaton) local centre;
  - Earlsheaton local centre;
  - Chickenley local centre;
  - Dewsbury town centre;
  - Batley town centre;
  - Batley Carr local centre; and
  - Ossett (in Wakefield borough, added to the assessment at the request of officers)
- 10.45 The applicant's assessment concludes that there are no sites which can adequately accommodate the local centre in its entirety, and states that the proposed location of the local centre is the most sequentially preferable one in Chidswell and the surrounding area. With reference to the NPPF, the applicant states that the proposals satisfy the relevant tests as there are no sequentially preferable sites or vacant units which are available and suitable to accommodate the proposals, and due to the scale and nature of the floorspace proposed, the proposals would not undermine the vitality and viability of any defined centre, and are unlikely to lead to any material impact on either private or public investments within these centres. These conclusions are accepted.
- 10.46 The applicant has stated that the 500sqm of retail floorspace proposed within the local centre is expected to meet the basic amenity needs of the occupiers of the proposed dwellings and employment uses, and is not expected to cater for the needs of people from outside the proposed development. To ensure no more than 500sqm of retail floorspace is provided within the (up to) 1,500qm of A1/A2/A3/A4/A5/D1 flexible floorspace of the local centre, an appropriate condition is recommended.

- 10.47 A further condition is also recommended in accordance with advice from KC Planning Policy, prohibiting the provision of specified uses (museums and exhibition halls) within the local centre's potential D1 element. This condition is considered necessary as these uses are not commensurate with the role and function of a local centre, and their provision may have necessitated an impact assessment.
- 10.48 The flexible A1/A2/A3/A4/A5/D1 use of the local centre's floorspace could include a pharmacy, doctor's surgery and/or dentist, however these have not been explicitly proposed at this outline application stage.
- 10.49 Given the above assessment, and notwithstanding a representation received from the Chidswell Action Group regarding the applicant's approach to sequential testing, the proposed local centre is considered to be compliant with Local Plan policy LP13.

*Summary regarding land use and principle of development*

- 10.50 The proposed development is policy-compliant in terms of land use. The principle of development is considered acceptable.

Employment, skills and social value

- 10.51 High numbers of quality, skilled jobs and apprenticeships would be expected at the application site. Details of these would be considered further at Reserved Matters stage and/or when occupants are identified, having regard to Local Plan policy LP9. Opportunities for local employment should be maximised.
- 10.52 The applicant's suggested employment numbers (3,019 full time equivalent jobs) are considered achievable, given the mix of unit sizes indicatively proposed and the mix of uses that would be secured by the recommended condition. B8 floorspace typically had very low employment densities, although there has been an emergence in recent years of B8 uses that have higher employment densities than previously seen in warehousing, storage and distribution. Notwithstanding these, the recommended restriction on B8 use would help deliver jobs (assuming take-up of floorspace in other uses would be strong), and could additionally help ensure the development's contribution towards local employment is not dominated by low-skilled jobs.
- 10.53 Prior to completion of the proposed development, the applicant has suggested that around 121 full time equivalent jobs would be created during the construction phase, and that total job creation would amount to more than this figure, when taking indirect job creation into account from increased demand within the supply chain.
- 10.54 The references to skills and employment opportunities in strategic objective 1 of the Local Plan are again noted. Local Plan policy LP9 states that the council will work with partners to accelerate economic growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy. It adds:

*Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. Applicants should reach an agreement with the council about measures to achieve this, which could include: provision of specific training and apprenticeships that are related to the proposed development or support other agreed priorities for improving skills and education in Kirklees or the creation of conditions to support a higher performing workforce, increasing productivity and the in work progression of employees. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants [where specified thresholds are met by proposed developments].*

10.55 The proposed development meets both thresholds set out in policy LP9 (housing developments which would deliver 60 dwellings or more, and employment developments delivering 3,500sqm or more of business or industrial floorspace).

10.56 On 21/09/2022, Cabinet approved a new Social Value Policy which defines social value as:

*...the broad set of economic, social and environmental benefits that may be delivered in addition to the original goods or service being provided. They may include jobs and training, support of local businesses and community organisations, and to our environment. These benefits may be delivered through procurement, our employment practices, our grants and investments or other processes.*

10.57 The Social Value Policy confirms that the council will consider social value in relation to planning and development, particularly major planning applications. The council will negotiate social value obligations for all major developments, within the exiting Local Plan policy framework and subject to meeting legal tests of the Section 106 process, and will use Section 106 agreements and other levers to ensure commitments are achieved.

10.58 The applicant has not yet identified developer partners, however it is recommended that provisions be secured (via a Section 106 agreement) requiring the applicant to, in turn, require those future partners to actively participate and engage with the council in delivering social value measures of benefit to the people of Kirklees, and in particular those resident in the areas surrounding the application site. This engagement may take the form of entering into an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. 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.

#### Masterplanning

10.59 Due to the size of the site, the scale of the proposed development, the wide range of relevant planning considerations, the requirements of site allocation MXS7 and Local Plan policy LP5, and the adjacent site allocations MXS5 and HS47, a masterplanning approach is necessary for this site. Careful masterplanning can ensure efficient use of land, high quality placemaking and

properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.

- 10.60 A concept masterplan was prepared by the applicant in 2017 for the purpose of informing discussions at the Local Plan Examination in Public. While this concept masterplan had merit, the council and the applicant agreed that it would be appropriate to restart the masterplanning process, looking again at the site's constraints and opportunities, consulting with residents, Members and other stakeholders, and devising a new masterplan through an iterative design process. This masterplanning work began in summer 2018.
- 10.61 At outline application stage, the applicant submitted an indicative masterplan, along with extensive supporting information explaining how a masterplanned approach has been applied to those aspects of development that would be fixed if outline permission is granted.
- 10.62 Applying a masterplanned approach to the site has been assisted by the fact that all of MXS7 is within a single ownership, with the landowner submitting both outline applications at the same time, outlining proposals for all parts of the site allocation. Comprehensive outline proposals have been submitted, appropriate co-ordination of and interfacing between phases (or parcels of development) will be possible, and apportioning of Section 106 responsibilities is relatively straightforward at this site, compared with other large allocated sites where ownership is fragmented.
- 10.63 Appropriate masterplanning, however, must also look beyond the red line boundaries of the current application sites. Appropriately, the proposed spine road (the alignment of which would be fixed at this outline stage) would dovetail with the section of spine road already approved at the adjacent HS47 site under permission ref: 2019/92787. The adjacent undeveloped allocated site to the west (MXS5) would not be sterilised, and access into, through and from it would be possible should the current outline applications be approved. Further afield, the applicant has co-ordinated proposals (with the applicant for the Capitol Park development) for junction 28 of the M62.
- 10.64 The two current outline applications would each shoulder an appropriate proportion of the infrastructure and other provisions needed to enable development of the MXS7 site and mitigate that development's impacts.
- 10.65 Given the above assessment, the proposed development is considered acceptable in masterplanning terms. Local Plan policy LP5 and the relevant requirements of site allocation MXS7 would be complied with.

#### Quantum and density

- 10.66 As noted above, site allocation MXS7 sets out indicative capacities of 1,535 dwellings and 122,500sqm of employment floorspace.
- 10.67 The proposals (across the two outline applications) meet these headline expectations of site allocation MXS7.



## Phasing and delivery

- 10.68 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.
- 10.69 Paragraph 1.66 of the Non-Technical Summary of the applicant's ES states that the intended development programme (including obtaining Reserved Matters approvals and undertaking site preparation works) is anticipated to be split into a number of phases and the full development is anticipated to be completed within 10 to 15 years, although the applicant has elsewhere referred to a longer build programme.
- 10.70 An indicative phasing plan was submitted with the application, and this has not been revised during the life of the application. 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 and outside it. 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.
- 10.71 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:

<b>Year</b>	<b>Dwellings delivered (cumulative)</b>
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

- 10.72 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.
- 10.73 Some of the uncertainties reported to the Strategic Planning Committee 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 (HS47 site) 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.
- 10.74 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. A condition requiring the submission of a phasing plan is recommended.
- 10.75 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).
- 10.76 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.

#### Sustainability and climate change

- 10.77 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.
- 10.78 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.
- 10.79 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.
- 10.80 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.

- 10.81 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 would continue into Reserved Matters and conditions stages if outline permission is granted, however at this stage the following can be noted:

*Economic sustainability*

- 10.82 Economic sustainability can concern a range of matters, including job creation, diversifying employment within the borough, training opportunities and providing a sufficient supply of employment floorspace that is fit for purpose, assists productivity and enables businesses to expand.
- 10.83 Construction-phase and 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, the creation of 121 construction-phase jobs and the later creation of 3,019 new jobs, the proposed development has the potential to contribute significantly to the economic development of Kirklees and West Yorkshire.
- 10.84 As noted earlier in this report, the provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and the proposed development meets the relevant thresholds. The provision of construction-phase and post-construction training and apprenticeships could significantly contribute to the borough's skills base and economic resilience.
- 10.85 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*

- 10.86 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.
- 10.87 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*

- 10.88 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.
- 10.89 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.
- 10.90 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.
- 10.91 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 committee report, 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.
- 10.92 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.
- 10.93 Drainage and flood risk minimisation measures would need to account for climate change.

10.94 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).

#### Urban design matters

10.95 Local Plan policies LP2, LP5, LP7 and LP24 are of particular relevance to this application in relation to design, as is the text of site allocation MXS7 and the council's Housebuilders Design Guide SPD. Chapters 11 and 12 of the NPPF and the National Design Guide are also relevant.

10.96 The current proposals are illustrated by an indicative site layout plan (which would not be listed on the council's decision letter, if outline planning permission is approved), and a series of parameter plans (which have been submitted by the applicant for approval, and which would be listed on the council's decision letter). The parameter plans related to:

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

10.97 In addition, the applicant has submitted indicative site-wide plans related to phasing and infrastructure, density and movement, as well as illustrative site sections. Design and Access Statements have also been submitted, as has a Landscape and Visual Impact Assessment (at chapter 7 of the Environmental Statement).

10.98 The indicative layout has been influenced by the requirements of the site allocation, the site's topography, the existing and possible locations of vehicular entrances, green infrastructure, drainage, existing watercourses, the need for separation between uses, open space requirements, the most appropriate location(s) for social infrastructure, highway safety and adoption, public rights of way, the high-level overhead power lines and pylons to be retained, adjacent uses, and other factors. The site's relationship with the allocated site HS47 to the southwest (where permission ref: 2019/92787 has been granted), and the allocated site MXS5 to the west (for which no application has been submitted) have also informed the proposals.

10.99 The proposed development (across the two outline applications) would have four main physical components:

- an employment area set within the site's east-west depression between the site's Leeds Road vehicular entrance and Dogloitch Wood;
- a large residential area accommodating most of the development's dwellings, with character areas ("The Pasture", "The Ridge", "Hill Top" and "The Lowlands") identified within;
- an area close to Leeds Road, accommodating the primary school, local centre, multi-use games area, allotments and other uses; and

- a further residential area, accommodating up to 181 dwellings, to the north of the employment area, between Dum Wood and the Leeds Road / Heybeck Lane junction.
- 10.100 Separation of the development's two main uses (residential and employment) is proposed, with the applicant's plans showing swathes of open space and landscaping between these uses, and two separate primary roads (with restrictions preventing HGVs moving into the main residential area) serving them. This is considered appropriate.
- 10.101 Much of the proposed development involves the provision of residential accommodation. With up to 1,354 dwellings proposed, and around half of the proposed coverage given over to that use, it is essential that early thought be given to placemaking, to avoid the creation of a monotonous, anonymous, characterless, illegible anytown development that misses opportunities to create a vibrant, safer, legible, well-connected, convivial and attractive place to live and visit.
- 10.102 It is accepted that the level of detail submitted at outline application stage would not normally include all of the information needed to demonstrate that the above design objectives have been met. However, the applicant's parameter plans, illustrative layout and supporting information provide enough assurance at this stage that sufficient and careful thought has gone into the proposals for which outline approval is sought. The applicant's consideration of connectivity, character areas, building heights and density (among other matters) in particular is encouraging, as are the references to character being influenced by the site's topography, and routes being influenced by topography and existing green and blue infrastructure. This commentary provides a degree of confidence in relation to placemaking, and assurance that the proposed development would, to an appropriate extent, be worked into (and would work with) the site and its existing features, and would not be parachuted in. It is considered that, with appropriate conditions and ongoing masterplanning, high quality development would be brought forward at this site.
- 10.103 A density plan is included among the applicant's indicative plans. This suggests a range of densities across the site, with lower densities (25 to 35 dwellings per hectare) appropriately proposed at the site's southern edge, and higher densities (35 to 45 dwellings per hectare) towards the local centre. It is accepted that variations in density can assist with placemaking and creating a legible neighbourhood – a crescendo of density would reference the patterns of development commonly found (and recognisable) on approaches to a centre. At Reserved Matters stage, the proposed development's densities should be informed by these patterns, adjacent densities and character, the amount of developable land and the indicative site capacity set out in site allocation MXS7, the need for efficient and effective use of land, and Local Plan policy LP7 which refers to a net density of at least 35 dwellings per hectare (where appropriate).
- 10.104 Similarly, the applicant's proposed developable areas and height parameters are considered logical and acceptable. These proposals would ensure appropriate scale and appropriate relationships between uses, constraints and existing and proposed features.

10.105 The level of design detail provided is considered appropriate for this outline application stage. Much more detail would be submitted at Reserved Matters stage, if outline permission is granted. This detail would need to comply with the parameters defined at outline stage, and would need to include the outstanding information normally provided with applications for full planning permission.

#### Heritage assets

10.106 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, chapter 16 of the NPPF and Local Plan policies LP24 and LP35, and the text of site allocation MXS7 are relevant.

10.107 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.

10.108 There are few designated heritage assets close to the site (including in Leeds and Wakefield boroughs), however impacts need to be assessed nonetheless. Undesignated heritage assets include field layouts and boundaries, and the nearby ancient woodlands which are of historic (as well as arboricultural and ecological) interest.

10.109 A Heritage Desk-Based Assessment and a Geophysical Survey Report were included in the applicant's ES (chapter 8).

10.110 On 04/12/2022, and during the life of the application, Gawthorpe Water Tower was added to the statutory list by Historic England. 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.*



- 10.111 The tower is located approximately 90m away from the application site's red line boundary, and stands on land approximately 125m AOD.
- 10.112 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.
- 10.113 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.
- 10.114 No significant impacts would occur in relation to other heritage assets. It is considered that the proposed development would not cause material harm to the settings of the few above-ground designated heritage assets that exist in the area surrounding the application site.
- 10.115 Historic England corresponded twice regarding the application, both times declining to comment, but suggesting that the council seek the views of its specialist conservation and archaeological advisers, as relevant.
- 10.116 Regarding archaeology, site allocation MXS7 notes that an archaeological site exists nearby. The applicant's Heritage Desk-Based Assessment concluded that there is potential for currently unknown archaeological remains to be present at the application site, and that may range ranging in date from the prehistoric period, potentially through to the modern period.
- 10.117 The West Yorkshire Archaeology Advisory Service (WYAAS) advised that the 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). WYAAS noted that there is currently up to regionally significant archaeologically significant remains within the site, and advised that – 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. Further site investigation was indeed carried out by the applicant in late 2021, however the findings of this investigation have not been submitted. The condition suggested by WYAAS is therefore recommended.

### Landscape impacts

- 10.118 Local Plan policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area considering in particular the setting of settlements and buildings within the landscape; the patterns of woodland, trees and field boundaries; and the appearance of rivers, canals, reservoirs and other water features within the landscape.
- 10.119 The application site has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding locations (including in longer views, and vantagepoints within adjacent boroughs) and from public footpaths. Public footpaths (and informal paths) in and around the application site are well-used, and representations received in response to the council's consultation on the application demonstrate that the visual and other amenities of this landscape are highly valued by local residents.
- 10.120 The applicant's Landscape and Visual Impact Assessment illustrates and assess the proposed development's impacts on 11 key views that had previously been agreed with officers, and impacts on aspects of the area's character. A range of impacts are noted, ranging from moderate beneficial to major adverse. Chapter 7 of the ES concludes by stating that, despite its transformative nature, the proposed development could be incorporated into the surrounding landscape context without major harm to landscape character and fabric, notwithstanding the loss of agricultural land.
- 10.121 Officers also note that the applicant has attempted to work with the application site's topography, and has not proposed to radically reshape it with extensive excavation and retention. Extensive green spaces are proposed, including (where possible) green corridors along existing watercourses and public rights of way. Planted buffers are proposed at the edges of the application site adjacent to the two ancient woodlands, and along the Kirklees/Wakefield borough boundary. These aspects of the proposed development would help limit its visual and landscape impact, as would landscaping measures that can be proposed and secured at Reserved Matters stage.
- 10.122 It is accepted that development of the application site would inevitably be transformative. This is unavoidable, given the majority of the site is currently undeveloped. Soft landscaping – however carefully designed – would not hide the proposed development. However, given the above assessment, the proposed development's landscape impacts are considered acceptable.

### Infrastructure requirements and delivery

- 10.123 A major development of this scale, and in this location, would require significant infrastructure to render the site ready to take development, to support development during its operational phase, and to mitigate its impacts.
- 10.124 Works and provisions related to infrastructure would, or may, include site investigation, stabilisation and remediation (including in relation to the site's coal mining legacy), formation of development platforms, provision of new roads and junctions, signalisation works, new cycle routes, new footways and footpaths (and diversions and improvements to existing footpaths), the required two form entry primary school, playspaces, sports and recreation facilities, other social infrastructure, allotments, landscaped areas, ecological

enhancement, other green infrastructure, public realm works, surface water drainage, utilities (water, sewerage, electricity, gas, and telecommunications including fibre broadband), electricity substations, decentralised energy (energy centre and distribution network), work related to the retained pylons, noise and air quality mitigation. Temporary, between-phase, infrastructure may also be required.

- 10.125 It is crucial that these infrastructure requirements are identified at an early stage, and it is important to ascertain when these works and provisions are required (phased delivery of some works may be appropriate), their costs, and who would be responsible for their delivery. Accordingly, the applicant has carried out extensive desktop work and site investigation to inform their conclusions regarding infrastructure requirements and costs. This included further site investigation carried out in late 2021 (the results of which have not been shared with the council, however the applicant has confirmed that no significant constraints or barriers to development were discovered). Throughout 2022, the applicant has also carried out development appraisal work, and shared the findings of this work with the council.
- 10.126 No developer partner has been identified by the applicant at this outline stage, and limited information has therefore been submitted by the applicant regarding infrastructure delivery responsibilities. The submitted indicative phasing and infrastructure plan includes no detail regarding timing of infrastructure delivery. The applicant has, however, consulted with potential infrastructure delivery partners, and has considered different infrastructure delivery models. An Infrastructure Delivery Plan was shared with officers at pre-application stage – this asserted that infrastructure would largely be the responsibility of future developers of the site, albeit in some cases provided via a joint venture with the applicant.
- 10.127 The recommended conditions and Section 106 agreement would secure the delivery of the necessary infrastructure (including its timely delivery, when needed). This includes the following key (or “big ticket”) items:
- M62 junction 28 improvement scheme (to be delivered if and when monitoring confirms it is needed);
  - M1 junction 40 improvement scheme (to be delivered if and when monitoring confirms it is needed);
  - Shaw Cross junction improvement scheme;
  - Spine road;
  - Pump-priming of a bus service through the application site; and
  - Two form entry primary school.
- 10.128 In addition, the applicant intends to submit an early Reserved Matters application (if outline permission is granted) relating solely to infrastructure provision and enabling works. This would potentially unlock large areas of the site (more than would normally be unlocked by an application relating to a single phase or parcel), assisting delivery. This suggestion is welcomed.
- 10.129 The provision of social infrastructure, including in relation to GP and education provision, is considered elsewhere in this committee report.

## Residential quality and amenity

- 10.130 Limited detail of the proposed development's residential element has been provided at this outline application stage, however as noted above the proposed number of dwellings is compliant with site allocation MXS7, and the applicant's submission documents provide some assurance that a high quality residential development would be brought forward. Regarding the quality and amenity of the proposed residential accommodation, there is currently no evidence to suggest that dwellings would not be adequately provided for.
- 10.131 Local Plan policies LP11 and LP24 require all proposals for housing to be of a high quality and design, providing a high standard of amenity for future and neighbouring occupants. There are constraints, or potential constraints, on residential development in certain parts of the site (including in relation to noise, odour, flood risk and the amenities of existing neighbouring properties) that would need to be addressed at Reserved Matters stage to ensure compliance with these policy requirements. Careful construction management would be necessary, to ensure the amenities of neighbouring residents and occupants of early phases are not significantly affected.
- 10.132 Dementia-friendly design and opportunities for inter-generational interaction would need to be included in the proposed development, and would be detailed at Reserved Matters stage.
- 10.133 The applicant has considered locations for specialist residential accommodation, which may include homes for retirement or sheltered living and/or an Extra Care facility. The applicant's indicative site layout plan annotates a "potential location for retirement accommodation / assisted living" adjacent to the proposed local centre. This is considered an appropriate location for such accommodation.
- 10.134 Regarding unit sizes, paragraph 3.5 of the Local Plan recognises that "If identified housing needs are to be met, houses of all sizes are needed together with an increasing number of bungalows and flats/apartments", and policy LP11 requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For major developments, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that, across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.

- 10.135 On 20/09/2022 the council commenced consultation on a draft Affordable Housing and Housing Mix SPD. This SPD may be adopted in the relatively near future, and may be a material consideration by the time detailed proposals are considered at the application site.
- 10.136 The sizes (in sqm) of the proposed dwellings would be a material planning consideration at reserved matters stage. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Pandemic-related lockdowns in 2020/21 and increased working from home have further demonstrated the need for adequate living space.
- 10.137 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant.
- 10.138 As the development's residential element is currently proposed in outline, a breakdown of the proposed unit sizes has not been provided, nor did it need to be. The mix of unit sizes would not be set at outline application stage. Further consideration of unit sizes would be carried out at Reserved Matters stage, if outline permission is granted. Any unit size mix proposed at Reserved Matters stage would be required to respond to the above policy and guidance, or any update to that policy and guidance that might apply at Reserved Matters stage.

#### Affordable housing

- 10.139 At this outline application stage no information regarding tenures has been provided by the applicant. Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. At Reserved Matters stage, more detail of the development's affordable housing provision would be required, in particular in relation to tenure and the locations of the dwellings. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development
- 10.140 20% of 1,354 dwellings is 271. It is recommended that this provision be secured via a Section 106 agreement, to ensure the development complies with Local Plan policy LP11. Applying the required 55% / 45% split mentioned above, this provision would include 149 social or affordable rent units and 122 intermediate (including First Homes) units.

- 10.141 Details of the sizes, locations, house types and tenures of the affordable units would be required at Reserved Matters stage.

Highway and transportation issues

- 10.142 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.143 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.144 Regarding cumulative impacts, paragraph 014 of the Government’s online Planning Practice Guidance (Travel Plans, Transport Assessments and Statements chapter) states that it is important to give appropriate consideration to the cumulative impacts arising from other committed development (i.e., development that is consented or allocated where there is a reasonable degree of certainty will proceed within the next three years). At the decision-taking stage this may require the developer to carry out an assessment of the impact of those adopted Local Plan allocations which have the potential to impact on the same sections of transport network as well as other relevant local sites benefitting from as yet unimplemented planning approval.
- 10.145 Existing highway conditions around the application site must be noted. The site has an existing vehicular access point off Leeds Road (the A653, which is a dual carriageway with marked cycle lanes and a grassed central strip along this stretch), between numbers 1060 and 1062. A dropped kerb and a bus stop exist at this access point. Bus services to Dewsbury, Huddersfield, Leeds and Wakefield are available from Leeds Road. The part of Chidswell Lane (that the application site red line boundary meets) has signage indicating it is unsuitable for heavy goods vehicles, has a substandard footway on the west side of its carriageway (although improvements have been secured under permission ref: 2019/92787), and lacks central white line markings for much of its length outside the site. There is a single, gated vehicular access on Chidswell Lane opposite Chidswell Farm.

- 10.146 The site can also be accessed by pedestrians from Chidswell Lane, Leeds Road and Heybeck Lane via several public footpaths, including BAT/49/10, BAT/50/10, BAT/50/20, BAT/51/10, BAT/51/20, BAT/51/30, BAT/52/10, DEW/146/10, DEW/150/10, DEW/151/10, DEW/151/20 and DEW/151/30. These public rights of way continue across the site. There are also informal paths within the site and through the adjacent woodlands. Parts of the Core Walking, Cycling and Riding Network pass through the site along existing public rights of way.
- 10.147 Future infrastructure improvement projects are relevant to the consideration of the applications for outline planning permission. As noted earlier in this committee report, 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 application site). New and improved routes for pedestrians and cyclists have been secured under permission ref: 2019/92787.
- 10.148 As noted earlier in this committee report, 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 committee report. 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, however the planning permission has not yet been issued.
- 10.149 Site allocation MXS7 notes that additional mitigation on the wider highway network will be required in connection with the proposed development, as there is potential for significant impacts upon the Strategic Road Network. The proposed development would contribute towards additional traffic at junction 28 of the M62 and junction 40 of the M1. Highways England (later National Highways) initially submitted (and subsequently renewed) a holding objection, noting that work was ongoing to assess the cumulative impacts of this and other major developments (including schemes in Leeds), and that outline planning permission should not be granted until this work was completed.
- 10.150 Under the current application, access is the only matter not reserved. For the avoidance of doubt, and given that relevant legislation defines "access" as "the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes..." (therefore, it can include access through a site), the applicant included an "access" plan among the parameter plans that would be approved at this outline stage. This shows the four vehicular access points proposed, as well as the broad routes of residential and employment spine road corridors. Other details of access through the site are only illustrated indicatively.
- 10.151 The applicant's Transport Assessment (TA) is provided at chapter 13 of the submitted ES.

### *Trip generation and traffic modelling*

- 10.152 The applicant's proposed trip generation rates and predicted background traffic growth rates are considered acceptable. The scope of the applicant's TA was agreed during pre-application discussions and is based on current guidance and industry standard methodology. Trip rates used in the analysis were derived from the industry standard TRICS trip rate database. These have been reviewed by Kirklees HDM and National Highways and are considered to be appropriate for the proposed development. The applicant's assessment is based on the morning and evening peak hours of 07:30 – 08:30hrs and 16:30 – 17:30hrs respectively. Total person trips were derived for each proposed land use. These were sub-divided into travel modes based on the 2011 Journey to Work Census data set for the local area. For the purposes of the assessment the area used was local area Kirklees 014 Medium Super Output Area, which is considered to be reflective of the site's future occupiers' travel behaviours. Trips have been distributed and traffic assigned on the highway network using origin and destination data from the 2011 Census, Method of Travel to Work data set.
- 10.153 To support the highway proposals in the Kirklees Local Plan, the council commissioned a SATURN (Simulation and Assignment of Traffic to Urban Road Networks) model, which provided future network scenarios for assessment years 2020 and 2030. The applicant was advised to use these outputs, which it was considered would produce a more realistic future traffic scenario, which better reflected detailed changes to traffic assignment and growth, rather than using high level projections such as TEMPro growth factors. It was agreed to assess the traffic impact of the proposed development in future assessment years 2024 and 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 suggested that the traffic created by the proposed development may prove to be less than they have predicted.
- 10.154 The tables below (extracted from the applicant's TA) set out the total trips predicted for the proposed development's residential and employment elements.



**Table 5.2: Total Residential Two-Way Person Trips**

Residential Trips	Time Period	Arrivals	Departures	Total Two-Way
<b>Residential (Private) (C3 Use Class)</b> 1382 dwellings	08:00 – 09:00	322	1130	1452
	17:00 – 18:00	836	539	1375
	<b>Daily (07:00-19:00)</b>	<b>5,784</b>	<b>6,143</b>	<b>11,927</b>
<b>Residential (Affordable) (C3 Use Class)</b> 153 dwellings	08:00 – 09:00	32	102	135
	17:00 – 18:00	73	57	130
	<b>Daily (07:00-19:00)</b>	<b>531</b>	<b>552</b>	<b>1083</b>
<b>Residential (Total)</b>	08:00 – 09:00	354	1233	1587
	17:00 – 18:00	909	596	1505
	<b>Daily (07:00-19:00)</b>	<b>6,315</b>	<b>6,695</b>	<b>13,010</b>

**Table 5.3: Total Employment Two-Way Person Trips**

Residential Trips	Time Period	Arrivals	Departures	Total Two-Way
<b>B1(a) Office</b> 18375 sqm GEA	08:00 – 09:00	362	49	411
	17:00 – 18:00	40	299	339
	<b>Daily (07:00-19:00)</b>	<b>1,313</b>	<b>1,290</b>	<b>2,604</b>
<b>B1(c) Light Industry</b> 12250 sqm GEA	08:00 – 09:00	92	32	124
	17:00 – 18:00	39	106	146
	<b>Daily (07:00-19:00)</b>	<b>595</b>	<b>580</b>	<b>1,175</b>
<b>B2 General Industry</b> 30625 sqm GEA	08:00 – 09:00	229	81	309
	17:00 – 18:00	98	266	364
	<b>Daily (07:00-19:00)</b>	<b>1,487</b>	<b>1,450</b>	<b>2,937</b>
<b>B8 Warehousing</b> 61250 sqm GEA	08:00 – 09:00	296	52	348
	17:00 – 18:00	13	238	252
	<b>Daily (07:00-19:00)</b>	<b>1,509</b>	<b>1,612</b>	<b>3,121</b>
<b>Employment (Total)</b>	08:00 – 09:00	978	214	1192
	17:00 – 18:00	191	910	1101
	<b>Daily (07:00-19:00)</b>	<b>4,904</b>	<b>4,933</b>	<b>9,836</b>

10.155 In order to understand the current and future capacity levels at junctions affected by the proposed development, a series of junction capacity assessments were undertaken at junctions within the vicinity of the application site. The extent of junctions to be assessed was agreed through the TA scoping process. Including site accesses, a total of 18 junctions were identified and modelled, as follows:

- M1 Junction 40 (Flushdyke Interchange)
- M62 Junction 28 (Tingley)
- A653 Leeds Road / Heybeck Lane / B6124 Soothill Lane
- A653 Leeds Road / Chidswell Lane

- Leeds Road / B6128 Challenge Way / B6128 John Ormsby VC Way (Shaw Cross)
- A653 Leeds Road / High Street
- Windsor Road / Owl Lane
- A638 Chancery Road / Owl Lane / B6128 Leeds Road / A638 Wakefield Road
- Chidswell Lane / Windsor Road
- A653 Leeds Road / Owl Lane
- John Ormsby VC Way / Owl Lane
- A653 Dewsbury Road / Rein Road / Syke Road
- Owl Lane / Southern Site Access 5 / Dewsbury Rams (new roundabout)
- Owl Lane / Amberwood Chase
- Site Access 1 (Heybeck Lane site access)
- Site Access 4 (Chidswell Lane site access)
- Site Access 2 (Commercial/industrial access from Leeds Road)
- Site Access 3 (Primary residential access from Leeds Road)

10.156 The list of committed schemes (taken into account by the applicant in traffic modelling) is considered appropriate. This list is set out from paragraph 6.33 of the applicant's TA. Of note, planning permission at the adjacent HS47 site (ref: 2019/92787) has been granted since the TA was compiled. Current application ref: 2022/92988 is not considered to be a significant material consideration of relevance to the current outline applications for the MXS7 site.

#### *M62 Junction 28*

10.157 Much of the discussions between officers and the applicant during the life of the application have concerned motorway junction assessment and mitigation. Those discussions relating to M62 junction 28 have also involved National Highways (previously Highways England), Leeds City Council and the applicant for the Capitol Park scheme in Leeds.

10.158 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).

10.159 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.

- 10.160 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.
- 10.161 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.
- 10.162 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. A draft Monitoring Strategy Framework has been prepared by the applicant. This monitoring would be used to ascertain whether the mitigation scheme proves necessary. National Highways and Leeds City Council have confirmed that this draft strategy is acceptable. As relevant parties have agreed to this approach, an appropriate mechanism is recommended, securing the implementation of this monitoring, and the delivery of junction mitigation (if the monitoring demonstrates that this is needed).
- 10.163 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.
- 10.164 The entire junction improvement 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.
- 10.165 Clarification from Leeds City Council regarding the provisions and wording of the relevant condition(s) and Section 106 agreement is awaited.
- 10.166 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.

- 10.167 For the avoidance of doubt, the applicant's contribution towards this junction improvement scheme cannot be repurposed if monitoring demonstrates that the scheme is not required.
- 10.168 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.
- 10.169 Related design and safety assessment work has been carried out by the two applicant teams. This has included a designer's response (to an earlier road safety audit and a walking / cycling / riding assessment), which National Highways and Leeds City Council have confirmed is acceptable.
- 10.170 National Highways have not yet withdrawn their holding objection (most recently renewed on 08/07/2022), however withdrawal of this objection in relation to this junction is expected in the near future, given the significant progress made to date, and given the letter of assurance more recently provided by National Highways. As reported at paragraph 8.5 of this committee report, all that remains is for the applicant, the relevant local authorities and National Highways to agree the wording of the planning conditions that would secure this monitoring strategy and mitigation schemes against any grant of planning consent. Subject to reaching agreement on condition wording National Highways will replace the current temporary non-determination recommendation with a "no objection" subject to the relevant conditions being attached to any grant of planning consent.

#### *M1 Junction 40*

- 10.171 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.
- 10.172 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. Again, this monitoring would be used to ascertain whether the mitigation scheme proves necessary. National Highways and Wakefield Council have confirmed that this draft strategy is acceptable.

- 10.173 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.
- 10.174 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.
- 10.175 As with junction 28 of the M62, National Highways have not yet withdrawn their holding objection (most recently renewed on 08/07/2022), however withdrawal of this objection in relation to this junction is expected in the near future, given the significant progress made to date, and given the letter of assurance more recently provided by National Highways.

#### *Shaw Cross junction*

- 10.176 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 was prepared by the council, and was subsequently amended to include better provision for cyclists. This junction improvement scheme related to the Mirfield to Dewsbury to Leeds project (M2D2L, also identified as scheme TS5 in the Local Plan, and intended to reduce congestion, reduce travel times, improve air quality and enhance the public realm along the A644 and the A653).
- 10.177 The cost of this junction improvement 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.
- 10.178 The applicant had accepted responsibility for making up the difference in the cost of implementing the improvement scheme. A sum of £400,000 (to be paid to the council) had been allowed for in the applicant's development appraisal. The council had intended to implement the scheme between 2023 and 2025 using this contribution, those contributions secured in relation to other developments, and funding from West Yorkshire Plus Transport Fund (needed as the cost of the scheme is now expected to be closer to £1m).
- 10.179 In a recent development, however, allocations from the West Yorkshire Plus Transport Fund have been reviewed, resulting in the "M2D2L" scheme (including the Shaw Cross junction improvement scheme) being paused for the time being. Officers are continuing to work on the detailed design of the scheme, and still intend to submit a planning application in the new year, however at this stage the council has no implementation date scheduled for the scheme.

10.180 Mitigation at this junction is considered necessary to make the proposed development (and other developments nearby) acceptable in planning terms. Given the recent West Yorkshire Plus Transport Fund review, it therefore now falls on the applicant to implement a mitigation scheme. Contributions secured to date can still be put towards this scheme, as can any other funding that may become available in the future. The applicant has requested flexibility to allow due diligence checks to be carried out, to allow for further consideration of the council-designed scheme, and to allow for an alternative mitigation scheme to be implemented if appropriate. This is considered acceptable in principle if all applicable impacts (including those of other developments from which contributions have been secured) would be mitigated. An appropriate condition is recommended, including a requirement for an appropriate mitigation scheme to be delivered when required.

*Other junctions in Kirklees*

10.181 The applicant has 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*

10.182 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. This has not attracted an objection from Leeds City Council. Provisions in the Highways Act enable a local authority to secure works to highways outside their jurisdiction, however a mechanism for the delivery of these works will need to be agreed with Leeds City Council.

10.183 No other junction improvement works are proposed within the adjacent boroughs (Leeds and Wakefield). Wakefield Council have raised a late concern regarding impacts at the Owl Lane / Chancery Road / Leeds Road / Ossett bypass roundabout, however this was received after highways assessments had been concluded, and it was not considered reasonable to request the applicant to provide further highway mitigation.

*Site entrances*

10.184 The applicant has completed road safety audits for the four proposed site entrances listed at paragraph 3.6 above, and designer's responses have been 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.

- 10.185 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.
- 10.186 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.
- 10.187 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. Similar provisions are recommended regarding the current outline application for the MXS7 site.

### *Highway safety*

- 10.188 A review of personal injury accidents in a five-year period shows that in the wider accident study area, which extends from Dewsbury Ring Road to Tingley (junction 28 of the M62) and associated junctions there has been a total of 104 accidents, the majority (87) of which have been slight. The study area included three fatalities, although none of these were within the vicinity of the application site. One occurring at the junction of the A639 (Leeds Road / Dewsbury Road and Quarry Lane, a major-minor priority junction) where a rigid HGV turning right at the junction struck and killed a pedestrian crossing the carriageway. The other two fatalities were recorded on the A650 Tingley Common to the west of junction 28 of the M62. The first involved a cyclist being struck and killed by a car. The second accident involved a motorcyclist being struck and killed by a heavy goods vehicle performing a U-turn manoeuvre. Along the length of the A639 Leeds Road adjacent to the site all recorded accidents were slight and are broadly distributed, with some limited clustering at junctions as would be expected. Accident rate analysis from the junction of Leeds Road / Chidswell Lane to the junction of Leeds Road / Heybeck Lane indicates that the A639 Leeds Road adjacent to the site has an accident rate of approximately half that which might be expected compared to a link on a comparable type of road. It is noted that two of the development's new accesses are proposed along this length of road, these new accesses will be designed to modern highway standards and are expected to have negligible impact on highway safety of this length of road.
- 10.189 It is considered that there are no significant accident clusters or trends in terms of either type or location that would warrant further investigation or mitigation. It is further considered that the proposed development is unlikely to materially exacerbate the current situation.

### *Spine road*

- 10.190 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).
- 10.191 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.



- 10.192 Once complete, a vehicular connection between Owl Lane and Leeds Road would be provided, enabling access to Owl Lane (the B6128) which in turn connects to the M1 (via the A638) and the M62 (via the A653). This spine road would also serve the proposed primary school and local centre.
- 10.193 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.
- 10.194 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.

#### *Other proposed roads*

- 10.195 The other spine road would serve the employment uses, and would form a long loop accessed from the site's existing vehicular site entrance on Leeds Road. A short road connecting these two primary spine roads, but preventing HGV movements into the main residential area, is also proposed.
- 10.196 The smaller residential area at the north (Heybeck Lane) end of the allocated site would have a separate, new vehicular access from Heybeck Lane.

#### *Public transport*

- 10.197 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.
- 10.198 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.

- 10.199 The applicant has accepted the principle of pump-priming contributing towards local bus services. 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. This service would need to be carefully timed, so it does not commence before the application site is sufficiently populated – the applicant has proposed that it should not commence before 1,000 homes (across both parts of the MXS7 site) are occupied. It would also be appropriate to allow for contributions to cease early if the bus route proves successful and becomes self-financing at an early stage.
- 10.200 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.
- 10.201 In late 2020 officers requested an audit of existing cycling, walking and public transport facilities within the vicinity of the application site, to provide a quantified and evidenced basis upon which to judge the current accessibility of the site and the adequacy of existing provision. Appendix D of the applicant's Technical Note (ref: A13398/VAA Final 1, dated 10/12/2020) audited nearby bus stops. Officers noted in May 2021 that the quality of the current local bus stop provision was generally good, but that in some places there were ageing historical provisions and apparently limited maintenance which may discourage use. Officers therefor advised that improvements could be made to encourage the use of more sustainable modes of transport. For example, it was noted that none of the existing bus stops in the vicinity of the proposed development site on Heybeck Lane, Leeds Road or Windsor Road have bus shelters. A contribution to the upgrade of these facilities would therefore be appropriate.
- 10.202 While the above assessment is noted, existing bus stop provision may have changed in the intervening period, and may change again in the time likely to elapse before any development at the application site is occupied. It is therefore considered appropriate to review local provision nearer to the time occupants of the development are likely to start using it.
- 10.203 On 23/11/2022 the applicant agreed to a condition being applied, requiring a local bus stop audit, which would then determine what replacements and upgrades the applicant would implement. At other sites the council has been specific about which bus stops would be improved, however at this site (in the absence of guidance from WYCA Metro, and given the possibility of a current audit being out of date by the time occupation commences), the recommended approach is considered appropriate.

### *Walking and cycling*

- 10.204 Local and national policies and guidance adopted and published during the life of the application 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.
- 10.205 The applicant has submitted a site-wide “movement” illustrative plan, and pedestrian and cyclist movement has been considered by the applicant in light of the requirements of policy LP21 to encourage the use of sustainable modes of transport, policy LP23 regarding the Core Walking, Cycling and Riding Network, and policies LP20, LP24dii and LP47e which require improvements to neighbourhood connectivity and opportunities for walking and cycling. Parts of the borough’s Core Walking, Cycling and Riding Network (which is intended to provide an integrated system of routes that provide opportunities for alternative sustainable means of travel through Kirklees, and provide efficient links to urban centres and site allocated for development) pass through the application site.
- 10.206 The applicant’s indicative masterplan also makes good provision for pedestrians and cyclists 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 appropriate at Reserved Matters stage, if outline permission is granted.
- 10.207 Existing public footpaths would largely be retained (some minor diversions are proposed). Diversions of existing public rights of way would be subject to applications, fees and consultation under a legislative process separate to planning.

### *Travel planning*

- 10.208 Comprehensive and effective travel planning would be required in connection with all of the proposed development’s uses, in compliance with Local Plan policy LP20. An appropriate Framework Travel Plan (with subordinate plans subsequently prepared at later stages) would be secured via Section 106 planning obligations, however a draft has been submitted at this outline application stage.

### *Other highways and transport matters*

- 10.209 Site allocation MXS5, for the adjacent site to the west, requires the provision of access through that site to site MXS7. An allowance for this is annotated on the applicant’s “access” parameter plan.
- 10.210 Parking provision would be considered at Reserved Matters stage, and would need to reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership and the council’s adopted Highway Design Guide SPD.
- 10.211 Conditions related to retaining highway structures are likely to be necessary at Reserved Matters stage, given the wildlife underpasses indicatively proposed by the applicant.

### Flood risk and drainage issues

- 10.212 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy has been submitted as a chapter of the applicant's ES. In addition, the applicant's blue infrastructure parameter plan identifies the broad locations for the proposed strategic blue infrastructure, including sustainable urban drainage ponds and underground attenuation which form the basis of the proposed strategic drainage strategy. Of note, the applicant has clarified that swales and localised drainage ponds are excluded from this drawing and would be detailed at a subsequent Reserved Matters stage. Soakaways would be used where practical. Where soakaways are not feasible, the applicant proposes to direct surface water runoff to the watercourses located within and to the east of the site.
- 10.213 The requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, apply. The site has drainage-related constraints in the form of existing watercourses that cross the site.
- 10.214 In relation to drainage and flood risk, the applicant's outline-stage proposals are considered acceptable. Subject to conditions, the Lead Local Flood Authority (LLFA) have not objected to either application, but have confirmed that a fully detailed drainage masterplan would be required prior to Reserved Matters submissions, to ensure an integrated drainage approach is followed. The LLFA have also recommended that a working group be set up to ensure successful masterplanning in relation to drainage. Across the entire MXS7 site, discharge restrictions based on a greenfield run-off of 5l/s/ha would be appropriate. For the Heybeck Lane site, a discharge rate of 32.4l/s would not be accepted. The ongoing maintenance and management of sustainable drainage systems would need to be secured via a Section 106 agreement.

### Environmental and public health

- 10.215 The applicant's information regarding the health impact of the development must be considered in accordance with Local Plan policy LP47 and chapter 8 of the NPPF. A Health Impact Assessment has been appended to the applicant's ES.
- 10.216 Development at this site would be required to assist in promoting healthy, active and safer lifestyles in accordance with the above planning policies. This can be achieved in many ways – air quality mitigation and improvement, facilitation and encouragement of on-site and local outdoor activity, inclusive design, providing opportunities for inter-generational interaction, new and enhanced public footpath and cycle path connections, careful construction management (including dust control) and other measures can be proposed by the applicant and future developers of the site. As per the comments of KC Public Health and other consultees, however, it is noted that many of these matters would be assessed in detail at Reserved Matters stage.
- 10.217 It is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a

particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

- 10.218 An Odour Risk Assessment was submitted by the applicant. Regarding odour from Chidswell Farm, KC Environmental Health commented that that a greater distance would need to be maintained between new dwellings and the curtilage of the farm, to distance them from the risk of potential odours. As layouts at this outline stage are indicative (and developable areas would not be set if outline permission is granted), and as several detailed considerations should inform layout, this matter need not be considered further at outline application stage, but will need to be addressed prior to the relevant Reserved Matters application being submitted. An appropriate condition is recommended.
- 10.219 Chapter 9 of the applicant's ES addresses noise. A condition regarding noise is recommended, however, as per the comments of KC Environmental Health. Further conditions relating to the control of noise may need to be applied at Reserved Matters stage, once more is known regarding the nature of the non-residential uses and their proximities to sensitive receptors within and outside the proposed development.
- 10.220 The application site is not located within an Air Quality Management Area (AQMA). The nearest AQMA within Kirklees is at Dewsbury town centre (Kirklees AQMA 5). Due to the size of the development proposed, and having regard to the West Yorkshire Low Emission Strategy (WYLES) planning guidance, the development is assessed as "major", and air quality needs to be addressed at application stage.
- 10.221 Chapter 10 of the applicant's ES addresses air quality. KC Environmental Health had noted that no relevant monetary cost calculations had been submitted, when in accordance with the WYLES guidance it is necessary for all "major" developments to provide a calculation of monetary damages arising from the proposed development in addition to a full Air Quality Impact Assessment. KC Environmental Health also advised that, as the proposal is for a mixed use development, sensitivity testing should be undertaken for the operational phase using sensitive receptors within the development site that border onto the commercial uses to determine the impact that this will have on any future residents being subjected to harmful pollutant concentrations.
- 10.222 Given the above assessment, while KC Environmental Health agree with the applicant's methodology regarding air quality, a condition requiring a full Air Quality Impact Assessment is considered necessary.
- 10.223 In addition, a provision within the recommended Section 106 agreement is recommended, to enable a contribution to be made (to be put towards air quality mitigation), should collection of a contribution prove necessary.
- 10.224 Although substantial works would not normally commence on site until Reserved Matters approvals have been issued, it may be appropriate for certain works (such as demolition, site preparation and early spine road works) to take place prior to Reserved Matters applications being submitted. It is therefore appropriate to apply a condition requiring the submission and implementation of a Construction (Environmental) Management Plan.

## Site contamination and stability

- 10.225 Site allocation MXS7 notes the potential presence of contamination at the site. Local Plan policy LP53 states that development on land that is currently contaminated or suspected of being contaminated due to its previous history would require the submission of an appropriate contamination assessment. Where there is evidence of contamination, measures to remediate the land would be required to ensure the contamination does not have the potential to cause harm to people or the environment.
- 10.226 The applicant's Phase 1 Geoenvironmental Desk Study Report provides an in-depth appraisal of the site history and previous surrounding land uses since the 1800s. The application site is associated with former mineshafts and associated structure due to historical coal mining activities on and adjacent to the site (the Heybeck Lane site is the former site of the Babes in the Wood Colliery). There are also areas of colliery spoil and demolition waste across the application site. In relation to the site's potential shall mine workings and mine entries, ground gas, metals, polycyclic aromatic hydrocarbons and asbestos have been identified by the applicant's consultant as possible contaminants of concern. The report concludes by recommending a Phase II investigation including but not limited to the installation of gas monitoring standpipes and monitoring for a minimum of twelve visits over six months, soil sampling and laboratory analysis, and rotary borehole investigations to assess the site's coal mining legacy.
- 10.227 For both applications, Environmental Health officers are satisfied with the Phase I report and its recommendations, and have raised no objection on site contamination grounds, subject to conditions being applied.
- 10.228 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards.
- 10.229 The applicant's Coal Mining Risk Assessment refers to a range of information sources, and asserts that there is currently a moderate to high risk to the proposed development related to recorded and historic unrecorded mine workings, opencast workings and the presence of three recorded mine entries. Therefore, in order to mitigate the risks, the applicant's consultant has appropriately recommended that intrusive ground investigations and gas monitoring be carried out in order to confirm the exact ground conditions present within the site, including the location and condition of the recorded mine entries.
- 10.230 The Coal Authority has advised that, as part of these investigations, the depth to rock head adjacent to these mine entries should be established – this would enable the applicant's consultant to calculate the zone of influence (and no-build exclusion zone(s)) of all mine entries found present within the site, and this can in turn inform the layout of the development to ensure that adequate separation between buildings and the mine entries is incorporated.
- 10.231 The findings of the site investigations should inform the extent of remedial or mitigatory measures required to ensure that the development will be safe and stable. The nature and extent of the ground investigations / treatment works will require further consent from the Coal Authority prior to commencement of these works.

## Ecological considerations

- 10.232 Chapter 15 of the NPPF and Local Plan policy LP30 apply. Of particular note, paragraph 174 of the NPPF requires the proposed development to achieve a biodiversity net gain.
- 10.233 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.
- 10.234 The biodiversity designations relevant to the application site 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).
- 10.235 In addition, several hedgerows within the application site provide valuable habitats, and several trees and groups of trees within the site and nearby are subject to Tree Preservation Orders. Bats are known to be present in the area.
- 10.236 The applicant's green infrastructure parameter plan and other supporting documents confirm that existing assets (trees and hedgerows) would largely be retained.
- 10.237 The applicant stated that a biodiversity net gain could be achieved by the proposed development, and that this would evolve through a detailed scheme at Reserved Matters stage. However, the applicant subsequently provided more detail, including a biodiversity net gain calculation (using the Biodiversity Metric 3.1) that confirms the proposed development would achieve the following net gains (post-intervention):
- Habitat units: 10.05%
  - Hedgerow units: 13.17%
  - River units: 10.2%
- 10.238 In respect of the habitat units, the applicant has indicated that a post-intervention on-site net gain of only 3.53% would be achieved. The applicant is therefore additionally proposing off-site interventions to achieve a 10.05% net gain.

- 10.239 The proposed net gains are considered achievable, given the extensive green infrastructure proposed by the applicant (as illustrated in the submitted green infrastructure parameter plan). Delivery of the proposed off-site interventions would need to be secured via the recommended Section 106 agreement.
- 10.240 Regarding the species currently present at the application site, the applicant has submitted the following surveys (mostly attached as appendices to chapter 14 of the ES):
- Habitat Suitability Index Assessment and Report (March 2018) regarding ponds
  - Barn Owl Scoping Assessment and Report (April 2018)
  - Ornithological Summary (Breeding Birds) (October 2018)
  - Badger Assessment and Report (April 2018)
  - Bat Roost Suitability Assessment and Report (April 2018)
  - Bat Activity Survey (November 2018)
  - Water Vole Report (September 2018)
  - Reptile Survey (October 2018)
  - Hedgerow Assessment and Report (July 2018)
  - Bat Roost Suitability Assessment (August 2018)
  - Bat Emergence Survey (August 2018)
  - Letter regarding bat surveys of lofts (23/08/2022)
  - High-Level Biodiversity Net Gain Assessment (10/10/2022) including findings of a walkover survey undertaken in October 2022
- 10.241 Of note, the above dates refer to the dates of the reports. The surveys carried out by the applicant preceded those dates (for example, the Bat Activity Survey sets out the findings of field surveys carried out in April to September 2018).
- 10.242 It had been noted that – given the age of the current application – much of the applicant’s ecological survey information was over four years old. Although further, up-to-date surveys would in any case be required at Reserved Matters stage (if outline permission is approved), the applicant was asked to respond on this matter at outline stage. The applicant responded with the High-Level Biodiversity Net Gain Assessment listed above. This was dated 10/10/2022 and included the findings of a walkover survey undertaken in October 2022.
- 10.243 The applicant’s earlier surveys found a “likely absence” of several species including great crested newts, barn owls, badgers, water voles and species of reptiles. Evidence of, and potential for, bats and several bird species were noted. Several “red list” (of the Government-recognised UK Birds of Conservation Concern list) bird species (lapwing, herring gull, skylark, starling, song thrush, house sparrow, yellow wagtail, linnet and yellowhammer) and “amber list” bird species (mallard, black-headed gull, lesser black-backed gull, stock dove, kestrel, house martin, willow warbler, dunnoek, meadow pipit, bullfinch and reed bunting) were observed at the application site.
- 10.244 The applicant has acknowledged that the earlier surveys have passed the timeframe by which the Chartered Institute for Ecology and Environmental Management (CIEEM) considers survey results to remain valid. However, the applicant has stated that the earlier ecological information presented a robust picture of the application site’s ecological baseline sufficient to enable the



council to make an informed decision on the outline planning application. The applicant has gone on to note that, for reports aged 18 months to 3 years, CIEEM advise that a professional ecologist should undertake a site visit and review the validity of the reports. The applicant's October 2022 updating walkover survey found the application site to have changed very little since the previous ecological surveys were completed, and no significant changes were identified to the habitats present on site (and/or the ecological conditions, functions or ecosystem functioning upon which they are dependant). The applicant has therefore concluded that the earlier surveys continue to present a reliable baseline for the application site.

- 10.245 The applicant's further bat surveys (undertaken in June and August 2022) found no evidence of bat roosts in the lofts of those dwellings that would be demolished as part of the proposed development.
- 10.246 Regarding ground-nesting farmland birds such as skylarks and yellowhammers, the applicant proposes to set out measures at a later stage. This would involve the provision of "skylark plots" on retained arable farmland (within the ownership of the applicant) to the east, once negotiations with tenant farmers have been concluded.
- 10.247 The applicant's Ecological Design Strategy also sets out proposed measures relating to wetland creation, woodland planting, scrub planting, wildflower grassland, species-rich hedgerows, bird and bat boxes, wildlife underpasses, and log and brash piles.
- 10.248 Local residents remain concerned regarding the age and adequacy of the applicant's ecological surveys, noting that several species are (including kingfisher and barn owl) were present at the site but were not noted in the applicant's earlier surveys, and stating that the applicant's October 2022 walkover survey was not carried out in typical conditions and included errors (including in relation to an on-site watercourse, which the applicant stated was dry at the time of the survey, and where assumptions had been made that the site's streams are in a poor condition as they hold no water, and are choked with scrub vegetation and invasive weeds). 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.
- 10.249 Representations from local residents have also expressed disbelief that a biodiversity net gain would be achieved by the proposed development.
- 10.250 Representations relating to biodiversity have been received from KC Ecology, the Yorkshire Wildlife Trust (raising concerns) and Natural England (no objection). The Chidswell Action Group has 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.
- 10.251 The evidence gathered by local residents is very useful, and the outstanding concerns of residents (which – residents have made clear – have not been addressed by the applicant's most recent submissions) are noted. The gathered evidence demonstrates the need for further, thorough and up-to-date ecological survey work to be carried out before development takes place at the application site.

10.252 Having regard to the information available, however, the council is indeed able to make an informed decision on the current outline applications. Current legislation, planning policy and guidance protects certain aspects of habitat (for example, all birds' nests while in use), but not all (for example, foraging areas). The applicant's survey findings – while needing further detail and updating before development commences – are not disputed. Similarly, the findings of local residents are not disputed, and it is noted that different parties observing sites at different times can obtain different (but not necessarily contradictory) information. The applicant has proposed a policy-compliant biodiversity net gain, and has met other requirements of relevant planning policies. Conditions and provisions (secured via a Section 106 agreement) can be applied to mitigate the ecological impacts of the proposed development.

10.253 Any loss of established, valuable habitat is of course regrettable. However, with the recommended conditions (regarding ecological mitigation and enhancement and restricting work during bird nesting season) and Section 106 provisions (regarding biodiversity net gain and off-site measures) in place, together with the further survey work that would be required prior to the submission of Reserved Matters applications, the proposed development is considered acceptable in relation to ecological impacts.

#### Trees, ancient woodlands and hedgerows

10.254 Several Tree Preservation Orders protect trees and groups of trees within and adjacent to the application site, and ancient woodlands are designated to the east of the site. Local Plan policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodlands of significant amenity, and proposals should normally retain any valuable or important trees where they make a contribution to public amenity or have other benefits.

10.255 The applicant's Hedgerow Assessment and Report (July 2018) at appendix 14.9 of the submitted ES states that three of the MXS7 site's hedgerows can be defined as "important" under the Hedgerow Regulations 1997, and that a further five hedgerows just fall short of being classified as "important", due to there being either one too few woody species or associated features, or by not being adjacent to a public right of way.

10.256 As noted above, the proposed development largely retains existing trees and hedgerows, and buffers are proposed adjacent to the ancient woodlands. The applicant's landscaping proposals are currently indicative, however they illustrate potential biodiversity connections across the site.

10.257 The applicant's illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the, and avoiding adverse impact on these features. Significantly more detail would, of course, be required at Reserved Matters stage, including details of how the site's hedgerows would be retained.

- 10.258 The effects of the proposed development upon the adjacent ancient woodlands (Dum Wood and Dogloitch Wood, which are Local Wildlife Sites and are habitat-rich ancient replanted woodlands) have been raised by several residents in their representations, and in submissions from organisations including the Woodland Trust. At pre-application stage, the applicant was advised to design in buffers adjacent to the ancient woodlands, comprising a zone of semi-natural habitat (15m deep at least) between the proposed development and the ancient woodland or tree. The applicant was also advised that a zone of at least 15 times the diameter of a veteran tree or 5m from the edge of its canopy (whichever is greater) should be proposed, and that open space should be designed around veteran trees (including trees that could become veteran in the future). Noise reduction measures adjacent to ancient woodlands, and screening barriers to protect ancient woodland and veteran trees from dust and pollution during construction works, were also discussed.
- 10.259 The applicant's Design and Access Statement confirms that 20m wide buffer zones are proposed around the perimeter of Dum Wood and Dogloitch Wood, and a 15m wildlife corridor provides a link between the two, along the site's eastern edge.
- 10.260 Regarding public access to and through the ancient woodlands at Dogloitch Wood and Dum Wood, it is noted that there are already informal paths through these areas, and there is a risk that an increased (and closer) local population would place further pressure on these ancient woodlands. Controlled access and management could, however, enable a greater number of people to enjoy these woodlands. Although outside the application sites' red line boundaries, both woodlands are within the ownership of the applicant.
- 10.261 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.

- 10.262 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.
- 10.263 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, although Dum Wood is already on slightly elevated land, the adjacent ancient woodlands would not be left perched on higher land while land around it is lowered and hard surfaced.
- 10.264 In the more detailed designs to be brought forward at Reserved Matters stage, Green Street principles would need to be to be adhered to. Sufficient space should be allowed for in new roads, and these principles would need to be accounted for in any assessment of infrastructure requirements. Detailed designs, showing Green Streets principles followed in full, would be required at Reserved Matters stage.
- 10.265 The applicant's green infrastructure parameter plan confirms that existing trees would be retained and supplemented with new green swathes that would include tree planting. The council promotes the White Rose Forest initiative, which is intended to greatly increase tree cover within the borough, and this large site presents an opportunity to significantly contribute towards that objective.

#### Open space, sports and recreation

- 10.266 Local Plan policy LP63 states that the council will seek to secure well designed new and improved open space, sport and recreation facilities in the district to encourage everyone in Kirklees to be as physically active as possible and promote a healthy lifestyle for all. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal.
- 10.267 The council's Open Space SPD was adopted during the life of the current application, on 29/06/2021.

- 10.268 The applicant's illustrative masterplan shows extensive areas of open space, including indicative locations for equipped playspaces. The grounds of the proposed primary school would include sports pitches, and a further pitch is shown adjacent to the local centre. Areas for allotments and for sports and recreation provision for young people are also shown. As noted above, controlled access to the adjacent ancient woodlands is proposed.
- 10.269 Sport England advised that a £1,438,683 (£1,676,111 in total for both sites) sports contribution would be required. This, however, was based on Sport England's formula and the likely population of the proposed development, if no on-site provision was made. Sport England advised that this contribution would be put towards provision for grass pitches, artificial grass pitches, changing rooms and life cycle costs, and acknowledged that their objection could be resolved through on-site provision of playing pitches or a planning contribution to allow their provision off-site (or a combination of the two).
- 10.270 The council's own guidance (as set out in the Open Space SPD) is considered more appropriate in this instance, as it is more nuanced and is tailored to reflect the needs of the borough. Furthermore, calculations carried out in accordance with the SPD note existing nearby provision, and the needs of the relevant wards. It is also noted that significant on-site provision has been illustrated by the applicant.
- 10.271 With reference to the SPD, more detailed information regarding the typologies of the on-site provision would be needed before a further calculation could be carried out. As much of this detail would not become available until further design work is carried out prior to Reserved Matters applications being submitted, at the current outline stage it is recommended that the relevant Section 106 provision secures a contribution based on the relevant formula, with no figure specified.

#### Planning obligations and financial viability

- 10.272 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement:
- 1) Highway capacity / improvement / other works
    - a) M62 junction 28 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
    - b) M1 junction 40 monitoring strategy to be submitted, approved and implemented, and capacity improvement (delivery or contribution) to be implemented if monitoring carried demonstrates the need.
    - c) Monitoring of left-turn movements into Chidswell Lane from spine road, Traffic Regulation Order and implementation of works if signed restriction proves ineffective (contributions totalling £23,500).
    - d) Contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).
  - 2) Sustainable transport
    - a) Pump-priming of a Dewsbury-Leeds bus route along spine road, triggered by occupation of 1,000 homes across both sites, contribution

to be agreed, duration of pump-priming to be agreed, and provision for contributions to cease if bus service becomes self-financing.

b) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).

c) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

3) Education

a) £700,000 contribution towards interim primary provision to be paid in two tranches (£350,000 upon first occupation, £350,000 upon occupation of 119 homes).

b) Primary school (including early years and childcare) provision cascade:

i) Applicant / developer to decide on whether to build school on site or pay contribution no later than point of occupation of 200 homes;

ii) If the former, applicant / developer to provide land and build school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes;

iii) If the latter, contribution amount to be reviewed at the time of payment, contribution to be paid in instalments between the occupation of 229 and 919 homes, council to put contribution towards on-site school or alternative provision.

c) Secondary education contribution of £2,257,029.

4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.

5) Affordable housing – 20% provision.

6) Local centre (including community facilities) – arrangements to ensure buildings / floorspace is provided, and details of size, timing, uses and location to be clarified.

7) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

8) Biodiversity

a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);

b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).

9) 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.

10) 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.

11) 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) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.
- 13) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.
- 10.273 Of note, the references to numbers of homes in the above Heads of Terms does not include the (up to) 181 homes proposed at the Heybeck Lane site under application ref: 2020/92350, unless “across both sites” is specifically referred to.
- 10.274 All contributions are to be index-linked. For certain contributions, a relevant index (such as the BCIS Tender Price Index) may be appropriate.
- 10.275 The above obligations are potentially significant, and together with the costs associated with on-site infrastructure, drainage and addressing the application site’s topography and coal mining legacy, would need to be given careful consideration by the applicant prior to the sale of (parts of) the site to developers. These costs would need to be reflected in the application site’s purchase price, to ensure that any future developer will not overpay for the site and then attempt to argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. The application site was promoted for allocation and development by the current applicant, and such development at this site can reasonably be assumed to be viable at this stage. Therefore, and given what is known regarding the application site’s development costs, and having regard to consultee responses (which any developer should make themselves aware of before purchasing the site or parts of it), the council is unlikely to entertain a future argument that development at this site is unviable. Should any such argument be made in the future, the council can and will have regard to paragraph 58 of the NPPF, which states that the weight to be given to a viability assessment is a matter for the decision maker.
- 10.276 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 planning obligations similar to those listed above. 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.
- 10.277 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 initially 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 (across both sites) 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.

- 10.278 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.
- 10.279 Following this and other viability work, the applicant was able to agree to a £1,000,000 contribution towards interim primary provision to be paid as £300,000 from the Heybeck Lane development and a further two tranches from the larger site (£350,000 upon first occupation, £350,000 upon occupation of 119 homes), as well as a primary school provision cascade whereby the applicant / developer would decide on whether to build the school on site or pay a contribution no later than the point of occupation of 200 homes; and (if the former is opted for) to provide the required land and build the school on site to the council's specification for use no earlier than when required and no later than point of occupation of 700 homes. This is considered acceptable.
- 10.280 Of note, it is likely that the applicant's future developer partner will be able to identify savings in the cost of delivering the school and construct it for less than the council would be able to, while still adhering to the council's specification for the school.
- 10.281 If the applicant / developer opts for paying a contribution (instead of building the school on-site), payments equivalent to the value of the school would be made in instalments between the occupation of 229 and 919 homes. The council would be free to put this contribution towards the delivery of an on-site school or towards an alternative provision (subject to assessment against the requirements of site allocation MXS7).
- 10.282 Given that many of the required contributions would be put towards schemes that may only become necessary several years in the future, it is recommended that the required Section 106 agreement should allow the council to retain moneys for longer periods than is normally secured. Of note, the Department for Education's "Securing developer contributions for education" guidance recommends (at paragraph 6) that planning obligations should allow enough time (often 10 years, or no time limit) for developer contributions to be spent.

#### Representations

- 10.283 The representations received in response to the council's consultation and reconsultation are responded to throughout this committee report.



- 10.284 The volume of objections and their content is noted. These, and the representations made by elected representatives, are material considerations that must be given due weight when the current applications are determined.
- 10.285 The request made by the Chidswell Action Group to delay determination of the application is noted, but is not supported. As part of the recent reconsultation, letters and emails were sent to everyone who had previously been consulted and everyone who had previously commented on the application, and nine new site notices were posted on 02/11/2022. This greatly exceeds the consultation effort required by the relevant legislation, and would have ensured a good level of local awareness regarding the application and the reconsultation.
- 10.286 Earlier comments regarding the adequacy and timing of the outline applications (and the council's initial consultation on them) are noted, however additional time was added to the initial consultation period in light of the Covid-19 epidemic, the consultation requirements of the EIA Regulations were complied with, and the council's application publicity went further than the statutory requirements and the commitments set out in the council's adopted Statement of Community Involvement.

#### Other planning matters

- 10.287 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.
- 10.288 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.
- 10.289 Should outline planning permission be granted, it is not considered that a precedent would be set for development on green belt land in the future.
- 10.290 Financial gain to be made by the developer is not a material planning consideration.
- 10.291 The impact of the proposed development on property values is not a material planning consideration.
- 10.292 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

## 11.0 CONDITIONS

11.1 The conditions listed below (in summary) are recommended at this outline application stage. It is recommended that authority to finalise the wording of the conditions, and to amend and add to this list, be delegated to the Head of Planning and Development.

- 1) Standard outline condition (approval of reserved matters prior to commencement, including allowance for an infrastructure-only reserved matters application to be submitted).
- 2) Standard outline condition (implementation in accordance with approved reserved matters).
- 3) Standard outline condition (reserved matters submission time limits – first reserved matters application to be submitted within three years of outline approval, last to be submitted within 12 years).
- 4) Standard outline condition (reserved matters implementation time limit – within two years of reserved matters approval).
- 5) Development in accordance with plans and specifications.
- 6) Details of phasing to be submitted.
- 7) Floorspace of employment element to comprise a maximum of 65% B8 use and a maximum of 50% B1c and B2 uses, and all B1a floorspace to be ancillary to a B1c, B2 and/or B8 use.
- 8) Floorspace of the local centre to include no more than 500sqm of A1 use.
- 9) D1 floorspace within the local centre shall not be used as a museum or exhibition hall.
- 10) Implementation of a traffic mitigation scheme at the Shaw Cross junction when required, in accordance with details (including road safety audits and arrangements for implementation under Section 278) to be submitted.
- 11) Implementation of other junction improvement schemes when required, in accordance with details (including road safety audits and arrangements for implementation under Section 278) to be submitted.
- 12) Submission of interim and final details of spine road (including road safety audits and arrangements for implementation under Section 38), and subsequent implementation.
- 13) Submission of interim and final details of Leeds Road and Chidswell Lane site entrances (including road safety audits and arrangements for implementation under Section 278), and subsequent implementation.
- 14) Primary school to be provided (or alternative provision made) prior to occupation of more than 700 dwellings.
- 15) Assessment of potential for decentralised energy scheme to be carried out prior to submission of Reserved Matters applications.
- 16) Flood risk and drainage – full site-wide scheme to be submitted.
- 17) Flood risk and drainage – detailed drainage proposals to be submitted for each parcel / phase.
- 18) Separate systems of foul and surface water drainage to be provided.
- 19) Ecological mitigation and enhancement details (including an Ecological Design Strategy, measures to address impacts on birds including ground-nesting farmland birds), and details of mitigation and delivery measures to be submitted.
- 20) Air quality mitigation measures to be submitted.
- 21) Further noise assessment and mitigation measures to be submitted.

- 22) Further odour assessment and mitigation measures to be submitted, and odour constraint on developable areas to be considered prior to submission of Reserved Matters applications.
- 23) Contaminated land – phase II intrusive site investigation report to be submitted.
- 24) Contaminated land – remediation strategy to be submitted.
- 25) Contaminated land – remediation strategy to be implemented.
- 26) Contaminated land – validation report to be submitted.
- 27) Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
- 28) Archaeological site investigation.
- 29) Site-wide placemaking strategy to be submitted prior to Reserved Matters applications, and to include design principles, coding and other arrangements to ensure high quality, co-ordinated development that appropriately responds to existing guidance including Housebuilders Design Guide SPD.
- 30) Bus stop infrastructure audit and improvement plan to be submitted, with timeframes for implementation.
- 31) Construction (Environmental) Management Plan to be submitted.
- 32) Tree protection measures to be approved and implemented.
- 33) Temporary (construction phase) drainage measures to be approved and implemented.

11.2 Given the size of the proposed development and the likely delivery programme, it is considered appropriate to allow a longer period (up to 12 years) for the submission of Reserved Matters applications.

11.3 Of note, a significant volume of further information is expected to be submitted later at Reserved Matters stage (if outline permission is approved), and further conditions could be applied at that stage (for example, in relation to boundary treatments and electric vehicle charging).

11.3 Conditions would need to be worded to allow for phased implementation of the proposed development.

## **12.0 CONCLUSION**

12.1 The application site is allocated for mixed use development under site allocation MXS7, and the principle of mixed use development at this site is considered acceptable.

12.2 The applicant has satisfactorily addressed relevant policy requirements in relation to masterplanning, infrastructure provision, highway impacts, landscape impacts, biodiversity, sustainability and other planning matters.

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

12.4 Given the above assessment and having particular regard to the up to 1,354 homes (20% of which would need to be affordable homes) and the up to 122,500sqm of employment floorspace that would be delivered by the proposed development, approval of outline planning permission is

recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.

- 12.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

**Background Papers:**

Application and history files.

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92331>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 08-Dec-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 (amended and further information received) 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

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

[Public speaking at committee link](#)

#### LOCATION PLAN



**Maps not to scale – for identification purposes only**

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**Electoral wards affected: Batley East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

Subject to the Secretary of State not calling in the application, DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

1) Highway capacity / improvement / other works

a) contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).

b) contribution towards Shaw Cross junction scheme.

2) Sustainable transport

a) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).

b) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).

3) Education

a) £300,000 contribution towards interim primary provision.

b) Secondary education contribution of £223,957.

4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.

5) Affordable housing – 20% provision.

6) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

7) Biodiversity

a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);

b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).

8) 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.

9) 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.

10) Ancient woodland – management plan (and works, if required) for public access to Dum Wood (outside application site, but within applicant's ownership).

11) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.

12) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.

All contributions are to be index-linked.

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

## **1.0 INTRODUCTION**

1.1 This application is presented to the Strategic Planning Committee as the proposal is for a major residential development of more than 60 dwellings.

1.2 This report relates to an application for outline planning permission (ref: 2020/92350) which 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.

1.3 Position statements relating to these proposals were considered by the Strategic Planning Committee on 11/07/2019 at pre-application stage (refs: 2018/20078 and 2018/20077), and on 17/11/2020 and 06/10/2022 at application stage.

1.4 This committee report provides comprehensive assessment of all planning issues relevant to this application (referring to commentary in the accompanying committee report for application ref: 2020/92331, where appropriate). It draws together assessment and commentary from the earlier position statements (updated where necessary), and includes responses to queries raised by Members on 06/10/2022. The officer presentation on 08/12/2022 will include further illustrative information.

1.5 The council has been informed that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to

decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolved to grant permission. The position regarding the SoS is reflected in the officer recommendation.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is 7 hectares in size. It lies behind existing residential properties at 1064 to 1110 Leeds Road and 1a to 53 Heybeck Lane. Its northeastern tip comes within 110m of the Kirklees / Leeds borough boundary. To the east is the ancient woodland of Dum Wood. Further to the east are fields in agricultural use. To the south is application site ref: 2020/92331. High-level overhead power lines run east-west to the south.
- 2.2 The application site generally slopes downhill from northwest to southeast. The application site's lowest point is approximately 90m AOD at its southernmost point.
- 2.3 Most of the application site is currently in agricultural (arable) use, and is greenfield. No significant buildings exist within the site's boundaries, other than 39 Heybeck Lane.
- 2.4 The application site has no existing direct vehicular access points off Leeds Road or Heybeck Lane, however it can be accessed via the public rights of way network. Public footpath BAT/49/10 passes through part of the application site. There are also public rights of way to the south, and informal paths through the adjacent woodland.
- 2.5 No part of the application site is within a conservation area, and there are no listed buildings within the site. The nearest designated heritage assets within Kirklees are the Grade II listed toll gates on Grange Road to the west. Within Wakefield borough, the Gawthorpe Water Tower to the south is Grade II listed.
- 2.6 Several Tree Preservation Orders protect trees and groups of trees within and close to the application site.
- 2.7 Parts of the application site are within a Development High Risk Area as defined by the Coal Authority. Most of the site is within the Development Low Risk Area.
- 2.8 The application site includes part of site MXS7, which is allocated for mixed use development (housing and employment) in the Local Plan.
- 2.9 Relevant information regarding the wider context of site MXS7 is provided in the accompanying committee report for application ref: 2020/92331.

## **3.1 PROPOSALS**

- 3.1 The applicant proposes the demolition of an existing dwelling at 39 Heybeck Lane, and a residential development of up to 181 dwellings, engineering and site works, landscaping, drainage and other associated infrastructure.
- 3.2 This is an outline application. Access is the only matter not reserved.
- 3.3 A single vehicular entrance is proposed off Heybeck Lane. Other connections (for pedestrians and cyclists) would be created to the south and east.



- 3.4 The applicant has submitted a parameter plan showing maximum building heights, a 20m wide woodland buffer zone and a sewer easement.
- 3.5 The applicant's indicative plan shows public open spaces, a playspace, treeplanting and soft landscaped areas. An existing public right of way would be retained, and new footpaths, footways and cycle routes would be created throughout the site.
- 3.6 Development proposed under application ref: 2020/92331 is described in the accompanying committee report.

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

- 4.1 See accompanying committee report for application ref: 2020/92331.

#### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 See accompanying committee report for application ref: 2020/92331 regarding pre-application masterplanning work, Member and officer engagement, and public consultation.
- 5.2 On 22/05/2018 the council issued an Environmental Impact Assessment (EIA) Screening Opinion, stating that the proposed development of the smaller, northern (Heybeck Lane) part of the MXS7 site did not constitute EIA development (ref: 2018/20077).
- 5.3 During the life of the application, 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 local junctions;
  - Biodiversity (bat survey, biodiversity net gain calculation and related assessment submitted); and
  - Public consultation (responses to comments made by the Chidswell Action Group submitted).

#### **6.0 PLANNING POLICY AND GUIDANCE**

- 6.1 See accompanying committee report for application ref: 2020/92331.

#### **7.0 PUBLIC / LOCAL RESPONSE**

- 7.1 The application was advertised as a major development that affects Public Rights of Way. Four site notices were posted on 27/08/2020. A press notice was published on 13/08/2020. Letters were sent to addresses close to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 20/09/2020.
- 7.2 183 representations were received in response to the council's consultation on application 2020/92350. These have been posted online. Many of the representations referred to both applications, and the summary of the comments set out at paragraph 7.2 of the accompanying committee report for application ref: 2020/92331 relates to both applications.

- 7.3 Comments submitted by Mark Eastwood MP in relation to both applications are summarised at paragraph 7.5 of the accompanying committee report for application ref: 2020/92331.
- 7.4 In addition to the five further representations from the Chidswell Action Group (referred to at paragraph 7.6 of the accompanying committee report 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.
- 7.5 Further information was submitted by the applicant after the council carried out its consultation in late 2020. Reconsultation was therefore considered necessary before the council makes a decision on the application. On 27/10/2022 reconsultation letters were sent or emailed to all who were previously consulted on the application, and all who had previously commented. Four further site notices were posted on 02/11/2022, and a further press notice was published on 03/11/2022.
- 7.6 116 representations were received in response to this reconsultation, including representations from the Chidswell Action Group and the Kirklees Cycling Campaign. The following is a summary of the comments made:
- Amendments and further information do not address concerns.
  - Proposal is contrary to Local Plan policies and relevant guidance.
  - Proposal is contrary to NPPF.
  - Investment zone should not be created.
  - Loss of green belt land.
  - Loss of green fields.
  - Site should still be green belt.
  - Loss of space separating Leeds, Wakefield and Kirklees.
  - Urban sprawl.
  - Site is an area of outstanding natural beauty.
  - Green space has proven valuable during Covid pandemic and is a free resource of increasing importance due to inflation and recession.
  - Walkers' enjoyment would be affected.
  - Brownfield land and infill sites should be used instead / first.
  - Many existing warehouses and industrial units are empty.
  - Loss of agricultural land. Unclear if site includes best and most versatile land. Assessment requested by Natural England hasn't been provided. Housing and employment need does not outweigh loss of agricultural use. War in Ukraine and Brexit have highlighted need for the UK to produce its own food. Irresponsible to allow loss.
  - Farmer will lose his living.
  - Human population growth should be limited.
  - Overdevelopment.
  - Too many developments in the area.
  - Increased congestion.
  - No mitigation proposed at M62 junction 28.
  - National Highways have objected.
  - Risk to highway safety. Roads are already dangerous. Drivers regularly speed. Accidents regularly happen. Danger to children.
  - Applicant's traffic survey was carried out during lockdown.

- Traffic assessment doesn't take into account approved developments.
- Inadequate provision for walking and cycling, including along routes in the surrounding area.
- Spine road / Chidswell Lane junction would not prioritise pedestrians or active travel.
- Inadequate travel planning measures.
- Development would be car-dependant. Opportunities to reduce car dependence are not being pursued.
- Loss of public rights of way.
- Harm to Leeds Country Way.
- Increased flood risk. Site becomes waterlogged.
- Detailed drainage plan required.
- Climate change and wetter winters will increase flood risk at the site.
- Residents will not be able to obtain insurance due to increased flood risk.
- Increased pollution. Air quality impacts.
- Increase in noise.
- Loss of natural light.
- Light pollution.
- Loss of privacy.
- Loss of views.
- Harm to mental health.
- Impact on wellbeing.
- Applications have caused stress.
- Respiratory illness will increase.
- General amenity impact.
- Amenity impacts of 20 years of construction.
- Loss of wildlife.
- Protected species are present at the site.
- Harm to bats and other species.
- Harm to ground-nesting farmland birds.
- Wildlife surveys inadequate and out-of-date. Several species have been missed. Independent assessment required. Single walkover after a drought provided an inadequate update.
- Yorkshire Wildlife Trust comments have been ignored.
- Claimed biodiversity net gain not accepted. Earlier independent assessment identified a 14% net loss.
- Ancient woodland at risk. Buffer planting is inadequate. Contamination, new residents and changes to water levels will harm woodland.
- Adverse impact on trees.
- Site currently contributes to climate change resilience. Watercourses, woodlands and fields contribute to cooling.
- Approval would be contrary to Kirklees Council's declaration of a climate emergency.
- Renewable energy measures not proposed.
- Unsustainable development.
- A Biodiversity Management Plan, Construction Environmental Management Plan and Invasive Weed Management Plan have not been provided.
- Lighting strategy has not been provided.
- Harm to setting of a listed building.
- Destruction of archaeology.

- Landscape impacts. Applicant's assessment of existing landscape is erroneous.
- Harm to character of the area.
- Geotechnical survey results have not been submitted.
- Insufficient local infrastructure.
- Local schools are already oversubscribed.
- Unwise to build additional primary school when existing schools are unviable.
- Lack of high school provision.
- Local doctors and dentists have no capacity.
- Inadequate local electricity supply.
- The need for the development should be reviewed in five years' time.
- Development is for profit.
- Houses will not be affordable.
- Impact on property values.
- Council should not have redacted representations.
- Some local residents were not reconsulted.
- Local MPs have objected.
- Previous planning applications have been refused.
- Decision should be deferred.
- Applications should be refused.

7.7 Kim Leadbeater MP made the following comments in relation to application 2020/92350:

*I write to express concern at the size, impact and effect of this proposed development for 181 homes on a site within my constituency of Batley and Spen. The application forms part of a larger plan to create almost 1,600 homes over a 20-year period. The Heybeck Lane element, within Batley and Spen, is anticipated to be delivered early in the development plan.*

*Local residents have raised a number of concerns with me about this application, which is an allocated site within the Local Plan and forms part of the council's programme of works to deliver thousands of homes across Kirklees.*

*There are several aspects of the application that disturb them including:*

- *the scale of the development*
- *the effects of increased traffic, which may exacerbate congestion on local roads due to their inability to cope with extra capacity*
- *the risk of pollution and noise*
- *the loss of agricultural land and consequent environmental impact*

*Among the fears expressed to me were that the amount of affordable housing on the site might be reduced after approval, that house designs could alter, and that house sizes and numbers might be increased. I would be grateful for reassurance on these issues, along with confirmation that contributions towards primary and secondary schools will go ahead.*

*In my view, individual planning applications cannot be considered wholly in isolation when the cumulative impact on the transport infrastructure in particular can be so damaging. I would be concerned, therefore, if determination on the Heybeck Lane site were made without taking into account the larger Chidswell site with which it is linked.*

*As you will know, the Chidswell Action Group are particularly exercised at the loss of high-quality agricultural land and the impact on the rich and complex biodiversity of the area. I would add to that my own concerns about the impact of such large developments on the health and wellbeing of local people.*

*I would be grateful if you would take on board these concerns, and to address them as the application moves forward through the planning process.*

7.8 To date, a total of 305 representations have been received in relation to the application.

7.9 Any further representations received after 24/11/2022 and before the committee meeting of 08/12/2022 will be reported in the committee update or verbally.

## **8.0 CONSULTATION RESPONSES**

8.1 Where a consultee has submitted a single response relating to both outline applications (or the same responses relating to both), reference is made to the response summarised in the committee report for application ref: 2020/92331.

### **8.2 Statutory**

8.3 Coal Authority – No objection, subject to conditions. Coal Authority concurs with the recommendations of the applicant's Coal Mining Risk Assessment, and the conclusion that there is currently a high risk to the proposed development from coal mining legacy. In order to mitigate the risk and inform the extent of remedial or mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations should be undertaken prior to commencement of development.

8.4 National Highways – Recommend that conditions be attached to any grant of planning permission.

8.5 KC Lead Local Flood Authority – No objection. Maintenance and management of sustainable drainage systems must be incorporated into a Section 106 agreement. More detailed flood risk assessment and drainage strategy (required at Reserved Matters stage) should address concerns. Discharge rate of 32.4l/s is not accepted. Conditions recommended.

### **8.6 Non-statutory**

8.7 Leeds City Council (Planning Services) – See committee report for application ref: 2020/92331.

- 8.8 Leeds City Council (Transport Development Services) – See committee report for application ref: 2020/92331.
- 8.9 Wakefield Council – See committee report for application ref: 2020/92331.
- 8.10 West Yorkshire Combined Authority – See committee report for application ref: 2020/92331.
- 8.11 West Yorkshire Police Designing Out Crime Officer – No objection in principle. Meeting requested. Condition should be applied, requiring incorporation of measures to minimise the risk of crime. Comments provided on indicative layout.
- 8.12 Yorkshire Water – 300mm public combined sewer crosses the site – development’s design will need to take this into account. Conditions recommended regarding building above or near public sewer, separate foul and surface water drainage, and completion of surface water drainage works.
- 8.13 Yorkshire Wildlife Trust – See committee report for application ref: 2020/92331.
- 8.14 KC Education – Secondary school contribution of £223,957 required.
- 8.15 KC Environmental Health – Regarding air quality, applicant’s methodology is acceptable, however omissions (relating to monetary costs and sensitivity testing) mean report cannot be fully accepted, and condition requiring air quality assessment is necessary. Condition recommended regarding construction-phase dust. Condition requiring electric vehicle charging facilities recommended. Regarding site contamination, applicant’s Phase I report is satisfactory, and conditions are recommended. Construction Environmental Management Plan required by condition. Condition recommended requiring details of noise mitigation measures.
- 8.16 KC Highways Development Management – No objection subject to conditions and Section 106 agreement.
- 8.17 KC Highways Structures – See committee report for application ref: 2020/92331.
- 8.18 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.
- 8.19 KC Public Health – See committee report for application ref: 2020/92331.
- 8.20 KC Public Rights of Way – See committee report for application ref: 2020/92331.
- 8.21 KC Strategic Housing – Council seeks 20% affordable housing provision in developments of 11 or more dwellings. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be accepted. A mix of housing that reflects local need and will contribute towards a balanced and sustainable development is required. Affordable homes must be distributed

throughout the development (not in clusters), and must be indistinguishable from market housing both in terms of quality and design. A 55% social or affordable rent / 45% intermediate tenure split is required. In the Batley and Spen Sub-Area there is a significant need for affordable one-, two-, three-bedroom (and larger) homes, along with one- and two-bedroom homes for older people. 36 affordable homes required. 20 social or affordable rented dwellings and 16 intermediate dwellings would be appropriate.

8.22 KC Strategic Waste – According to council records, there are no closed or operational landfill sites within 250m of the application site address.

8.23 KC Trees – General principle of the outline proposal and the access on this site is supported. The illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the design and avoiding adverse impact on these features. However, a hedgerow identified as “important” appears to be impacted – this will need mitigating, possibly by translocation to a new site more associated with the adjacent ancient woodland (this matter can be conditioned). Significantly more detail required at Reserved Matters stage. Effects on ancient woodland, and woodland management, should be considered.

8.24 KC Waste Strategy (Refuse and Cleansing) – See committee report for application ref: 2020/92331.

## **9.0 SUMMARY OF MAIN ISSUES**

9.1 The main planning issues relevant to this application are:

- Environmental Impact Assessment
- Land use and principle of development
- Employment, skills and social value
- Masterplanning
- Quantum and density
- Phasing and delivery
- Sustainability and climate change
- Urban design matters
- Heritage assets
- Landscape impacts
- Infrastructure requirements and delivery
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Site contamination and stability
- Ecological considerations
- Trees, ancient woodlands and hedgerows
- Open space, sports and recreation
- Planning obligations and financial viability
- Representations
- Other planning matters

## **10.0 MAIN ISSUES – ASSESSMENT**

### Environmental Impact Assessment (EIA)

- 10.1 Although the proposed development, on its own, does not constitute EIA development, its impacts have been taken into account in the Environmental Statement (ES) submitted with the accompanying planning application (ref: 2020/92331), and in officers' assessments of that application.

### Land use and principle of development

- 10.2 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.3 Full weight can be given to site allocation MXS7, which allocates the application site for mixed use (employment and housing) development.
- 10.4 A residential development of up to 181 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.
- 10.5 For further assessment of land use matters and the principle of development, see the accompanying committee report for application ref: 2020/92331.

### Employment, skills and social value

- 10.6 As set out in the accompanying committee report for application ref: 2020/92331, Local Plan policy LP9 and the council's Social Value Policy are relevant.
- 10.7 The applicant has not yet identified developer partners, however it is recommended that provisions be secured (via a Section 106 agreement) requiring the applicant to, in turn, require those future partners to actively participate and engage with the council in delivering social value measures of benefit to the people of Kirklees, and in particular those resident in the areas surrounding the application site. This engagement may take the form of entering into an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. 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.

### Masterplanning

- 10.8 As per the commentary set out in the accompanying committee report for application ref: 2020/92331, the proposed development is considered acceptable in masterplanning terms. Local Plan policy LP5 and the relevant requirements of site allocation MXS7 would be complied with.



### Quantum and density

- 10.9 Site allocation MXS7 sets out indicative capacities of 1,535 dwellings and 122,500sqm of employment floorspace.
- 10.10 The proposals (across the two outline applications) meet these headline expectations of site allocation MXS7.

### Phasing and delivery

- 10.11 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.
- 10.12 During the life of the application, the applicant has additionally confirmed that the proposed Heybeck Lane development is 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 and outside it. However, 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.
- 10.13 A condition requiring the submission of a phasing plan is recommended.
- 10.14 Provisions in the recommended Section 106 agreement would be worded to ensure mitigation is provided when required (i.e., when the impacts of the proposed Heybeck Lane development necessitate it).

### Sustainability and climate change

- 10.15 Assessment regarding sustainability and climate change (in relation to mixed use (including residential) development within the MXS7 site) is provided in the accompanying committee report for application ref: 2020/92331.

### Urban design matters

- 10.16 Local Plan policies LP2, LP5, LP7 and LP24 are of particular relevance to this application in relation to design, as is the text of site allocation MXS7 and the council's Housebuilders Design Guide SPD. Chapters 11 and 12 of the NPPF and the National Design Guide are also relevant.
- 10.17 The current proposals are illustrated by an indicative site layout plan (which would not be listed on the council's decision letter, if outline planning permission is granted), and a parameter plan showing maximum building heights, a 20m wide woodland buffer zone and a sewer easement. This parameter plan has been submitted by the applicant for approval, and would be listed on the council's decision letter.
- 10.18 The submitted parameter plan appropriately shows 10m maximum building heights immediately adjacent to the rear of existing properties on Leeds Road and Heybeck Lane, and 12m maximum building heights elsewhere. Actual

building heights would be determined at Reserved Matters stage, having regard to neighbour amenity and other considerations. No development or developable area is shown over an existing foul sewer, which runs southwest-northeast across the application site. A single vehicular access point is shown at 39 Heybeck Lane (which would be demolished). Outside the application site red line boundary, a 20m deep planted buffer zone is shown adjacent to the ancient woodland of Dum Wood.

- 10.19 It is accepted that the level of detail normally submitted at outline application stage is limited. Further information would need to be submitted at Reserved Matters stage to demonstrate that relevant design objectives have been met. That later detail would need to confirm the perimeter block approach (which is indicatively suggested in the applicant's submission), retention of TPO-protected trees and important hedgerows, retention and appropriate treatment of the existing public footpath, dementia-friendly design, and compliance with the council's Highway Design SPD, among other considerations. At the current outline stage, however, the applicant's parameter plan, illustrative layout and supporting information provide enough assurance at this stage that sufficient and careful thought has gone into the proposals for which outline approval is sought.
- 10.20 Regarding density, with up to 181 dwellings proposed in a site of 7 hectares, a density of only 26 dwellings per hectare would be achieved. While it is acknowledged that site constraints would limit the application site's developable area, this matter will require further consideration at Reserved Matters stage, given the need for efficient and effective use of land, and Local Plan policy LP7 which refers to a net density of at least 35 dwellings per hectare (where appropriate).

#### Heritage assets

- 10.21 There are few designated heritage assets close to the site (including in Leeds and Wakefield boroughs). Undesignated heritage assets include field layouts and boundaries, and the nearby ancient woodlands which are of historic (as well as arboricultural and ecological) interest.
- 10.22 Given the scale, location and relative containment of the proposed development, significant impacts upon heritage assets are not anticipated.

#### Landscape impacts

- 10.23 Local Plan policy LP32 states that proposals should be designed to take into account and seek to enhance the landscape character of the area considering in particular the setting of settlements and buildings within the landscape; the patterns of woodland, trees and field boundaries; and the appearance of rivers, canals, reservoirs and other water features within the landscape.
- 10.24 The application site has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding locations (including in longer views) and from public footpaths. Public footpaths (and informal paths) in and around the application site are well-used, and representations received in response to the council's consultation on the application demonstrate that the visual and other amenities of this landscape are highly valued by local residents.

- 10.25 This sensitivity is, however, limited to an extent by the enclosure of the site to the north and west by existing development on Leeds Road and Heybeck Lane. The nearby Dum Wood also provides a degree of enclosure to the site.
- 10.26 The applicant has not proposed to radically reshape the application site with extensive excavation and retention. As with the proposals for the larger part of the MXS7 site, green spaces have been illustrated, and a planted buffer is proposed adjacent to Dum Wood. These aspects of the proposed development would help limit its visual and landscape impact, as would landscaping measures that can be proposed and secured at Reserved Matters stage.
- 10.27 It is accepted that development of the application site would inevitably be transformative. This is unavoidable, given the majority of the site is currently undeveloped. Soft landscaping – however carefully designed – would not hide the proposed development. However, given the above assessment, the proposed development's landscape impacts are considered acceptable.

#### Infrastructure requirements and delivery

- 10.28 These matters are considered in the accompanying committee report for application ref: 2020/92331, however it is noted (in relation to the proposed Heybeck Lane development) that certain contributions towards infrastructure-related mitigation would not be applicable, while other contributions would need to be proportionate to the scale of the development and its impacts.
- 10.29 Planning obligations (recommended to be secured under a Section 106 agreement) are listed later in this committee report.
- 10.30 The provision of social infrastructure, including in relation to GP and education provision, is considered elsewhere in this committee report.

#### Residential quality and amenity

- 10.31 The commentary set out in the accompanying committee report for application ref: 2020/92331 is also relevant to the Heybeck Lane site.

#### Affordable housing

- 10.32 The commentary set out in the accompanying committee report for application ref: 2020/92331 is also relevant to the Heybeck Lane site, however 20% of 181 dwellings is 36.
- 10.33 It is recommended that the required 20% affordable housing provision be secured via a Section 106 agreement, to ensure the development complies with Local Plan policy LP11.

#### Highway and transportation issues

- 10.34 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

- 10.35 Paragraph 110 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.36 Existing highway conditions around the application site must be noted. To the west of the application site, Leeds Road (the A653) is a dual carriageway with marked cycle lanes, double yellow lines and a central strip with soft landscaping in places. To the north, Heybeck Lane has double yellow lines close to its junction with Leeds Road, but is subject to on-street parking further east. Bus services are available from both Leeds Road and Heybeck Lane. The junction of these two roads is signalled with pedestrian crossings. The application site has no existing direct vehicular access points off Leeds Road or Heybeck Lane, however it can be accessed via the public rights of way network. Public footpath BAT/49/10 passes through part of the application site. Parts of the Core Walking, Cycling and Riding Network passes along this public right of way. There are also public rights of way to the south, and informal paths through the adjacent woodland.
- 10.37 Future infrastructure improvement projects are relevant to the consideration of the applications for outline planning permission. As noted earlier in this committee report, 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 application site).
- 10.38 Under the current application, access is the only matter not reserved. For the avoidance of doubt, and given that relevant legislation defines “access” as “the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes...” (therefore, it can include access through a site), the applicant’s parameter plan only includes confirmation of the proposed point of access. This drawing would be approved at this outline stage. Other details of access through the site are only illustrated indicatively.
- 10.39 The applicant’s proposals for the Heybeck Lane site are co-ordinated with (and are not entirely separable from) those for the larger Leeds Road site (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.

#### *Trip generation and traffic modelling*

- 10.40 The Transport Assessment (TA) submitted with the application, and the TA provided at chapter 13 of the ES submitted with application ref: 2020/92331, include trip generation figures for the developments of both outline applications (the trips of a total of 1,535 new dwellings are set out). The

headlines figures are set out in the in the accompanying committee report for application ref: 2020/92331.

- 10.41 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.

*Strategic Road Network junctions*

- 10.42 Site allocation MXS7 notes that additional mitigation on the wider highway network will be required in connection with the proposed development, as there is potential for significant impacts upon the Strategic Road Network. The proposed development would contribute towards additional traffic at junction 28 of the M62 and junction 40 of the M1. Highways England (later National Highways) initially submitted (and subsequently renewed) a holding objection, noting that work was ongoing to assess the cumulative impacts of this and other major developments (including schemes in Leeds), and that outline planning permission should not be granted until this work was completed. However, on 11/11/2021 National Highways withdrew their holding objection to the application, and recommended that conditions be applied in relation to construction traffic management and travel planning. National Highways are comfortable with the impact that the proposed Heybeck Lane development (on its own) would have on the Strategic Road Network, and do not require this development to contribute towards capacity improvements at junction 28 of the M62 and junction 40 of the M1.

*Other junctions*

- 10.43 Given the modelling results submitted by the applicant, officers are satisfied that the proposed Heybeck Lane development (on its own) would not necessitate capacity improvement works at some of the nearby junctions. However, where the proposed (up to) 181 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 development proposed at the Heybeck Lane site would similarly be expected to make a proportionate contribution towards mitigation at certain junctions. That contribution would be calculated with reference to the (up to) 181-unit development's share of the cumulative impact. In addition, the Heybeck Lane development would need to mitigate any highway impacts it directly causes.
- 10.44 As detailed in the accompanying committee report for application ref: 2020/92331 works are proposed at local junctions. The applicant proposes road safety works and improvements for pedestrians and cyclists at the Shaw Cross junction, at the Leeds Road / Heybeck Lane / Soothill Lane junction, and at the Dewsbury Road / Syke Road / Rein Road junction. The applicant's development appraisal for the Heybeck Lane development allows for these works. Appropriate delivery mechanisms are proposed for these works (or, in the case of the Dewsbury Road / Syke Road / Rein Road junction, an appropriate delivery mechanism will need to be agreed with Leeds City Council).

- 10.45 No other junction improvement works are proposed within the adjacent boroughs (Leeds and Wakefield). Wakefield Council have raised a late concern regarding impacts at the Owl Lane / Chancery Road / Leeds Road / Ossett bypass roundabout, however this was received after highways assessments had been concluded, and it was not considered reasonable to request the applicant to provide further highway mitigation.

*Site entrance*

- 10.46 The applicant has completed a road safety audit for the site entrance proposed off Heybeck Lane, and a designer's response has been prepared. The applicant has advised that the road safety audit has 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.
- 10.47 The submitted parameter plan and illustrative layout do not suggest an internal vehicular connection would be made between the Heybeck Lane and larger sites. This is considered appropriate, as such a connection risks being used as a shortcut by drivers moving between Leeds Road and Heybeck Lane and wishing to avoid the existing signalised junction.

*Highway safety*

- 10.48 Relevant commentary is set out in the accompanying committee report for application ref: 2020/92331.

*Public transport*

- 10.49 Relevant commentary is set out in the accompanying committee report for application ref: 2020/92331. It is considered that the Heybeck Lane development need not make a proportionate contribution towards bus service pump priming, as all of that site is within a 400m walking distance of existing bus stops on Leeds Road and Heybeck Lane, and the Heybeck Lane site is likely to be developed before a new or diverted bus service is needed to serve the larger site.

*Walking and cycling*

- 10.50 The applicant's indicative layout makes good provision for pedestrians and cyclists. Connections to the south (to the on-site primary school, local centre, public transport facilities and employment uses) are proposed. An existing public right of way would be retained, and new footpaths, footways and cycle routes would be created throughout the site. Further consideration of these routes and provisions would be appropriate at Reserved Matters stage, if outline permission is granted.

*Travel planning*

- 10.51 Comprehensive and effective travel planning would be required in connection with all of the proposed development's uses, in compliance with Local Plan policy LP20. An appropriate Framework Travel Plan (with subordinate plans subsequently prepared at later stages) would be secured via Section 106 planning obligations, however a draft has been submitted at this outline application stage.

### *Other highways and transport matters*

- 10.52 Parking provision would be considered at Reserved Matters stage, and would need to reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership and the council's adopted Highway Design Guide SPD.
- 10.53 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.

### Flood risk and drainage issues

- 10.54 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment and Drainage Strategy has been submitted. This states that discharge to watercourses is likely to be the most appropriate option of surface water management at the site, and that gravity outfall to nearby watercourses would be achievable. The applicant goes on to note that a more detailed surface water strategy plan would be produced at the Reserved Matters stage once the proposed layout has been fixed.
- 10.55 The requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, apply.
- 10.56 In relation to drainage and flood risk, the applicant's outline-stage proposals are considered acceptable. Subject to conditions, the Lead Local Flood Authority (LLFA) have not objected to either application, but have confirmed that a fully detailed drainage masterplan would be required prior to Reserved Matters submissions, to ensure an integrated drainage approach is followed. The LLFA have also recommended that a working group be set up to ensure successful masterplanning in relation to drainage, and officers. Across the entire MXS7 site, discharge restrictions based on a greenfield run-off of 5l/s/ha would be appropriate. For the Heybeck Lane site, a discharge rate of 32.4l/s would not be accepted (this is suggested at paragraph 5.11 of the applicant's Flood Risk Assessment and Drainage Strategy). The ongoing maintenance and management of sustainable drainage systems would need to be secured via a Section 106 agreement.

### Environmental and public health

- 10.57 The applicant's information regarding the health impact of the development must be considered in accordance with Local Plan policy LP47 and chapter 8 of the NPPF. A Health Impact Assessment has been submitted.

- 10.58 Development at this site would be required to assist in promoting healthy, active and safer lifestyles in accordance with the above planning policies. This can be achieved in many ways – air quality mitigation and improvement, facilitation and encouragement of on-site and local outdoor activity, inclusive design, providing opportunities for inter-generational interaction, new and enhanced public footpath and cycle path connections, careful construction management (including dust control) and other measures can be proposed by the applicant and future developers of the site. As per the comments of KC Public Health and other consultees, however, it is noted that many of these matters would be assessed in detail at Reserved Matters stage.
- 10.59 It is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.
- 10.60 Regarding environmental health matters (specifically noise, air quality and construction phase impacts), similar comments have been made by consultees in relation to both outline applications. Accordingly, similar conditions regarding these matters are recommended.

#### Site contamination and stability

- 10.61 Site allocation MXS7 notes the potential presence of contamination at the site. Local Plan policy LP53 states that development on land that is currently contaminated or suspected of being contaminated due to its previous history would require the submission of an appropriate contamination assessment. Where there is evidence of contamination, measures to remediate the land would be required to ensure the contamination does not have the potential to cause harm to people or the environment.
- 10.62 Regarding site contamination, commentary set out in the accompanying committee report for application ref: 2020/92331 is relevant. KC Environmental Health are satisfied with the Phase I report submitted by the applicant, and have recommended appropriate conditions.
- 10.63 Regarding the application site's coal mining legacy, the Coal Authority concurs with the conclusion and recommendations of the applicant's Coal Mining Risk Assessment, and agrees that there is currently a high risk to the proposed development from coal mining legacy. In order to mitigate the risk (i.e., to confirm the exact ground conditions present within the application site and inform the extent of remedial or mitigatory measures that may be required to ensure that the development is safe and stable), intrusive site investigations will need to be undertaken prior to commencement of development. Appropriate conditions are recommended accordingly.



### Ecological considerations

- 10.64 Chapter 15 of the NPPF and Local Plan policy LP30 apply. Of particular note, paragraph 174 of the NPPF requires the proposed development to achieve a biodiversity net gain.
- 10.65 Much of the commentary set out in the accompanying committee report for application ref: 2020/92331 is also relevant to the Heybeck Lane site. The same ecological surveys appended to chapter 14 of the ES submitted with application ref: 2020/92331 have also been submitted in support of the Heybeck Lane application. Similarly, a letter regarding bat surveys of lofts (dated 23/08/2022) was submitted. Of specific relevance to the Heybeck Lane site, that letter noted that the loft of 39 Heybeck Lane has previously been converted and there is therefore no accessible loft space to inspect for bat presence. A High-Level Biodiversity Net Gain Assessment (01/11/2022), including findings of a walkover survey undertaken in October 2022, was also submitted.
- 10.66 At the Heybeck Lane site, the applicant's biodiversity net gain calculation (using the Biodiversity Metric 3.1) confirms the proposed development would achieve the following net gains (post-intervention):
- Habitat units: 10.03%
  - Hedgerow units: 10.61%
- 10.67 Of note, no net gain in river units is proposed, as the existing river unit baseline was found to be zero. It is also noted that the proposed 10.03% net gain in habitat units is partly reliant upon off-site interventions.
- 10.68 The proposed net gains are considered achievable. Delivery of the proposed off-site interventions would need to be secured via the recommended Section 106 agreement.
- 10.69 As with application ref: 2020/92331, the council is able to make an informed decision on the current outline application. Further surveys would be required at Reserved Matters stage (if outline permission is granted). The applicant has proposed a policy-compliant biodiversity net gain, and has met other requirements of relevant planning policies. Conditions and provisions (secured via a Section 106 agreement) can be applied to mitigate the ecological impacts of the proposed development.

### Trees, ancient woodlands and hedgerows

- 10.70 Several Tree Preservation Orders protect trees and groups of trees within and adjacent to the application site, and an ancient woodland (Dum Wood) is designated to the east of the site. Local Plan policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodlands of significant amenity, and proposals should normally retain any valuable or important trees where they make a contribution to public amenity or have other benefits.

- 10.71 The applicant's Hedgerow Assessment and Report (July 2018) at appendix 14.9 of the ES submitted with application ref: 2020/92331 states that three of the MXS7 site's hedgerows can be defined as "important" under the Hedgerow Regulations 1997, and that a further five hedgerows just fall short of being classified as "important", due to there being either one too few woody species or associated features, or by not being adjacent to a public right of way. One of the "important" hedgerows is within the Heybeck Lane site.
- 10.72 The proposed development (as illustrated indicatively) largely retains existing trees and hedgerows, and an appropriate buffer is proposed adjacent to the ancient woodland. The applicant's landscaping proposals are currently indicative, however they illustrate potential biodiversity connections across the site.
- 10.73 The applicant's illustrative layout and supporting arboricultural impact assessment demonstrates that the site can be developed while incorporating the existing important trees, woodlands and hedgerows into the, and avoiding adverse impact on these features. Significantly more detail would, of course, be required at Reserved Matters stage, including details of how the site's hedgerows would be retained.
- 10.74 Further assessment regarding impacts on Dum Wood is set out in the accompanying committee report for application ref: 2020/92331.
- 10.75 As noted by KC Trees, the hedgerow identified as "important" appears to be impacted by the proposals. This would need to be considered further at Reserved Matters stage when, if the hedgerow is not to be retained and worked around, mitigation would be required, possibly in the form of translocation of the hedgerow to a new site more associated with the adjacent ancient woodland.

#### Open space, sports and recreation

- 10.76 Local Plan policy LP63 states that the council will seek to secure well designed new and improved open space, sport and recreation facilities in the district to encourage everyone in Kirklees to be as physically active as possible and promote a healthy lifestyle for all. New housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal.
- 10.77 The council's Open Space SPD was adopted during the life of the current application, on 29/06/2021.
- 10.78 The applicant's illustrative masterplan shows an area of open space (including a play space) within the Heybeck Lane site, as well as other green spaces around retained trees and hedgerows.
- 10.79 As noted in the accompanying committee report for application ref: 2020/92331, Sport England advised that a £1,676,111 (in total for both sites) sports contribution would be required. This, however, was based on Sport England's formula and the likely population of the proposed development, if no on-site provision was made.

- 10.80 The council's own guidance (as set out in the Open Space SPD) is considered more appropriate in this instance, as it is more nuanced and is tailored to reflect the needs of the borough. Furthermore, calculations carried out in accordance with the SPD note existing nearby provision, and the needs of the relevant wards. It is also again noted that significant on-site provision has been illustrated by the applicant across the two outline applications.
- 10.81 With reference to the SPD, more detailed information regarding the typologies of the on-site provision would be needed before a further calculation could be carried out. As much of this detail would not become available until further design work is carried out prior to Reserved Matters applications being submitted, at the current outline stage it is recommended that the relevant Section 106 provision secures a contribution based on the relevant formula, with no figure specified.

#### Planning obligations and financial viability

- 10.82 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement:
- 1) Highway capacity / improvement / other works
    - a) contributions towards junction improvement schemes (applicable should schemes secured by condition prove to be more appropriately delivered via a Section 106 provision).
    - b) contribution towards Shaw Cross junction scheme.
  - 2) Sustainable transport
    - a) Bus stop upgrade contribution (applicable if bus stop audit demonstrates the need).
    - b) Framework Travel Plan (and subordinate plans) implementation and monitoring including fees – £15,000 (£3,000 for five years).
  - 3) Education
    - a) £300,000 contribution towards interim primary provision.
    - b) Secondary education contribution of £223,957.
  - 4) Open space, including sports and recreation and playspaces – contribution based on Open Space SPD methodology / formulae, taking into account on-site provision (to be confirmed at Reserved Matters stage). Site-wide strategy required to ensure provision across all phases / parcels / Reserved Matters applications is co-ordinated.
  - 5) Affordable housing – 20% provision.
  - 6) Air quality – contribution (amount to be confirmed, and subject to applicant / developer measures which may render contribution unnecessary) up to the estimated damage cost to be spent on air quality improvement projects within the locality.
  - 7) Biodiversity
    - a) Contribution (amount to be confirmed) or off-site measures to achieve biodiversity net gain (only applicable if 10% can't be achieved on-site);
    - b) Securing other off-site measures (including buffers to ancient woodlands, and provision of skylark plots).
  - 8) 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.

9) 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.

10) Ancient woodland – management plan (and works, if required) for public access to Dum Wood (outside application site, but within applicant's ownership).

11) Social value – requirement for applicant / developer, future developer partners and occupants of employment floorspace to provide package of training, apprenticeships and other social value measures.

12) Masterplanning – No ransom scenarios to be created at points where new roads meet other development parcels / phases.

10.83 All contributions are to be index-linked. For certain contributions, a relevant index (such as the BCIS Tender Price Index) may be appropriate.

10.84 The above obligations are potentially significant, and together with the costs associated with on-site infrastructure, drainage and addressing the application site's topography and coal mining legacy, would need to be given careful consideration by the applicant prior to the sale of (parts of) the site to developers. These costs would need to be reflected in the application site's purchase price, to ensure that any future developer will not overpay for the site and then attempt to argue that these costs were unanticipated and that affordable housing or other necessary mitigation is not viable. The application site was promoted for allocation and development by the current applicant, and such development at this site can reasonably be assumed to be viable at this stage. Therefore, and given what is known regarding the application site's development costs, and having regard to consultee responses (which any developer should make themselves aware of before purchasing the site or parts of it), the council is unlikely to entertain a future argument that development at this site is unviable. Should any such argument be made in the future, the council can and will have regard to paragraph 58 of the NPPF, which states that the weight to be given to a viability assessment is a matter for the decision maker.

10.85 Commentary regarding the applicant's viability testing of the proposed developments (across both sites within MXS7) is set out in the accompanying committee report for application ref: 2020/92331.

10.86 Given that many of the required contributions would be put towards schemes that may only become necessary several years in the future, it is recommended that the required Section 106 agreement should allow the council to retain moneys for longer periods than is normally secured. Of note, the Department for Education's "Securing developer contributions for education" guidance recommends (at paragraph 6) that planning obligations should allow enough time (often 10 years, or no time limit) for developer contributions to be spent.

### Representations

10.87 The representations received in response to the council's consultation and reconsultation are responded to throughout this committee report.

- 10.88 The volume of objections and their content is noted. These, and the representations made by elected representatives, are material considerations that must be given due weight when the current applications are determined.
- 10.89 The request made by the Chidswell Action Group to delay determination of the application is noted, but is not supported. As part of the recent reconsultation, letters and emails were sent to everyone who had previously been consulted and everyone who had previously commented on the application, and four new site notices were posted on 02/11/2022. This greatly exceeds the consultation effort required by the relevant legislation, and would have ensured a good level of local awareness regarding the application and the reconsultation.
- 10.90 Earlier comments regarding the adequacy and timing of the outline applications (and the council's initial consultation on them) are noted, however additional time was added to the initial consultation period in light of the Covid-19 epidemic, and the council's application publicity went further than the statutory requirements and the commitments set out in the council's adopted Statement of Community Involvement.

#### Other planning matters

- 10.91 See commentary provided in the accompanying committee report for application ref: 2020/92331.

### **11.0 CONDITIONS**

- 11.1 The conditions listed below (in summary) are recommended at this outline application stage. It is recommended that authority to finalise the wording of the conditions, and to amend and add to this list, be delegated to the Head of Planning and Development.

- 1) Standard outline condition (approval of reserved matters prior to commencement).
- 2) Standard outline condition (implementation in accordance with approved reserved matters).
- 3) Standard outline condition (reserved matters submission time limits – first reserved matters application to be submitted within three years of outline approval, last to be submitted within five years).
- 4) Standard outline condition (reserved matters implementation time limit – within two years of reserved matters approval).
- 5) Development in accordance with plans and specifications.
- 6) Details of phasing to be submitted.
- 7) Implementation of junction improvement schemes when required, in accordance with details (including road safety audits and arrangements for implementation under Section 278) to be submitted.
- 8) Submission of interim and final details of Heybeck Lane site entrance (including road safety audits and arrangements for implementation under Section 278), and subsequent implementation.
- 9) Assessment of potential for decentralised energy scheme to be carried out prior to submission of Reserved Matters applications.
- 10) Flood risk and drainage – full site-wide scheme to be submitted.
- 11) Flood risk and drainage – detailed drainage proposals to be submitted for each parcel / phase.
- 12) Separate systems of foul and surface water drainage to be provided.

- 13) Ecological mitigation and enhancement details (including an Ecological Design Strategy, measures to address impacts on birds including ground-nesting farmland birds), and details of mitigation and delivery measures to be submitted.
- 14) Air quality mitigation measures to be submitted.
- 15) Further noise assessment and mitigation measures to be submitted.
- 16) Contaminated land – phase II intrusive site investigation report to be submitted.
- 17) Contaminated land – remediation strategy to be submitted.
- 18) Contaminated land – remediation strategy to be implemented.
- 19) Contaminated land – validation report to be submitted.
- 20) Coal mining legacy – details of intrusive site investigation (and, where necessary, remediation) to be submitted.
- 21) Archaeological site investigation.
- 22) Site-wide placemaking strategy to be submitted prior to Reserved Matters applications, and to include design principles, coding and other arrangements to ensure high quality, co-ordinated development that appropriately responds to existing guidance including Housebuilders Design Guide SPD.
- 23) Bus stop infrastructure audit and improvement plan to be submitted, with timeframes for implementation.
- 24) Construction (Environmental) Management Plan to be submitted.
- 25) Tree protection measures to be approved and implemented.
- 26) Temporary (construction phase) drainage measures to be approved and implemented.

11.2 Given the size of the developments proposed across the MXS7 site and the likely delivery programme, it is considered appropriate to allow a longer period for the submission of Reserved Matters applications.

11.3 Of note, a significant volume of further information is expected to be submitted later at Reserved Matters stage (if outline permission is approved), and further conditions could be applied at that stage (for example, in relation to boundary treatments and electric vehicle charging).

11.3 Conditions would need to be worded to allow for phased implementation of the proposed development.

## **12.0 CONCLUSION**

12.1 The application site is allocated for mixed use development under site allocation MXS7, and the principle of residential development at this site is considered acceptable.

12.2 The applicant has satisfactorily addressed relevant policy requirements in relation to masterplanning, infrastructure provision, highway impacts, landscape impacts, biodiversity, sustainability and other planning matters.

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

- 12.4 Given the above assessment and having particular regard to the up to 181 homes (20% of which would need to be affordable homes) that would be delivered by the proposed development, approval of outline planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

### **Background Papers:**

Application and history files.

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92350>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

**Date: 08-Dec-2022**

**Subject: Planning Application 2020/92307 Outline application, including the consideration of access, for erection of residential development (up to 75 units) Penistone Road/, Rowley Lane, Fenay Bridge, Huddersfield, HD8 0JS**

#### **APPLICANT**

Farnely Estates (No 1)  
LLP

#### **DATE VALID**

21-Jul-2020

#### **TARGET DATE**

20-Oct-2020

#### **EXTENSION EXPIRY DATE**

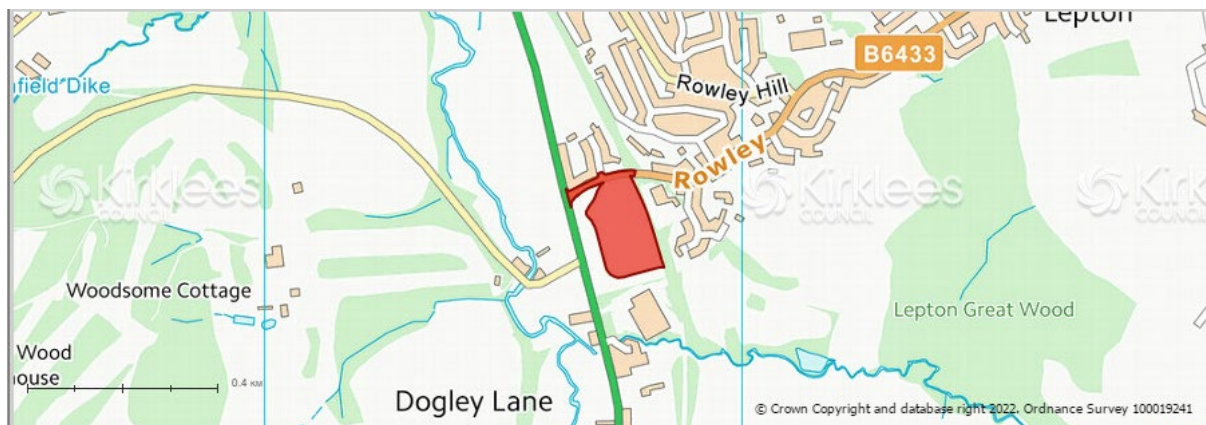
26-Feb-2021

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

[Public speaking at committee link](#)

#### **LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected:** Almondbury

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

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

1. **Affordable housing:** 20% of dwellings to be affordable with a split of 55% social or affordable rent to 45% intermediate housing (inc. 25% First Homes);
2. **Open space:** Contribution to off-site open space to be calculated at Reserved Matters stage based upon final number of units and the level of on-site provision at that time
3. **Education:** additional places would be required at Rowley Lane Junior, Infant and Nursery School and King James's School with the contribution to be calculated at Reserved Matters stage based upon final number of units and the projected student numbers at that time
4. **Bio-diversity:** Contribution (amount to be confirmed) towards off-site measures to achieve bio-diversity net gain in the event that it cannot be delivered on site.
5. **Travel plan:** Monitoring of £10,000 (£2,000 per year, for five years).
6. **Metro / Sustainable travel:** £10,000 for Real Time Information display plus Residential Metro Cards
7. **Roundabout contribution:** £285,000 with overage clause if the identifies cost is exceeded.
8. **Management and maintenance:** POS, Drainage, and Ecological features

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

## **1.0 INTRODUCTION**

- 1.1 This is an outline planning application, with access as a consideration, for residential development (up to 75 dwellings).

1.2 This application is brought to the Strategic Planning Committee in accordance with the Council's Delegation Agreement, as the proposal seeks a residential development likely over 60 units.

## **2.0 SITE AND SURROUNDINGS**

2.1 The site is within Almondbury Ward, sited immediately to the east of Penistone Road and is circa 4.4km west of Huddersfield Town Centre.

2.2 To the north of the site, across Rowley Lane, are residential properties. A former railway line runs along the east boundary, beyond which is an office site and residential properties. To the south is an engineering site, and to the west, across Penistone Road, is open land with sporadic dwellings.

2.3 The application site has an area of 2.4ha and consists of part of a roughly rectangular field and Rowley Lane (due to proposed highway improvement / access works). The excluded part of the field is included within the applicant's blue line (land owned by the applicant, but not part of the applicant).

2.4 The site is sloped, falling from east to west. The north, east, and south boundaries host mature tree belts, with the west boundary hosting smaller and thinner trees.

## **3.0 PROPOSAL**

3.1 Outline planning permission (with details of access) is sought for residential development of the site.

3.2 A single vehicular access is proposed from Rowley Lane, shown as a priority T junction. This would include the provision of a 2m wide footway along the south of Rowley Lane, which currently has none. The provision of this would necessitate the felling of all trees along the north boundary. Works to improve the Rowley Lane and Penistone Road junction are also proposed. This consists of realigning the road to enable the provision of left and right turn lanes (onto Penistone Road) and improved sightlines.

3.3 Other matters (namely appearance, landscaping, layout and scale) are reserved.

3.4 The applicant's description of development refers to "up to 75" dwellings. An indicative layout (not to scale) for the development has been provided. This shows a single estate road which branches into two forks with several private drives leading off. Dwellings would be arrayed around the road in a typical fashion. All units on the edge would face out of the site.

3.5 In accordance with the requirements of the Local Plan for the development on this Housing Allocation site, the application is supported by a Masterplan Document which details how the full combined allocations of HS2 and HS3 would be developed. The masterplan splits the allocation into four phases;

- Phase 1: the application site, the first half of HS2, to be accessed from Rowley Lane, to host up to 75 dwellings.
- Phase 2: north-east of allocation HS3, to be accessed from Hermitage Park (itself accessed from Rowley Lane). To host up to 80 dwellings. This would not allow vehicle access into the remainder of the

allocation. There is a live application for this phase, under application 2022/91735.

- Phase 3: The remainder of HS2, to the east of the current application (phase 1) site. Approximately 100 – 200 dwellings. To be accessed via a new roundabout from Penistone Road and road past Phase 1.
- Phase 4: The remainder of HS3, to the west of Phase 2. Approximately 140 – 230 dwellings. Also be accessed via the new roundabout from Penistone Road and road past Phase 1.

The document includes design standards for dwellings, consideration of infrastructure (drainage, roads, footpaths, open spaces etc.), climate change mitigation, amongst other matters.

- 3.6 The proposal is supported by a technical drawing showing the feasibility of the new roundabout's implementation (which does **not** form part of this permission) and new road, which would secure future access to the remainder of HS2 and HS3.

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

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

None.

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

*Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW (Housing Allocation HS1)*

2020/90725: Erection of 68 dwellings with associated access, parking and open space (revised plans) – S106 Full Permission

2022/93154: Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) – Pending consideration

*Land off, Hermitage Park, Lepton, Huddersfield, HD8 0JU (Housing Allocation HS2)*

2022/91735: Outline application for erection of 80 dwellings and associated work, including the considerations of access, layout, and landscaping – Pending consideration

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

- 5.1 Negotiations have focused upon two key elements; discussions on the HS2 and HS3 masterplan, and the method of access to the remainder of the allocation.

- 5.2 On submission a detailed masterplan was not included with the application. That what was provided was limited to a 'Draft Constraints and Opportunities Plan'. This failed to achieve the aims of Policy LP5 and requirements of the allocation box for HS2. This concern was raised with the applicant. In collaboration with the land owner of HS3, and in consultation with local stakeholders, the applicant provided a detailed Masterplan. This went through several revisions as officers offered feedback. The final version submitted is considered acceptable and provides a good understanding and framework for the future development of allocations HS2 and HS3.
- 5.3 Regarding the method of access, as the proposal seeks to only develop part of HS2, officers sought comfort that the development would not prejudice (i.e., prevent access to) the remainder of the allocation. This included a new access from Penistone Road, as in accordance with the Local Plan the remainder of the allocation is not expected to be accessed from Rowley Lane. To this end, in addition to the Masterplan, the applicant has provided details of a new roundabout which would connect Penistone Road, Rowley Lane, and the remainder of the allocation. The submitted details are sufficient to clearly demonstrate such an approach is feasible although it does not form part of the current application (as per the Masterplan phasing strategy, it would form part of Phase 3's planning application). While not part of the application, officers expect each phase of the development to contribute financially towards this expected roundabout, in the interest of securing appropriate infrastructure in accordance with master planning principles. This led to negotiations on an appropriate costing of the roundabout works. These have been calculated by the applicant at £3,150,927. This has then been pro-rata'd to the scale of phase 1, to £285,000, with the remainder to come from the latter phases. Officers are agreeable to accept this figure, subject to an overage clause which would allow for additional funds to be sought if the calculated figure is insufficient.

## **6.0 PLANNING POLICY**

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

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

- 6.2 The application site is part of Housing Allocation HS2 within the Kirklees Local Plan. Allocation HS2 has an indicative housing capacity of 286 dwellings. The site is adjacent to Housing Allocation HS3 (to the west).
- 6.3 The site represents circa 22.5% of HS2's total area (9.33ha) or 27% of the identified developable area (net area reduced to retain woodland/remove high flood risk areas that are outside of this application's redline).

6.4 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space
- **LP65** – Housing allocations

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

*Supplementary Planning Documents*

- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

*Guidance documents*

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

National Planning Guidance

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20<sup>th</sup> July 2021, and the Planning Practice Guidance Suite (PPGS), first launched

6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.7 Other relevant national guidance and documents:

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

#### Climate change

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

6.9 On the 12<sup>th</sup> of November 2019 the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

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

7.1 The application is supported by a Statement of Community Involvement (SCI) which outlines the public engagement the applicant undertook prior to their submission. The applicant posted 231 information flyers to addresses on Woodsome Drive, Woodsome Park, Woodsome Road, Penistone Road (nearest properties), Rowley Lane up to and including Hermitage Park, Clough Park, Clough Drive, Beldon Brook Green, Clough Way, Ashford Manor,

Ashford Court, Dogley Lane, Dogley Villa Court, Whitegates Grove, Jumble Wood, and Penistone Road (Fenay Bridge). The flyer gave details of the proposal and directed readers to a website detailing the proposal where comments could be made.

7.2 A virtual meeting was held on the 2<sup>nd</sup> of July 2020 with local ward Councillors and representatives from Green Alert in Lepton (GAIL).

7.3 In total, 70 people submitted a feedback form. The following is a summary of the comments received from the feedback form and virtual meeting:

- Request for a masterplan for HS2 and HS3.
- Concerns on the impact on Highways and Highway Safety
- Concerns on the impact on Woodsome Hall
- Concerns over the location of the access on Rowley Lane
- Seeking clarification on affordable housing
- Concerns regarding the ability to secure adequate drainage
- Concerns regarding impact on local ecology
- Request for development to be focused on brownfield sites, not Greenfield
- Concerns regarding noise impacts, both during construction and after
- Seeking clarification on the development's active travel merits.

7.4 Within the SCI the applicant details how the above comments have been considered and/or incorporated into the proposal. These will be considered were relevant later within this assessment.

#### *Public representation*

7.5 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.

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

7.7 The end date for public comments was the 15<sup>th</sup> of April 2022. In total, 106 public representations were received in response to the proposal. The following is a summary of the comments received:

#### *General*

- The education contribution has not taken into cumulative development in the area, and has applied 'vacant' spaces twice.
- Historical maps show a footpath crossing the site. This must be protected.
- The submitted geo-technical reports are inadequate and have been objected to by K.C. Environmental Health.
- Concerns that the new dwellings will not adhere to the National Described Space Standards.



- The Council has failed to demonstrate there is demand in Lepton for dwellings and that they can only be provided within the area. These houses can be provided elsewhere. The Local Plan is based on out of dated figures; using the latest data / assessment measure the districts need would be 6% lower. The Local Plan should be re-reviewed.
- Development should be focused on brownfield sites, not greenfield.
- The masterplan is inadequate and fails to comply with Policy LP5 and main modifications 43 and 46. Furthermore, the applicant has not adequately involved local residents in their consultation, citing that the applicant's engagement only included 0.58% of Lepton.
- Concerns to what extent the submitted masterplan will be applied to HS3 and its separate landowner.
- The applicant's Air Quality Assessment is wrong, and understates traffic by 100%. The report comments that the AADT is 10,000+ while it is commented to actually be 24,000+
- The area exceeds World Health Organisation triggers on air pollution, which the proposal would exacerbate, particularly on Penistone Road and Rowley Lane, near the school.
- Questions over the climate credentials of the new buildings, such as the level of insulation, glazing, whether they'll include solar panels or EVCP. The developer should exceed the legal minimum.
- The area has insufficient amenities and services, such as doctors' surgeries or dentists.
- The increased number of people in the area will harm the living standards of existing residents.
- The roundabout will harm the amenity of residents at 1 Woodsome Road through noise and light, and may affect the stability of its construction. The dwelling and others along Woodsome Road are also susceptible to flooding, which would be worsened.
- The development will lead to light pollution from street lights, houses, and cars.
- It is unlikely that the proposed houses will be really affordable, and be too expensive for young people.
- Local schools are over prescribed and cannot accommodate additional students.
- The development will harm local property prices.
- The site is Green Belt and not should be built upon.
- The development will result in Reliance Precision having to move.
- The development will prejudice Human Rights, including the right to ensure a peaceful enjoyment of life and possessions, and the respect for private family life.
- Construction will affect residents, causing noise, dust, and traffic disruption.

### *Heritage*

- The proposal will cause substantial harm to the listed buildings Woodsome Hall and 1 Woodsome Road. All submitted reports are inadequate in considering their value, the affect upon them, and how the development will adequately mitigate the impact.
- The roundabout will be circa 2m above 1 Woodsome Road and within 35 / 40m of it.

### *Ecology*

- The site is ecologically valuable, hosting flowers, bees, birds and other species.
- The site is adjacent to the Kirklees Wildlife Habitat Network and will harm its function.
- The proposal will result in a loss of habitat for protected species.
- The applicant has failed to demonstrate how 10% net gain will be secured. Furthermore, the masterplan does not adequately consider how to enhance and manage the natural environment. Inadequate assessment has been undertaken to inform the development.

### *Design*

- The proposal represents urban sprawl that is detrimental to the Green Belt.
- The site is an important visual gap between Lepton and Kirkburton.
- Lepton has insufficient green space, which the proposal would even further dramatically reduce.
- The development will inevitably take the form of ribbon development. The development will urbanise an otherwise rural area.
- Housing must be built to be carbon neutral and use renewable energy.
- The development should be 3D modelled to demonstrate the visual impact and impact on residents.

### *Highways*

- The proposal will harm the safe use of the local highway through increased traffic.
- Woodsome Road would be the primary route for new children to access King James School. It is too narrow and difficult to access.
- Penistone Road is too narrow and not suitable for additional traffic.
- The masterplan includes a pedestrian route which is not a PROW and is closed to the public. This leads to Beldon Brook Green which is an unadopted single track road with no footpath or street lighting; it will be damaged by additional footfall.
- Kirklees Highways have calculated the development will generate 45 two-way movements am and 41 two-way movements in the pm. This is disputed. Based on census data and car ownership for the area, 75 dwellings are expected to result in 105 vehicles and a trip factor of 0.8 gives 84 vehicle movements – double what Highways DM consider. This needs to be considered cumulative with the traffic from Phases 3 and 4 (anticipated at 670 movements), and existing movements on Rowley Lane (anticipated at over 4000 movements), all of which will go through the proposed roundabout. The development fails to consider cumulative impacts of later phases.
- Penistone Road is not suitable for cyclists and therefore cycling is not a viable option from this site.
- Lepton has few amenities, so residents will have to drive to work, entertainment or shopping locations.
- The speed limit on Penistone Road should be lowered to improve safety.

- Traffic accidents on Penistone Road are much worse than recorded within the applicant's Transport Assessment, which underplays the impacts.
- The roundabout should be provided as part of phase 1, not later phases.
- Concerns that the development does not include a footpath along the right-hand side of Rowley Lane up towards Lepton Village.
- Penistone is subject to many road traffic accidents, which the proposal will exacerbate. The proposed mitigation measures will not address this, and may make it worse.
- The applicant has not followed due diligence and spoken to local bus operators to understand existing demand and travel patterns.
- Access to HS3 via Hermitage Park is not acceptable, it's too much traffic and will affect existing residents' quality of life.
- The roundabout will make access into adjacent properties, including business on the road, much more difficult and dangerous. It is also too close to Woodsome Road and will make access into the road difficult.
- The development fails to consider the adjacent disused railway. This is a desired greenway connecting towards Huddersfield. It could host a 3m wide footway. The application should contribute towards its implementation and the road crossing the railway should include grading to access it.

#### *Flood risk and drainage*

- The development of HS2 and HS3 will increase runoff into Beldon Brook Green, which does not have highways drainage infrastructure. Neither the flood risk assessment nor any other documents prepared by the developer appear to address what system will be implemented to replace and support any reduction gained from the existing greenfields natural flood management system. Developing these sites will lead to runoff and flooding on Beldon Brook Green.
- Drains in the area are at capacity and cannot cope with more water. Sewers flow into Fenay Beck and pollute the surrounding land, which will be exacerbated. Yorkshire Water have raised issues with their pipes to residents.
- SUDs systems gather stagnant water, leading to flies and danger to children.
- No details of foul sewerage have been provided.
- The Lead Local Flood Authority objected to application 2020/90725, but not the current proposal. This is inconsistent.
- The development will lead to flooding from Fenay Beck to properties along its bank.
- Flood risk in the area has increased in recent years, including the fields at Fenay Beck.

7.8 The site falls within Kirburton Parish. The parish Council objects on the following grounds:

- Highways: the roundabout proposed will result in problems for business and harm traffic flow. Turning right out of Rowley Lane is difficult. The assessment was done during lockdown. Traffic from the development will cause vibrations which will affect Reliance Precision.

- Noise: Reliance Precision creates noise, which will affect residents and lead to future complaints.
- Flood Risk: This is not adequately considered by the submission.
- HS2 and HS3 should come together as a single, full application.

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

7.10 The site falls within Almondbury ward. The local ward councillors were notified of the proposal. Each has expressed concerns over the proposal and/or requested to be kept informed. This extends to the masterplan for the wider HS2 / HS3 allocations. Cllr Munro has raised the following concerns:

- The application should be determined by an in-person committee, not virtual.
- The applicant has failed to adequately include local residents in the master-planning process. The masterplan was not adequately advertised.
- The masterplan that has been submitted is inadequate and is not joint up between land owners, contrary to the main modification imposed by the inspector.
- The red-line of the application extends beyond the housing allocation and includes Green Belt land.
- Objection to the access to HS3 via Hermitage Park. This has been proposed as 75 units, but inadequate details are provided for a thorough assessment over the impact of this. Rowley Lane cannot accommodate the traffic and there is also no reassurance that more units will not be sought later or that the roundabout will come forward. Its unclear who would build it, and when.
- No additional water should enter Fenay Beck – this was discussed and agreed with the Environment Agency, as it'll lead to more flooding. Yorkshire Water commented they cannot accept more surface water from the site.
- Future residents would suffer from substantial noise pollution from Penistone Road and the new phase 3 road. This will be exacerbated if phase 2 connects to phase 4, leading to a through route onto Hermitage Park.
- Air quality in the area is an issue, and inadequate details have been provided to address this. There is strong connection between poor air quality and serious harm to public health.
- There are no safe crossing places on Rowley Lane.
- The development fails to consider its impact on local listed buildings, with inadequate details provided.
- The development of this site, and the wider allocations of HS2 and HS3, will cause harm to Lepton Great Wood. Considering these sites in isolation is not appropriate. The proposed development site lies within the Kirklees Wildlife Habitat Network which is significant. The submitted Preliminary Ecological Appraisal (PEA) fails to consider ecology outside of the site. The proposal has not demonstrated 10% net gain.

7.11 Cllr Munro has indicated she wishes to provide further comments to the committee. If received in time, these will be uploaded within the committee update.

## 8.0 CONSULTATION RESPONSES

### 8.1 Statutory

Coal Authority: The applicant has sufficiently considered the risk of legacy coal features and demonstrated that *'the application site is, or can be made, safe and stable for the proposed development'*. They request no conditions.

Historic England: Comment that the development would impact upon local heritage assets, identifying that *'Development on this site will cause a certain level of harm to the setting of the hall [Woodsome Hall, Grade 1 Listed] through the erosion of the rural character of the area and the visual disruption on to key views from the hall to the east'*. They do not quantify the harm however, and they defer to the Council's Conservation and Design team.

K.C. Highways (Development Management): Have been involved throughout discussions regarding the access arrangements for the site as well as the future connection to the remainder of the allocation. No objection to the point of access and works to Rowley Lane, subject to conditions. Confirm that the roundabout proposed is feasible and the cost exercise undertaken by the applicant is reasonable. Conditions relating to construction traffic access and highway quality survey recommended.

K.C. LLFA: The applicant has provided sufficient details to demonstrate the site is not at flood risk, and that surface water drainage may be adequately addressed. However, technical details demonstrating how this will be achieved will be required at Reserved Matters stage, with conditions to this effect requested.

Yorkshire Water: Identified pipework on Rowley Lane / Penistone Road which would need to be protected / diverted during development. No objection subject to conditions.

### 8.2 Non-statutory

K.C. Conservation and Design: Acknowledge that the proposal will cause harm to Woodsome Hall as a heritage asset, however the harm would be 'less than substantial'. This harm should be weighed against the proposal's public benefits which are acknowledged to include the provision of housing.

K.C. Crime Prevention: Advice provided, however this relates to matters of detailed design (lighting, overlooking, boundary treatment etc.). These have been shared with the agent to be considered at Reserved Matters stage. No objection to the principle of development.

K.C. Ecology: Initially required further details to be provided. These requirements were discussed with the applicant and officers, and provided. On review, the details are considered sufficient to establish the principle of development on site as they show adequate survey has been undertaken, impacts identified, and feasible mitigation considered. Further / updated details will be required at Reserved Matters stage, to be secured via condition.

K.C. Education: Confirmed that the scale of the development requires a local education contribution and identified the local schools where the contribution would be targeted. Given that the

K.C. Environmental Health: Recommend conditions in the event of an approval covering noise attenuation; decontamination/remediation; air quality; and lighting.

K.C. PROW: No PROWs cross the application site, but fall within the wider allocation / Masterplan boundaries.

K.C. Strategic Housing: Provided advise on local housing market and confirmed scale of the development requires an affordable housing contribution, at 20% of units with expected tenure detailed.

K.C. Trees: No objection to the principle of development on the site, although the Reserved Matters of layout and landscape will require adequate arboricultural details.

West Yorkshire Archaeological Advisory Service: Requested that a pre-determination trenching survey be undertaken. However, advised that this may be addressed via condition if the LPA is so minded.

West Yorkshire Metro: Recommend contribution be secured for bus stop improvements and residential metro cards.

## **9.0 MAIN ISSUES**

- Principle of development
- The masterplan for HS2 and HS3
- Access and highways
- Urban design
- Residential amenity
- Drainage
- Planning obligations
- Other matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

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

### *Land allocation and quantum of development*

- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.3 It is recognised that the site is Greenfield rather than Brownfield. However, the allocation of this land and other Greenfield sites through the Local Plan process was based upon a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing. It was found to be an appropriate basis for the planning of the Borough by the Inspector. Whilst the KLP strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary in order to meet development needs. Furthermore, whilst the effective use of land by reusing brownfield land is also encouraged within the Framework, the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.4 The site falls within a housing allocation, reference HS2, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.5 The proposal represents a partial development of allocation HS2. Consideration must be given to whether the partial development of the allocation is appropriate, and whether this initial development would prejudice the future effective development of the allocation.
- 10.6 The development of HS2 (and HS3) is subject to a Masterplan. This is considered in further detail within paragraphs 10.16 – 10.27. The Masterplan identifies the current application as Phase 1 of the HS2 / HS3 proposal. Phase 3 is the continued development of HS2. Phase 3 and Phase 4 are indicatively shown to be accessed by a new roundabout from Penistone Road. The access road would run along the south and east boundaries of Phase 1, before crossing the old railway line and leading into Phase 3 proper. The roundabout would not give direct access to Phase 1; it would remain accessed from Rowley Lane, which would be re-aligned to connect to the roundabout.

- 10.7 This indicative approach is welcomed by officers, as it allows Phase 1 to be self-contained and limits the number of dwellings accessed from Rowley Lane to circa 150 (Phase 1 plus Phase 2 (accessed from Hermitage Park)). While this requires a notable portion of HS2's land being dedicated to an access road, overall, the proposed phasing and indicative design approach is considered reasonable and necessary given the shape of the allocation, and would not represent an ineffective use of the allocation.
- 10.8 Turning to the application site itself, LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan HS2 has an indicative capacity of 286 dwellings. The application is outline and proposes up to 75 dwellings, and seeks to develop only part of HS2 (circa 22.5% of the total area, of 27% of the developable area).
- 10.9 A total of 75 dwellings, across the site area of 2.2ha, would represent a density of 34 dwellings per ha. If calculating the proportionate contribution for the allocation's developable area, 27% of 286 is 77.2. Up to 75 units would, therefore, broadly comply with the indicative capacity and policy LP7. While made at outline, and the proposal is 'up to 75 units', officers are satisfied that the indicative density and maximum sought is an effective, efficient, and appropriate use of the housing allocation land. A lower density may be appropriate, if demonstrates to be 'appropriate' at Reserved Matters stage.
- 10.10 Looking beyond density, LP11 of the Local Plan requires consideration of housing mixture. LP11 requires a proposal's housing mix to reflect the proportions of households that require housing, achieving a mix of house size (2, 3, 4+ bed) and form (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the Kirklees Strategic Housing Market Assessment (SHMA).
- 10.11 As the indicative plan provided is not the scale, with layout, appearance and scale reserved, no details on the proposed size or form of dwellings have been provided. This will be a material consideration at Reserved Matters stage; at this time, there are considered no prohibitive reasons why appropriate details could not be provided at that time.

#### *Sustainable development and climate change*

- 10.12 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions
- 10.13 The site is within the urban envelope, albeit on the edge of it. Nonetheless the site is considered a location sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. Bus stops adjacent to the site give reasonable access to the district centre of Huddersfield, and the smaller centre of Waterloo. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.



- 10.14 Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or are recommended to be secured by condition (referenced where relevant within this assessment). Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.
- 10.15 Subject to further details that would be submitted at Reserved Matters stage, it is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area, its proximity to local facilities, and the measures related to transport that can be put in place by developers. Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

### The masterplan for HS2 and HS3

- 10.16 Due to the combined scale and close association of Housing Allocations HS2 and HS3, which have an indicative capacity of 598 dwellings, a master planning approach is necessary. This is to ensure due regard is given to the wide range of relevant planning considerations, the need for significant supporting infrastructure, as set out within the requirements of site allocations' for HS2 and HS3, as well as Local Plan policy LP5.
- 10.17 Masterplans set the vision and implementation strategy for a development. Careful master-planning can ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure. It is also useful for the prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.
- 10.18 The masterplan has been drafted between the (different) land owners of HS2 and HS3, in consultation with local groups and stakeholders. In summary it divides the two allocations into four phases. HS2 consists of Phase 1 and Phase 3, while HS3 consists of Phase 2 and 4. The phasing plan details that these are intended to be delivered sequentially. In terms of access arrangements, Phase 1 (this application) would be accessed via Rowley Lane, while Phase 2 (under consideration by application 2022/91735) would be accessed via Hermitage Park off Rowley Lane. These two phases would be limited to 155 units, and include capacity improvements to Rowley Lane, in accordance with the capacity study undertaken as part of the Local Plan.
- 10.19 Also, in accordance with the assessment made at Local Plan stage, phases 3 and 4 would be accessed via new highway infrastructure from Penistone Road. This has been indicatively designed as a roundabout, and would include the re-alignment of Rowley Lane. Sufficient detail has been provided on the roundabout to demonstrate it is a feasible design approach. To ensure the financial burden of the roundabout is not unduly left to phases 3 and 4, in accordance with master planning principles officers have sought to secure a proportional contribution towards the roundabout's cost from the developers of Phase 1 and Phase 2. Based on the applicant's calculations for the roundabout, for Phase 1 this would amount to £285,000. This contribution has been agreed to be secured via S106: however, given this has been calculated by the applicant, officers sought to include an overage clause, which will allow

the LPA to seek additional funds, should the roundabout be more expensive than calculated. This would run with the developer (not individual landowners, after the dwellings are sold) This has also been agreed to.

- 10.20 The masterplan has achieved the key objective of demonstrating how the delivery and phasing of the combined allocations of HS2 and HS3 would be managed.
- 10.21 Another purpose of the masterplan is to consider the constraints of HS2 and HS3, and respond to them accordingly. While parts of the allocation include land in Flood Zone 2 and 3, the masterplan has designed around these and ensured all units would be sited in Flood Zone 1. Concepts for combined drainage have been considered, including points of discharge; that shown is not opposed in principle, although the arrangements will need to be assessed in greater as each phase comes forward. Parameters for retaining appropriate distance to Lepton Great Wood are detailed, as well as identifying non-development areas on ecological and heritage grounds.
- 10.22 Progressing to the high-level proposed designs, the masterplan demonstrates an indicative layout for the development, demonstrating routes of movement for vehicles, pedestrians, and cyclists. That provided establishes a strong network of interconnected streets and public spaces, both within the site and onto existing outside network, including the several PROWs within the allocations or adjacent to them. The proposed roads follow the transport hierarchy by prioritising pedestrian movements. For access, the masterplan includes demonstrating that Phase 1 and Phase 2 would not be accessible from Phases 3 and 4 for vehicles. Notably, this means that there would be no through route between Penistone Road and Hermitage Park.
- 10.23 In terms of design, the Masterplan shows a highway hierarchy and it designates areas for dwellings and public open space. Green infrastructure, including recreational and exercise areas, are reasonably spaced around the site, ensuring both future occupiers and those in the wider area have access to new open space. While these are not defined as per the typologies identified within the Council's Open Space SPD, it is evident that due regard has been given to different forms of open space; getting into the specific of each typology is appropriate at dedicated application stage.
- 10.24 The masterplan outlines a design code for future dwellings, seeking to respond to local architectural character. The design code defines several different design areas within the site, establishing core design parameters for each area. While each application will need to go into greater detail of the respective design, the parameters established would ensure a development which is of high quality, attractive, and fits into the established character of the area which would create a strong sense of place, ensuring the proposed development makes a positive contribution to local character and distinctiveness.

10.25 On the matter of infrastructure and planning obligations, as has been detailed the masterplan directly addresses required highway improvements. Each phase of development would exceed the relevant triggers for affordable housing and education, and therefore provide their own contribution at application stage. As noted, Public Open Space across the site has been considered and recognised, but again this will need to be considered on a per-application basis as each phase comes forward. Likewise, matters of Biodiversity Net Gain (BNG) and ecology will be addressed at a per application level and cannot be master-planned for.

10.26 Paragraph 6.25 of the Local Plan states the following objectives of masterplans:

*In broad terms, masterplans provide design guidance for areas that are likely to undergo some form of change. They will describe and map the overall vision and concept for the proposed development including proposed land uses, urban design, landscaping, built form, movement and access and infrastructure and service provision providing a clear and cohesive framework for development. They will also set out the intended implementation and phasing of development.*

10.27 Officers are satisfied that the submitted masterplan complies with the above expectations, and the guidance contained within Policy LP5 of the Kirklees Local Plan. The proposed masterplan for HS2 and HS3 is considered to demonstrate how a high-quality development may be effectively and efficiently undertaken on the allocations, establishing strong design parameters for future phases, and how it will suitably harmonise into the character of the area.

#### Highways

10.28 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

10.29 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

#### *Access and traffic generation*

10.30 Access has been applied for as a consideration as part of this application.

- 10.31 First considering traffic generation, the application's assessment has been made against a maximum of 75 units. Based on this, the following traffic generation has been identified from the proposal:

	<b>Arrival</b>	<b>Departure</b>	<b>Two-way</b>
<b>AM Peak</b>	11	34	45
<b>PM Peak</b>	26	15	41

- 10.32 In allocating the site (and the adjacent HS3) through the Local Plan process careful consideration was given to each allocation's point(s) of access and traffic generation. To accommodate the traffic impacts of the combined (indicative) 600 units between HS2 and HS3 at Local Plan stage it was expected that '*some form of junction upgrade with Penistone Road to access the local highway network as it is considered that the existing priority junction of Rowley Lane with Penistone Road will at some point become over capacity*'.

- 10.33 Notwithstanding the above, subject to minor improvements to the Rowley Lane / Penistone Road junction it was determined a number of units associated with HS2 and HS3 could be accessed from the Rowley Lane. Within the Local Plan it was stated:

*the improvement on the minor arm can clearly mitigate impact of between 100-150 units; and the impact at the junction is unlikely to be severe until a threshold of circa 200 units, although this will be subject to a final agreement on generation, distribution and assignment at pre-application or masterplanning stage.*

- 10.34 The improvement works to Penistone Road / Rowley Lane identified within the Local Plan have been developed further by the applicant and are proposed as part of this application. This includes both junction visibility splay improvements and increased stacking space on the minor arm (from 3 to +9 vehicles). These impacts of these works on local network capacity have been assessed, and found to be acceptable and in accordance with the assessment undertaken during the Local Plan.

- 10.35 With the identified improvement works to the Penistone Road / Rowley Lane junction, which are recommended to be secured via condition, K.C. Highways are satisfied that Rowley Lane and the wider network can comfortably accommodate the proposed development's traffic generation. As shown within the Masterplan, Rowley Lane would also provide access to 80 units of HS3 (from Hermitage Park): the proposed improvements would be sufficient to comfortably accommodate the cumulative 155 units.

- 10.36 From the improved Rowley Lane, a new vehicle access into the site would be provided into the development. It would be a priority-controlled junction that would accommodate a 5.5m wide carriageway with a 2m footway on either side. This design is in accordance with the adoptable standards for a development of this scale, as set out in the Council's Highway Design Guide SPD. The applicant has also demonstrated that the access could accommodate an 11.85m refuse collection vehicle. Appropriate visibility splays have been demonstrated from the proposed works to the frontage.

- 10.37 At present the south side of Rowley Lane adjacent to the site has no footpath, with the road being directly onto natural ground, with the exception of a cleared area for a bus stop. The proposal includes the provision of a 2m wide footway along the site's north boundary to Rowley Lane, which would tie into the new access. The new footway would connect to the existing footway along Penistone Road to the west. Going east along Rowley Lane, it would narrow to 1.5m before providing a drop crossing which would connect to the existing footway which runs along the north of Rowley Lane. This would necessitate the reposition of the bus stop.
- 10.38 The above works have gone through the Stage 1 Road Safety Audit process and been updated accordingly. Full technical details of the access and footway, to an adoptable standard, are to be sought via condition. The access would connect to a new estate road to serve the development, the layout of which would be detailed at Reserved Matters stage. Nonetheless, as it is expected to be an adoptable road it is considered appropriate to impose a condition's technical details at this stage.
- 10.39 The access works, consisting of the new highway access, footway, and improvements to the junction between Rowley Lane and Penistone Road, would require the removal of circa 20 mostly mature trees along the site's north boundary. Careful consideration has been given to this and whether an alternative design could save some, or all, of the trees. It is concluded that their removal is a fundamental necessity to enable both an adequate access into the site from Rowley Lane as well as the improvements to the Rowley Lane / Penistone Road junction. While an access could be formed direct from Penistone Road, this would prejudice the future access later phases of the development (the remainder of HS2 and HS3).
- 10.40 The trees in question are mostly mature in age and, as a grouping, due contribute to the character of the area. Their loss does weigh against the proposal. However, officers reiterate that their loss is considered necessary to enable the development and achieve a safe access arrangement. To alleviate the loss, adequate mitigation would be expected at subsequent Reserved Matters stage (landscaping).
- 10.41 Considering the internal layout of the site, the indicative plan (not to scale) shows a traditional estate road. Commentary on the detailed design of the internal estate roads is not necessary at this stage. Matters such as gradients, carriageway widths, forward visibility and refuse storage would be considered when a layout and quantum of development is proposed. There is no prohibitive reason why adequate space within the application site for policy compliant provision of on-site parking (including visitor parking) and cycle parking could not be achieved; such details would be considered at Reserved Matters stage. Details of refuse storage and collection need not be considered at this outline application stage; however, it should be noted that space for the storage of three bins per dwelling would need to be provided at Reserved Matters stage, and opportunities to minimise the need for reversing refuse collection vehicles should be explored.
- 10.42 A pre-commencement condition is recommended, requiring the submission of a Construction Management Plan. This would need to include details of construction traffic routes, seeking to ensure they avoid unsuitable routes, as well as contractor parking and hours of access.

10.43 No Public Rights of Way cross the site or are immediately adjacent to it. The wider HS2 and HS3 allocations do host several PROWs, but these would not be affected by the current proposal. These are adequately considered within the masterplan.

*Sustainable Travel*

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

10.45 In terms of accessibility within the site for cycles and pedestrians, this will be assessed at Reserved Matters stage as part of ‘layout’. Regarding external connections, the application’s Transport Assessment notes the typical walking standards of:

- Desirable: 500m / 6 minutes
- Acceptable: 1000m / 12 minutes
- Preferred maximum: 2000m / 24 minutes

The above are consistent with Manual for Streets, which suggests that a distance of circa 2km typically represents an acceptable maximum walking distance for the majority of land uses. Within this context, there are a range of existing amenities within these relevant walking distances (measured from the centre of the site and at a speed of 1.4m/s) including:

<b>Local Amenity</b>	<b>Distance</b>
Rowley Lane Junior Infant & Nursery School	550m
The White Swan, Public House	950m
Convenience store (McCols) at Highgate Lane, Lepton	1km
Fenay Bridge Pub and Grill	1.1km
Convenience store (Fenay Bridge Stores) at Penistone Road	1.1km
Lepton C.E. (VC) Junior, Infant & Nursery School	1.2km
Lepton Surgery	1.3km
Morrisons supermarket	2km

10.46 When considering cycling, the typically accepted maximum distance for local amenities extends to 5km. Whilst there are no specific cycling facilities within the immediate vicinity of the site, approximately 1.6km to the north on Penistone Road there is a dedicated bus/taxi/cycle lane that provide a dedicated lane to Huddersfield town centre, which is approximately 5km ride from the site (approximately a 20-minute ride). A condition for details of secure cycle facilities, per unit, to be detailed at layout stage is recommended.

- 10.47 It is recognised that the disused railway line to the rear of the site is identified within the KLP as part of a core walking and cycling network. Policy LP23 of the KLP advises that they provide an opportunity for alternative sustainable means of travel throughout the district and provide efficient links to urban centres and sites allocated for development in the Local Plan. Proposals should seek to integrate into existing and proposed cycling and walking routes by providing connecting links where appropriate. This has been considered in the course of this planning application, however as layout is a reserved matters options are limited at this time and may be explored further at reserved matters stage. Conversely, it must be acknowledged the railway embankment and line are in separate private ownership and the steepness of the railway banking made it unlikely that a direction connection from the site onto this route will be feasible. The most likely appropriate point of connection will be where the access into phase 3 / phase 4 cuts through the railway line. The masterplan indicates a 'proposed footpath connection' in this place, which may be explored further as part of a phase 3 application. Consideration was also given to securing a contribution towards this route. However, at this stage, given that it remains in private ownership without a clear strategy to bring it forward as a walking and cycling route, a contribution could not be justified at this point in time.
- 10.48 Considering local public transport, the site is considered well served. Bus stops are located on Rowley Lane and Penistone Road that are all within walking distance the site (maximum distance of 220m from the proposed site access). These provide frequent (through the day) services into Huddersfield (via Waterloo) and towards Denby Dale, and a low frequency service to Penistone. West Yorkshire Combined Authority have commented that the scale of the development would not affect local bus frequency nor affect their routes.
- 10.49 West Yorkshire Combined Authority have requested a contribution towards the improvement of bus stop 16774, through the provision of a Real Time Information display system at a cost of £10,000. In addition, they seek metro cards for the proposed units. These contributions have been agreed, although the exact figure of the metro cards cannot be established as the final number of units is unknown. However, the figure would be £511.50 per unit.
- 10.50 The applicant has submitted a draft Travel Plan to support the application. This identifies possible measures to influence the behaviour towards more sustainable methods of travel. These include providing up to date information on measures such as bus timetables, where to access up-to-date real time bus times, local car share schemes, the potential impact of working from home opportunities and the impact of online shopping in reducing travel. These core principles are welcomed, and demonstrate that sustainable travel measures may be implemented at the site. However, a more detailed final travel plan will be required via condition. A Travel Plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, to ensure the effective implementation of the Travel Plan, and this would be secured via a Section 106 as part of this outline application.

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

#### Urban design

10.52 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.

10.53 The matters of layout, appearance, scale, and landscaping are reserved for a subsequent Reserved Matters application. While specific details are not available for consideration, officers must consider whether any prohibitive reasons exist why appropriate details could not be provided later.

10.54 The application site is located at the edge of an existing, well-established settlement. While to the west, across Penistone Road, is open countryside there is residential development immediately to the north and east, with commercial development to the south. Being surround to three sides, with a major road to the fourth, the proposed development would sit comfortably within its context without appearing as a sprawling, inappropriate enlargement to Lepton. As such, the development is expected to sit comfortably within the context of the landscape, built environment and established urban grain.

10.55 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. Existing dwellings in the area have varied designs, although typically based upon traditional Pennine architecture. There are no concerns

10.56 It is accepted that typography will be a challenge for the site, given its existing levels. Nonetheless, Lepton is characterized as a settlement built upon a hillside. In this setting, there are no concerns that an appropriate design response to the levels could not be realized. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.

10.57 As noted within paragraph 10.24, the indicative details of how the site may be developed provided within the Masterplan provide an overview of layout, appearance, scale, and landscaping. The details included within the masterplan are considered high quality and set out strong design parameters for future proposals.



- 10.58 Given the above considerations, officers are satisfied that there are no probative reasons why appropriate details of landscape, scale, appearance, or layout could not be provided at reserved matters stage. It is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5 and LP24 and would be sufficiently complied with.

### *Landscape*

- 10.59 Policy LP47 of the KLP refers to healthy, active and safe lifestyles and recognises that these will be enabled by a number of criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being. Policy LP63 advises that new housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, to be provided in accordance with the Council's local open space standards or national standards where relevant. Finally, Policy LP33 of the KLP advises, amongst other matters, that proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme
- 10.60 The landscaping of the site is not for consideration as part of this application. It is reserved for consideration as part of a future Reserved Matters application should outline planning permission be approved. The detailed landscaping proposals for the site will therefore be provided at that time.
- 10.61 Notwithstanding the above, the loss of trees along the north boundary is noted. This has been considered in detail within paragraph 10.39 – 10.40, and concluded to be a necessity. However, officers would expect a fully detailed and comprehensive landscaping strategy which, not only details the typical landscaping requirements, but also adequately mitigates for the loss of these mature trees.
- 10.62 The Council's Arboricultural officer has raised no objection to the principle of the development, but requested that any submission of landscape or layout be supported by appropriate arboricultural reports, to ensure trees to be retained are adequately protected.

### Historic environment

- 10.63 There are various heritage assets within the surrounding area. Of these, the following are considered most relevant to the proposal; Woodsome Hall (Grade 1 Listed), which has two Grade 2 Listed outbuildings, and 1 Woodsome Road (Grade 2 Listed). The site is also recognised to have potential archaeological interest.

- 10.64 Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects a heritage asset or it's setting the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This requirement is mirrored by policy LP35 of the Local Plan.
- 10.65 Consideration must first be given to the heritage value of the identified assets.

*Woodsome Hall*

- 10.66 First considering Woodsome Hall, the following overview of the building's heritage value has been provided by K.C. Conservation and Design.

Woodsome has been the site of a high-status dwelling since the 13th century, a moated house is known to have existed on the site, but its location and extent are unknown. Woodsome Hall is an extremely fine and well-preserved example of a gentlemen's residence of the early 16th to mid-17<sup>th</sup> centuries. The house was built in stages for the Kaye family and encased in stone in the 17th century. The principal rooms face east across the valley. The much-altered south service wing may retain fabric of an earlier south facing house. The Kayes occupied Woodsome from 1378 to 1726 when Sir Arthur Kaye died. His daughter married George Legge (Viscount Lewisham) eldest son of the Earl of Dartmouth. The hall was restored and altered in 1870-6 by the 5th Earl of Dartmouth. This family occupied the house until 1911. From 1922 the Hall became the home of the Woodsome Hall Golf Club.

The landscaping of the immediate setting of the Hall strongly reflects its current use as a golf course. The private papers of the Kaye family reveal the extensive works undertaken in the 16th century to transform the landscape around the house. Woodlands were cleared, stone removed from the earth, boundary walls built, and the soil improved with lime. New farmsteads were established to increase rents and productivity.

The submitted heritage statement notes that "whilst it has been claimed that the parkland surrounding the Hall was designed by the celebrated 18th century landscape architect Lancelot 'Capability' Brown... this remains unproven and the veracity of the claim has been questioned." This assessment is of the link to Capability Brown is not disputed.

A deer park is referred to in the 16th century, but its extent is unknown, and it was disparked and the land put to other uses by 1733. The 1843 and 1855 OS Maps show a clearly bounded rectangular area of parkland to the east of the Hall, framed by woodland at its eastern end. This may be a legacy of that earlier deer park and has influenced the layout of the modern golf course (holes 1 and 2) to this day. The woodland was been extended westwards towards the Hall and this now frames views from the principal ground floor and first floor rooms of the club house as well as from its front terrace and lawn and the tees of holes 1 and 2. These areas with close visual relationships with the front elevation and principal rooms are all critical to the setting of the Hall.

The way in which the Hall is approached has changed markedly over time, this is set out in some detail in the submitted heritage statement. The approach from Penistone Road across Woodsome Road Bridge up to the modern entrance to the golf club has been altered but still has historic associations with the Hall and is therefore considered to form part of its setting. The tree lined avenue from Woodsome Road to the Hall has defined the way in which it has been experienced for the last 150 years or more and contributes to its setting.

The surviving rural landscape of Woodsome Hall beyond the current boundaries of the golf club to the east contributes to its setting. This includes the allocations HS2 and HS3 and Lepton Great Wood. The Hall was the centre of an extensive and productive rural estate that included Woodsome Mill and a number of farms. There is no evidence that land to the east of Penistone Road was landscaped to improve views from the Hall, but it is an important part of the way in which it is experienced and reveals the productive nature of the land associated with the Hall. The principle rooms of the Hall all face east across the valley, the terrace and front lawn and the tees of Holes 1 and 2 also provide key viewpoints that all look eastwards. The tree planting of the golf course, which is a legacy and extension of the historic planting shown on early OS maps, contains the view and naturally leads the eye out to that surviving rural landscape. Deciduous trees partly obscure views to that landscape during spring and summer, most notably to the allocation HS2.

To a limited degree, modern development has encroached on views eastwards. The heritage statement notes that ‘the views from the Hall have not remained static, and were far more industrialised during the 19th and 20th centuries industrial development’. Whilst this is correct, the western part of allocation HS2 and the allocation HS3 has never been developed. With the exception of the railway line, those parts that were developed for industry in the 19th and 20th centuries have already been redeveloped, except for the eastern part of HS2, which is not visible in key views from Woodsome Hall. It appears that whilst the Kayes and later the Lords of Dartmouth were resident at Woodsome they were keen to develop the productivity of their estate but not unduly industrialise the view from their home.

- 10.67 With consideration of the site’s heritage value undertaken, due regard must be given to how the new development would affect it.
- 10.68 The proposed development is not to the heritage asset itself. Therefore, there would be no direct harm to the architectural fabric of the building. Nonetheless, as identified the setting of the building is of vital importance.
- 10.69 The proposed development will not be prominently visible alongside Woodsome Hall. Views of the development and Woodsome Hall will be limited, principally from higher ground to the east of the site which overlook the development and retain a clear view of the hall. Conversely, consideration must be given to the outlook from the hall. As noted above, the east view from Woodsome is its principal outlook over the valley.

- 10.70 Within the Report on the Examination of the Kirklees Publication Draft Local Plan, the inspector stated on HS2 and HS3:

*“As seen on my site visit, and as shown in submitted photographic evidence, the sites are visible from the grounds of the listed building of Woodsome Hall. Historic England has indicated that the allocation sites can also be seen from rooms within the Hall. However, there is a considerable distance between the Hall and the Lepton sites, and the sites are viewed as part of a wide vista which includes developed and open areas. Trees also provide some screening. Evidence from Historic England does not identify a clear connection between the Hall and Capability Brown. Taking account of these factors I conclude that any harm to the Hall or its setting would be limited, and could be mitigated through appropriate landscaping and layout. In reaching my conclusions I have taken account of comments received after the hearing session, in response to the submitted photographs. In order to provide appropriate protection for the historic environment I have amended the wording of published SD2-MM46 to refer to heritage assets, rather than just Crow Trees.”*

- 10.71 Giving due regard to the identified heritage value, it is considered that any development of the western part of the housing allocation HS2 to the north west of the disused railway viaduct would have an impact on the setting of Woodsome Hall because of the contribution its rural character makes to the setting of the Hall. The trees lining Holes 1 and 2 ‘lead the eye’ from key viewpoints down the course towards the landscape beyond. This does not preclude development, but design aspects including layout, scale, materials and details are all important to mitigating that impact.
- 10.72 The identified aspects of contention form elements of the Reserved Matters. At outline stage consideration must be given to the principle of development, and whether any prohibitive issued to future development exist. The masterplan has provided an overview of the potential development of the site, and officers are satisfied that it has adequately demonstrated that appropriate details which would not be unduly harmful are feasible for the site. The masterplan will be considered further below.
- 10.73 Any development within the site, due to its historic connection with Woodsome Hall, will cause a degree of harm through eroding part of its setting. Based on the available information, and within the constraints of an outline application, officers consider that the site could be developed in a way that, at a minimum, causes less than substantial harm to Woodsome Hall as a heritage asset. The development will not affect its fabric, nor how it appears in its own setting, but would affect important outlooks from the hall. Given that the eastern view already hosts encroaching development, the separation distance, and intervening vegetation, officers are satisfied that the development of the site would not intrinsically cause substantial harm to the identified heritage value.
- 10.74 Notwithstanding the above, careful consideration, mitigation and quality design will be required at reserved matters stage to ensure the harm does not increase to a substantial level.

- 10.75 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 10.76 The delivery of residential development, at a time of national crisis, is considered a substantial public benefit. The proposal will be secured with a full complement of S106 obligations, to benefit off the public and planning conditions are imposed to ensure high quality elements of the development are delivered. At outline other specifics are limited; other public benefits may become apparent at reserved matters stage.

#### *Number 1 Woodsome Road*

- 10.77 Progressing to 1 Woodsome Road, the following overview of the building's heritage value has been provided by K.C. Conservation and Design.

This former farmhouse was part of the Dartmouth Estate and therefore has historical associations with Woodsome Hall. It forms part of a group of historic buildings clustered around Woodsome Road Bridge including the former Woodsome Mill all of which appear to predate the mid-19th century. The 1845 Lepton tithe map and records included in the submitted heritage statement notes that the proposed development site (HS2 western part) was in the ownership of the Dartmouth Estate. It is also clear that the land was associated with 1 Woodsome Road, a former farmhouse (Figure 4 1845 – Lepton tithe map). Subsequently, the realignment of the Huddersfield Penistone Turnpike (Penistone Road) in the mid-19th century significantly altered the setting of the 1 Woodsome Road. Today that part of the former farmlands within the allocated housing site (HS2) still remains part of the setting of 1 Woodsome Road. Its open character, pastoral use and drystone boundary walls are important to that relationship. However, it retains a limited visual relationship due to an intervening tree belt. The historical relationship is not readily appreciable on the ground. That part of land to the west of Penistone Road, where the roundabout is proposed, contributes to its setting, the land now forming the private garden to the property is critical to its setting.

- 10.78 The proposal will not affect the historic fabric of 1 Woodsome Road, but will be visible within its setting, both alongside the building and from the building.
- 10.79 Any development of the western part of the housing allocation HS2 will also have an impact on the setting of 1 Woodsome Road, because of its historic functional association with the listed farmhouse. However, given the weaker present-day relationship between the housing allocation and the listed building this does not prevent development. Careful consideration of the boundary treatments and landscaping would be required to mitigate that impact.
- 10.80 As per the assessment on Woodsome Hall, officers acknowledge that the development will affect the heritage value of 1 Woodsome Road through introducing new development into a historically open part of its setting. However, given the presence of Pennistone Road, the level changes, and 1 Woodsome Road's screening which goes some way to isolate the site, officers are satisfied that the harm would be less substantial, subject to appropriate details being received at reserved matters stage. The public benefits identified in paragraph 10.76 are deemed to apply to the above.

*The masterplan and the indicative roundabout*

- 10.81 When initially submitted the proposal included the roundabout as part of the application. There was also no detailed masterplan. This led to concerns and objections from Historic England and K.C. Conservation and Design.
- 10.82 Since then, the masterplan has been developed and the roundabout removed, although it remains relevant to demonstrate feasible access.
- 10.83 First considering the roundabout, a full detailed assessment cannot be undertaken at this time. The details provided are to demonstrate that a form of access to the remainder of HS2 and HS3 (phases 3 and 4) is feasible, after phase 1 is developed. It has achieved this.
- 10.84 Giving due regard to the heritage value of the identified heritage assets, officers acknowledge the roundabout would likely affect their setting. Nonetheless, as low-level road infrastructure, seeking alterations to an existing road (albeit, ones that are expected to encroach into adjacent undeveloped land) it would not be unduly prominent or out of character.
- 10.85 As has been identified with the main proposal for residential development, there are considered no prohibitive reasons why the roundabout would cause substantial harm to the heritage assets. The harm is anticipated to be less than substantial. As has been detailed elsewhere in this report, the roundabout (or similar infrastructure) is necessary to deliver phases 3 and 4. As assessed within the Local Plan, Rowley Lane could not accommodate the additional traffic (beyond circa 150 units, with improvements). Furthermore, the roundabout would have the added benefit of improving traffic flows on Rowley Lane and Penistone Road. These public benefits are expected to outweigh the less than substantial harm envisioned.
- 10.86 The merits of the roundabout do not fall to be considered as part of this application, beyond being satisfied that it is a feasible method – subject to later detailed design – to provide access to phases 3 and 4. For the reasons given, the harm is anticipated to be less than substantial.
- 10.87 Considering the masterplan and the historic environment as a whole, additional heritage asset would be relevant. These are Castle Hill (scheduled ancient monument), Victoria Tower (Grade 2 Listed), and Crow Trees (Grade 2 Listed). The masterplan's impact upon 1 Woodsome Road would be contained to Phase 1, as assessed above. Later phases would however have the potential to affect Woodsome Hall, and therefore needs to be considered by the masterplan.
- 10.88 The allocation for HS3 requires that in order to safeguard the setting of the Grade II Listed Building known as Crow Trees, no development shall take place on the field/area marked as moderate significance in Councils HIA to the west of the public footpath that runs across the site. This has been adhered to.
- 10.89 Kirklees Council commissioned the Castle Hill Setting Study, which was completed in 2016. Neither site is identified in the Castle Hill Setting Study (2016) as significant to its setting. The document advises that development of this scale immediately adjacent to the major urban areas is unlikely to pose

and significant issues in relation to impacts on the setting and significance of Castle Hill. It would not affect identified key views to Castle Hill from its surrounding landscape. While further detail will need to be given at application stages for the potential impact on Castle Hill and Victoria Tower, for the purposes of the masterplan officers are satisfied there would be no intrinsic harm.

- 10.90 In regards to later phases and Woodsome Hall, officers refer back to the inspector's comments provided in paragraph 10.70. Nonetheless, in discussions with officers and heritage consultations, the masterplan includes a large area of open space within HS3 to allow for uninterrupted views to/from Woodsome Hall and a better understanding of the heritage asset, while maintaining visual connections with Lepton Great Wood. This would assist in preserving views out of Woodsome Hall towards open land and Lepton great Wood, identified to be of importance to its heritage value.

#### *Archaeology*

- 10.91 The site is within an area identified as having archaeological interest. An geophysical archaeological review has been undertaken and identified '*weak anomalies in the north-west of the field*' which may relate to the presence of historic settlement or animal husbandry. The remains of several field boundaries were also found.
- 10.92 The West Yorkshire Archaeological Advice Service (WYAAS) request that a trenching exercise be undertaken to formally identify whether such assets are present. While WYAAS advise this should be undertaken prior to determination, they advise that a condition would also be appropriate. As an Outline application with all matters reserved, officers are satisfied that a suitably worded condition based on the template provided by WYAAS, is in this case reasonable. The presence of archaeological features would not prohibit the development of the site; they'd either need to be excavated, or designed around. Such a condition is therefore recommended.

#### *Heritage; Summary*

- 10.93 The site is within a sensitive historic environment. While it is accepted the development will, inevitably, cause less than substantial harm to the identified heritage assets, subject to quality design at reserved matters stage this is not expected to develop to substantial harm. The public benefits of delivery housing at a time of need are considered to outweigh the identified less than substantial harm. The potential presence of archaeological features can be adequately addressed via the imposition of a suitably worded condition.
- 10.94 Regarding the masterplan and roundabout, these have likewise been considered. While subject to future, more detailed applications, there are considered no fundamental reasons why they would unduly harm the historic environment.
- 10.95 Giving due regard to Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 and the general duty it introduces in respect of listed buildings, the requirements of Chapter 16 of the NPPF, and LP35 of the Kirklees Local Plan, officers are satisfied that the proposal complies with these policies and would not cause substantial harm to the historic environment.

### Residential amenity and living standards

- 10.96 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.97 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties. While no indicative layout has been provided, given the size of the site, the existing terrain and layout of adjacent dwellings, there are no prohibitive reasons why an appropriate layout could not be achieved which would not harm the amenity of neighbouring residents in regards to overbearing, overshadowing, or overlooking.
- 10.98 In terms of noise generated by the development, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.99 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.100 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.101 Most matters pertaining to the amenity of future occupiers, such as dwelling size and separation distances for dwellings, fall under consideration at Reserved Matters stage. Again however, there are no prohibitive reasons to consider appropriate details could not be submitted.
- 10.102 Noise pollution of nearby sites and Penistone Road may however be considered at outline stage.
- 10.103 First considering Penistone Road, K.C. Environmental Health have reviewed the applicant's noise report. It considers that Penistone Road (and the new road expected to provide access to phases 3 and 4) would result in noise pollution which would harm the amenity of dwellings facing the road. Therefore, it makes recommendations for noise attenuation via window specifications which would be acceptable to Environmental Health. However, given the final plot locations are unknown, and the submitted details are hypothetical at this time, K.C. Environmental Health advise that an up-to-date noise impact assessment be provided with the Reserved Matter of layout and/or appearance. This is to enable a fully detailed assessment of which of the proposed plots require noise attenuation and to what level (along with appropriate alternative ventilation).



- 10.104 Concerns have been raised by the adjacent engineering business Reliance Precision over the impact new dwellings in close proximity to their site may have. They raise concerns that it would put unreasonable pressure on their operation, by putting receptors who are sensitive to noise too close. The applicant's initial noise report considered the noise impact from Reliance Precision to be 'low significance'. Reliance Precision also raise concerns over the affect of vibration from the new road on their operation; as a precision engineering firm, vibration from passing traffic may affect their work.
- 10.105 Reliance Precision commissioned a noise assessment to refute that provided by the applicant. This document explains that the hours of operation are 05:30-22:45 Monday to Thursday, and 05:30-16:15 on Friday's, with occasionally weekend overtime, but that they have permission to operate 24/7. They contend that a noise attenuating bund, within the application site, is necessary to provide sufficient mitigation to noise and vibration.
- 10.106 Reliance Precision's assessment has been commented on by the applicant in turn, with K.C. Environmental Health reviewing each assessment when making their final comments. On review of all submissions, K.C. Environmental Health offer no objection and are satisfied the issues identified may be addressed via condition and/or reserved matters stage.
- 10.107 In summary, the daytime noise generated by Reliance Precision may be adequately mitigated through noise mitigation in the form of acoustic glazing. A bund is not deemed necessary. However, given the development's layout is not set, it is considered reasonable to condition a further Noise Impact Assessment be undertaken at reserved matters stage (layout and appearance) which undertakes an up-to-date noise assessment, identifies the exact plots which require mitigation, and specifies the exact mitigation.
- 10.108 The Reliance Precision report considers the impact of noise pollution at night, should they begin to operate 24/7, and it is concluded to be potentially significant. Conversely the applicant contends that appropriate, higher specification, mitigation would result in the harm being adequately addressed.
- 10.109 While it is acknowledged that Reliance Precision has no planning conditions preventing its 24hour operation, the submitted report identifies that 24hour operation would detrimentally affect existing residents adjacent to the site, regardless of the new development. Should Reliance Precision consider moving to a 24hr operation, this would mean looking at their operations and/or new noise mitigation to minimise any noise. They would need to consider mitigation measures referred to in the Nova Acoustics report and employ Best Practicable Means at all times to ensure they are operating in such a way so as not to cause a nuisance to any neighbouring properties.
- 10.110 Notwithstanding the above, as detailed officers are satisfied that appropriate acoustic mitigation may be installed. Again, this would be subject to review and full technical details being provided at application stage.
- 10.111 On the matter of vibration, the proposed development is not expected to materially increase traffic on Penistone Road and as a result would not perceptibly increase noise or vibrations from the road. The indicative new road running along the north of Reliance Precision's boundary, which would provide access into Phases 3 and 4. This would not be a through route, and would not typically accommodate HGVs / larger vehicles on a daily basis as

Penistone Rod does, nor host a comparable level of traffic. Given this, the road is not expected to produce an unreasonable level of noise / vibration which would unduly affect the operations of Reliance Precision.

- 10.113 Ultimately the road in question does not form part of this permission. The matter of vibration may be considered further when such an application is received, however, notwithstanding the concerns raised, there are considered no prohibitive issue that would prevent the road being implemented.
- 10.114 Concluding on the above, while an outline application with all matters reserved, officers are satisfied that in principle the development of the site would not cause harm to the amenity of neighbouring residents, and no prohibitive issues, including noise, would prevent residents having an acceptable standard of amenity. Ultimately this will need to be considered in more detail when relevant information is provided at reserved matters stage. Nonetheless, for the purposes of an outline application, officers are satisfied that the proposal complies with LP24 and LP52 of the Kirklees Local Plan.

#### Drainage

- 10.115 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and Drainage Management Strategy was submitted by the applicant.
- 10.116 Considering flood risk, being within Flood Zone 1, the site is not at notable risk of river flooding. No other pre-existing sources of flooding are identified.
- 10.117 Turning to surface water drainage, a detailed strategy has not been provided, given the relevant elements are reserved matters (layout). Nonetheless, for this stage of the development due regard has been given to feasible discharge points, following the drainage hierarchy. Because of ground conditions and the topography, infiltration has been discounted. For watercourse discharge, a discharge into Fenay Beck is considered feasible and is to be explored as the design is developed. Alternatively, if discharge to a watercourse is found to be unfeasible, a gravity fed connection into pre-existing public sewers adjacent to the site would be feasible.
- 10.118 Indicative details of attenuation design / size and discharge rate have been provided. Given the lack of full details, these cannot be agreed at this time and there are concerns over that suggested. Nonetheless, the LLFA and officers are satisfied that appropriate details may be provided at Reserved Matters stage, following the applicant undertaking full consultation with the LLFA and Yorkshire Water in drafting their full design of the site's surface water drainage strategy.
- 10.119 Yorkshire Water have identified public water pipes / sewers in Rowley Lane and Penistone Road. They have requested that a condition imposing an easement over these, unless they are adequately diverted, is imposed. In the interest of protecting these assets, this is considered reasonable.

- 10.120 The maintenance and management of the surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. While the details of the design have not been submitted, as a matter of principle it is considered necessary to secure management and maintenance at this stage. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.121 It is not considered necessary to pursue further, detailed information regarding drainage and flood risk at this outline stage, given that a proposed site layout, and details of the number of residential units (and their locations in relation to potential sources and mitigation of flood risk) would not be fixed. A detailed drainage scheme would be required at Reserved Matters stage, as would details of flooding routes, permeable surfaces, rainwater harvesting, water butts, and rainwater gardens and ponds. In accordance with LLFA advice, conditions to secure these details are recommended. Subject to the recommended conditions, there are deemed no prohibitive reasons why the proposal could not comply with Policies LP27 and LP28 of the Kirklees Local Plan.

#### Planning obligations

- 10.123 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.
- 10.124 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.
- 10.125 As an outline application, with all matters (bar access) reserved with no definitive numbers (up to 75), definitive planning obligations (i.e., the exact financial value) that are depending upon final housing numbers cannot be secured within a S106 at this time. However, parameters may be established within the S106, as follows:

**Affordable Housing:** 20% of units (15 at 75 units). Across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing (of which 25% shall be First Homes). 8 units would therefore be social or affordable rent, 7 would be intermediate (4 of which would be First Homes).

**Education:** Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.

**Public Open Space:** Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.

**Ecological Net Gain:** Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.

**Roundabout contribution and delivery:** £285,000, as detailed within paragraphs 10.19.

**Sustainable travel:** £10,000 towards improving a local bus stop with Real Time Information, plus metro cards based on the number of dwellings.

**Travel Plan monitoring:** £10,000 (£2,000 x 5 years), as detailed within paragraphs 10.50

**Management and maintenance:** Arrangements for the management and maintenance of drainage infrastructure and Public Open Space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

- 10.126 In accordance with local and national policy, these contributions are deemed necessary to make the development acceptable in planning terms, directly related to, and fairly and reasonably related in scale and kind to the development. The contributions therefore conform to guidance within the Framework.

#### Other Matters

##### *Air quality*

- 10.127 The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance.
- 10.128 The site is not within an Air Quality Management Area. Furthermore, the scale of the development is not deemed sufficient to cause harm to air quality in the area.
- 10.129 The site is located adjacent to the busy A629 Penistone Road which has an annual average daily traffic (AADT) > 10,000. Therefore, although the development may not in itself add to the existing poor air quality problems in that area, it may introduce vulnerable receptors to existing levels of poor air quality, exposing them to the risk of harm to health. However, during the course of the application and through the submission of the masterplan, it is now clear that new units would not be sited close to the A269. At its closest, the amended red-line is 25m away from the road side; dwellings are highly unlikely to be built right up to the red-line and therefore the minimum distance would be even greater. Considering these separation distances and the guidance within the WYLES, officers are satisfied that the risk of exposure to harmful pollutant levels of any future residents will be minimised.

- 10.130 The AQIA also considers the air quality impact during the construction phase, principally regarding dust generated by construction. The report concludes that the dust impact during the construction phase is considered not to be significant, in accordance with relevant guidance, which has been confirmed by K.C. Environmental Health. However, it recommends that this can be further controlled by the implementation of good mitigation measures as detailed in Appendix E: Dust Assessment Mitigation. The implementation of these measures may be secured via condition.
- 10.131 Notwithstanding the above, in accordance with Policies LP5, LP24 and LP51, all new developments are expected to be served by Electric Vehicle Charging Points. A condition, requiring 1 per dwelling, is recommended.
- 10.132 Subject to the given condition, officers are satisfied that the proposal would not harm local air quality, nor would residents suffer from existing poor air quality.

#### *Contamination, including Coal Legacy*

- 10.133 In accordance with LP53, as a major residential development consideration of ground contamination is required. A phase 1 (desktop) contaminated land report has been provided with the application which identifies a potential contamination issue from neighbouring land. The phase 1 report then makes recommendations for investigations; these are not accepted, as they lack sufficient ground gas monitoring. Therefore, notwithstanding the submitted details, a new phase 1 report, is necessary. However, this, any additionally required ground contamination reports, may be appropriately secured via pre-commencing condition.
- 10.134 The site falls within the Coal Authorities High Coal Risk zone. As such, the application is supported by a Coal Mining Risk Assessment, which the CA have reviewed. The report details investigation work undertaken. The CA accept the conclusion, that nearby seams '*lie at sufficient depth so as not to pose a risk to surface stability*'. They offer no objection to the proposal, with no conditions deemed necessary.
- 10.135 Subject to the recommend conditions relating to ground investigation (and any necessary remediation), officers are satisfied that the proposed development complies with the aims and objectives of Policy LP53.

#### *Ecology*

- 10.136 The application is supported by a Preliminary Ecological Assessment (PEA), which provides an overview of the site's ecological characteristics. The application site is greenfield land, predominantly consisting of semi-improved grassland with areas of trees and shrubs exist along the site's edges. The site has been identified as having some areas of low ecological value, and some areas of moderate ecological value.

- 10.137 The PEA considers the development's impact upon local species. Of note, the bat survey identifies a bat day-roost (Common pipistrelle) within the stand-alone mature oak tree sited within the east of the site (not along the site boundary). It is unknown at this stage whether the tree would be removed as part of the Reserved Matters. As a day-roost for Common pipistrelles, the removal of the roost would not have a substantial effect on local ecology or the bat population, however appropriate mitigation would be needed. The applicant would also need to apply to Natural England for a roost removal licence, however this is a wholly separate process to the planning system. The tree in question an attractive feature of the site, and its retention is an aspiration for the Reserved Matters stage, but could lead to substantial design issues. It is recommended that a condition be imposed for the Reserved Matters (of layout and landscaping) to include an up-to-date bat survey to determine if the roost is still active. Depending on the outcome of that (and whether the tree is to be removed), appropriate mitigation may then also need to be secured via condition.
- 10.138 The impact of the proposal upon other local and protected species have been considered and found to be acceptable. The removal of the northern boundary tree line is noted. While it provides foraging opportunities, given its location next to the highway and the narrowness of the area, its ecological value is limited and the loss may be appropriately mitigated at Reserved Matters Stage. Nonetheless, officers consider it reasonable to condition an up-to-date survey of the area be provided at Reserved Matters stage, to ensure due regard is given to protected species. Reserved Matters may be received up to 3 years after an Outline is granted, so this approach is considered a reasonable precaution. The loss of the tree belt (and other habitat on site) will need to be mitigated via on-site provision, detailed below.
- 10.139 The application is supported by a baseline net gain calculation. As an outline, with all pertinent matters resolved (layout and landscaping), complete net gain calculations which show how a 10% improvement would be secured on site (or nearby) cannot be undertaken. However, the site's baseline establishes a starting point and identifies no prohibitive reason why future net gain cannot be secured. A condition is recommended requiring the Reserved Matters (of layout and landscape) to demonstrate how a 10% ecological net gain would be secured on site, alongside the submission of an Ecological Design Strategy to demonstrate how on-site provisions will be provided. The net-gain requirement will also be secured within the S106, given that it may include a future financial element if full 10% on-site / site adjacent enhancements cannot be secured.
- 10.140 There are potential ecological impacts on protected species resulting from construction and development of the site. These temporary impacts should be addressed via the production of a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity). This may be secured via condition.
- 10.141 No invasive plant species were identified within the survey work undertaken.
- 10.142 It is considered possible to develop the site for residential use while providing the required biodiversity net gain, in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

## Representations

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

### *General*

- The education contribution has not taken into cumulative development in the area, and has applied 'vacant' spaces twice.
- Local schools are over prescribed and cannot accommodate additional students.

**Response:** This was noted and the contribution re-calculated. However, as the numbers are not set, this calculation is for indicative purposes only.

- Historical maps show a footpath crossing the site. This must be protected.

**Response:** The footpath in question is not a recorded Public Right of Way and appears to not have been in place for several decades. The site will maintain pedestrian connectivity across the site.

- Concerns that the new dwellings will not adhere to the National Described Space Standards.

**Response:** This will form a consideration of Reserved Matters.

- The Council has failed to demonstrate there is demand in Lepton for dwellings and that they can only be provided within the area. These houses can be provided elsewhere. The Local Plan is based on out of dated figures; using the latest data / assessment measure the districts need would be 6% lower. The Local Plan should be re-reviewed.
- Development should be focused on brownfield sites, not greenfield.

**Response:** The site is a housing allocation within the Local Plan. The Local Plan went through due process, including review by the inspectorate and was found to be sound. National policies do not establish a preference of brownfield over greenfield.

- The masterplan is inadequate and fails to comply with Policy LP5 and main modifications 43 and 46. Furthermore, the applicant has not adequately involved local residents in their consultation, citing that the applicant's engagement only included 0.58% of Lepton.

**Response:** Following amendments officers consider the Masterplan to be in accordance with LP5 and the Local Plan. The exact amount of residents notified of the masterplan is unknown, but engagement has been ongoing for some time and that undertaken is deemed sufficient.

- Concerns to what extent the submitted masterplan will be applied to HS3 and its separate landowner.

**Response:** The masterplan has been drafted jointly by the landowners and is applicable to both allocations.

- The applicant's Air Quality Assessment is wrong, and understates traffic by 100%. The report comments that the AADT is 10,000+ while it is commented to actually be 24,000+
- The area exceeds World Health Organisation triggers on air pollution, which the proposal would exacerbate, particularly on Penistone Road and Rowley Lane, near the school.

**Response:** The submitted AQIA has been reviewed by the Council's Environmental Health and assessed in accordance with relevant policy and guidance, which concluded it to be acceptable.

- Questions over the climate credentials of the new buildings, such as the level of insulation, glazing, whether they'll include solar panels or EVCP. The developer should exceed the legal minimum.
- Housing must be built to be carbon neutral and use renewable energy.

**Response:** These are matters for the reserved matters application, although it should be noted that officers cannot insist in exceeding the legal minimum.

- The area has insufficient amenities and services, such as doctors' surgeries or dentists.

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

- The roundabout will harm the amenity of residents at 1 Woodsome Road through noise and light, and may affect the stability of its construction. The dwelling and others along Woodsome Road are also susceptible to flooding, which would be worsened.

**Response:** The roundabout does not form part of this application; however, it is indicatively shown for master planning purposes. Nonetheless, there are considered no prohibitive reasons why it would cause undue harm to residents' amenity.

- The development will lead to light pollution from street lights, houses, and cars.

**Response:** the level of light pollution from residential properties is not expected to cause material harm to the amenity of neighbouring residents.



Due regard to light pollution on ecology will be required at reserved matters stage.

- The site is Green Belt and not should be built upon.

**Response:** This application is a housing allocation. The indicative roundabout is expected to encroach into Green Belt land. This will be considered in full at that time, however Green Belt policy allows for engineering operations which do not harm openness and/or which demonstrate very special circumstances.

- The development will prejudice Human Rights, including the right to ensure a peaceful enjoyment of life and possessions, and the respect for private family life.

**Response:** Officers do not consider the development to breach the Human Rights of nearby residents. Further material aspects, such as distance and window locations, will be considered at reserved matters stage.

### *Design*

- Lepton has insufficient green space, which the proposal would even further dramatically reduce.
- The development will inevitably take the form of ribbon development. The development will urbanise an otherwise rural area.

**Response:** it is acknowledged that the development will dramatically change the character of the site, from open greenfield to developed land. However, it is surrounded by development on three sides and its removal would not unduly prejudice local green infrastructure. As it would not front the road, it would not be typical ribbon development.

### *Highways*

- The masterplan includes a pedestrian route which is not a PROW and is closed to the public. This leads to Beldon Brook Green which is an unadopted single track road with no footpath or street lighting; it will be damaged by additional footfall.

**Response:** This relates to later phases of the development. This level of detail will be considered as part of the applications for the later phases, and is beyond the scope of this application.

- Kirklees Highways have calculated the development will generate 45 two-way movements am and 41 two-way movements in the pm. This is disputed. Based on census data and car ownership for the area, 75 dwellings are expected to result in 105 vehicles and a trip factor of 0.8 gives 84 vehicle movements – double what Highways DM consider. This needs to be considered cumulative with the traffic from Phases 3 and 4 (anticipated at 670 movements), and existing movements on Rowley Lane (anticipated at over 4000 movements), all of which will go through the proposed roundabout. The development fails to consider cumulative impacts of later phases.

**Response:** Kirklees Council's approach follows the standard approach using TRICS vehicle movements, i.e., number of units x use class trip factor. The author of the above comment appears to have applied the trip factor to anticipated number of vehicles (i.e., a three-bed having two cars). That is not the standard approach.

- The speed limit on Penistone Road should be lowered to improve safety.

**Response:** The application has been assessed based on the 40mph speed and found to be acceptable.

- Traffic accidents on Penistone Road are much worse than recorded within the applicant's Transport Assessment, which underplays the impacts.
- Penistone is subject to many road traffic accidents, which the proposal will exacerbate. The proposed mitigation measures will not address this, and may make it worse.

**Response:** Traffic accidents within the applicant's report are based on available public data. The proposed improvements to Rowley Lane / Penistone Road is to improve traffic efficiency. While the proposal will add more traffic, the proposal would not exacerbate an identified risk factor.

- The roundabout should be provided as part of phase 1, not later phases.

**Response:** Such a request would go beyond what is reasonable and necessary for this phase of development.

- Concerns that the development does not include a footpath along the right-hand side of Rowley Lane up towards Lepton Village.

**Response:** Such a footpath is included along the frontage of the site. Beyond the site, further east along Rowley Lane, is outside of the applicant's control and unfeasible to be delivered.

- Access to HS3 via Hermitage Park is not acceptable, it's too much traffic and will affect existing residents' quality of life.

**Response:** This does not form part of the application, but is shown within the masterplan. With regards to the acceptance of 80 dwellings served off Hermitage Park, it should be noted that some form of development (circa 50 new dwellings) to be served from Hermitage Park came from an assessment of the current standard of the estate roads, which was made at the Local Plan stage. Whilst Hermitage Park does serve existing residential development, it does not conform to current highway design standards contained within the councils Highway Design SPD. Therefore, from an operational and amenity perspective, it was considered desirable to limit the amount of traffic that would use this road, with the bulk of the development served from the new roundabout access, which will provide better quality access arrangements that are in full accordance with current standards. It is also noted that the applicant proposed circa 150-200 dwellings initially at the Local Plan Stage, but following further negotiations, HDM have arrived at an agreed number of a

maximum of 80 dwellings being acceptable without their being a severe impact on highway safety and amenity caused by the development. However, this is subject to the improvements to the junction of Hermitage Park referred to further down in this consultation response, which will help to mitigate the impact of the additional development traffic utilising Hermitage Park.

- The roundabout will make access into adjacent properties, including business on the road, much more difficult and dangerous. It is also too close to Woodsome Road and will make access into the road difficult.

**Response:** The roundabout does not form part of this application, but is shown for indicative purposes. It will be fully assessed at phase 3. Nonetheless, based on the details held and review from officers and Highways, officers see no cause for concern and it is unclear how it would harm the access arrangements noted.

#### *Flood risk and drainage*

- The development of HS2 and HS3 will increase runoff into Beldon Brook Green, which does not have highways drainage infrastructure. Neither the flood risk assessment nor any other documents prepared by the developer appear to address what system will be implemented to replace and support any reduction gained from the existing greenfields natural flood management system. Developing these sites will lead to runoff and flooding on Beldon Brook Green.

**Response:** Beldon Brook Green is above the current application site, with the above concern relating to later phases. Therefore, it is beyond the scope of this application and, being a technical detail, beyond the masterplan too. Fundamentally however, the site's surface water drainage strategy would be designed to prevent this.

- Drains in the area are at capacity and cannot cope with more water. Sewers flow into Fenay Beck and pollute the surrounding land, which will be exacerbated. Yorkshire Water have raised issues with their pipes to residents.
- SUDs systems gather stagnant water, leading to flies and danger to children.

**Response:** above ground SUDs systems gather excessive water during flood events, and discharge is slowly. If water is pooling, an issue has occurred, but this should be addressed via suitable management and maintenance details. Such features are typically only full during, or just after, intense rainfall events.

- No details of foul sewerage have been provided.

**Response:** This is not unusual for an outline application.

- The Lead Local Flood Authority objected to application 2020/90725, but not the current proposal. This is inconsistent.

**Response:** Application 2020/90725 was a full application, where greater details of drainage were required. While the LLFA objected initially, their concerns were overcome.

- The development will lead to flooding from Fenay Beck to properties along its bank.
- Flood risk in the area has increased in recent years, including the fields at Fenay Beck.

**Response:** Discharge rates will be limited to greenfield discharge rates (5l/s per ha), unless a greater value is justified, via attenuation systems. This will lower the rate of water into Fenay Beck to the same as the existing greenfield rate.

10.144 Comments from the parish Council have been adequately addressed elsewhere. Outstanding comments from Cllr Munro are as follows:

- The masterplan that has been submitted is inadequate and is not joint up between land owners, contrary to the main modification imposed by the inspector.

**Response:** The initial masterplan was found to be lacking, but has been substantially enhanced to address the concerns raised.

- No additional water should enter Fenay Beck – this was discussed and agreed with the Environment Agency, as it'll lead to more flooding. Yorkshire Water commented they cannot accept more surface water from the site.

**Response:** Yorkshire Water were consulted on the application and offer no objection; they raise no such comment. The Environment Agency are not a statutory consultee. The discharge point will be fully assessed at reserved matters stage.

- There are no safe crossing places on Rowley Lane.

**Response:** A dropped crossing is incorporated into the new footway design.

## 11.0 CONCLUSION

11.1 The application site is allocated for housing in the Local Plan, and the principle of residential development at this site is considered acceptable. Seeking 'up to 75 units' in outline form, with definitive numbers to be detailed at reserved matters stage, the proposal is considered an effective and efficient use of the housing allocation. It would subdivide a larger housing allocation; however, the application has demonstrated it would not prejudice the remainder of the allocation coming forward. In fact, the submission includes a Masterplan for the wider HS2 and HS3 development which has satisfactorily demonstrated appropriate design consideration and parameters for the future development of the whole site.

11.2 Access is a material consideration; adequate access to the site from Rowley Lane has been demonstrated, along with necessary improvements to the Rowley Lane / Penistone Road junction to support the development's traffic generation.

- 11.3 The site has constraints in the form of adjacent development, topography, drainage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or will be addressed at Reserved Matters stage or via conditions and the S106 Legal Agreement.
- 11.4 Considering the local impact, the proposal is outline with all matters reserved but access. Based on the provided details, there are considered no prohibitive reasons why an acceptable subsequent application for the reserved matters of landscape, scale, appearance and layout, based on the indicative details provided, may not be provided.
- 11.5 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken constitute the Government's view of what sustainable development means in practice. As detailed in this report, the application has been assessed against relevant policies in the development plan and other material considerations. For the reasons set out, it is considered to accord with the development plan when considered as a whole, having regard to material planning considerations. The proposal would therefore constitute sustainable development and accordingly, it is recommended for approval.

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

1. Standard OL condition (submission of Reserved Matters)
2. Standard OL condition (implementation of Reserved Matters)
3. Standard OL condition (Reserved Matters submission time limit)
4. Standard OL condition (Reserved Matters implementation time limit)
5. Full technical details of the proposed access to be submitted, approved and implemented
6. Full technical details of the proposed footway along the southside of Rowley Lane to be submitted, approved and implemented
7. Full technical details of the proposed highway improvements to the Rowley Lane / Penistone Road junction to be submitted, approved and implemented
8. Full technical details of internal road to adoptable standard to be submitted, approved and implemented
9. Structural details provided for retaining walls adjacent to the highway
10. Archaeology investigation works to be undertaken and details of how the findings have informed the design, to be submitted with layout and/or landscape
11. Contaminated land investigation and appropriate remediation pre-commencement conditions
12. Full drainage scheme to be provided prior to commencement
13. Overland flow routing plan to be provided prior to commencement
14. Temporary surface water drainage plan to be provided prior to commencement
15. Noise mitigation measures to be submitted with layout and/or appearance
16. Details of secure cycling to be provided at layout
17. Construction Environmental Management Plan
18. Construction Environmental Management Plan: Ecology
19. Construction Management Plan

20. EV Charging Points to be provided
21. Arboricultural Survey, Impact and Methodology assessments to be submitted with layout and/or landscape
22. Ecological Impact Assessment, to include 10% net gain, to be submitted with layout and/or landscape
23. Repeat Ecological Surveys for the stand-alone tree and north boundary to be submitted with layout and/or landscape
24. Fully detailed Travel Plan to be provided
25. Public sewer easement

## **Background Papers**

### Application and history files

Available at:

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f92307>

### Certificate of Ownership

Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

**Date: 08-Dec-2022**

**Subject: Planning Application 2021/90800 Redevelopment and change of use of former mill site to form 19 residential units (within a Conservation Area) Hincliffe Mill, Water Street, Holmbridge, Holmfirth, HD9 2NX**

#### APPLICANT

M D One Ltd

#### DATE VALID

25-Feb-2021

#### TARGET DATE

27-May-2021

#### EXTENSION EXPIRY DATE

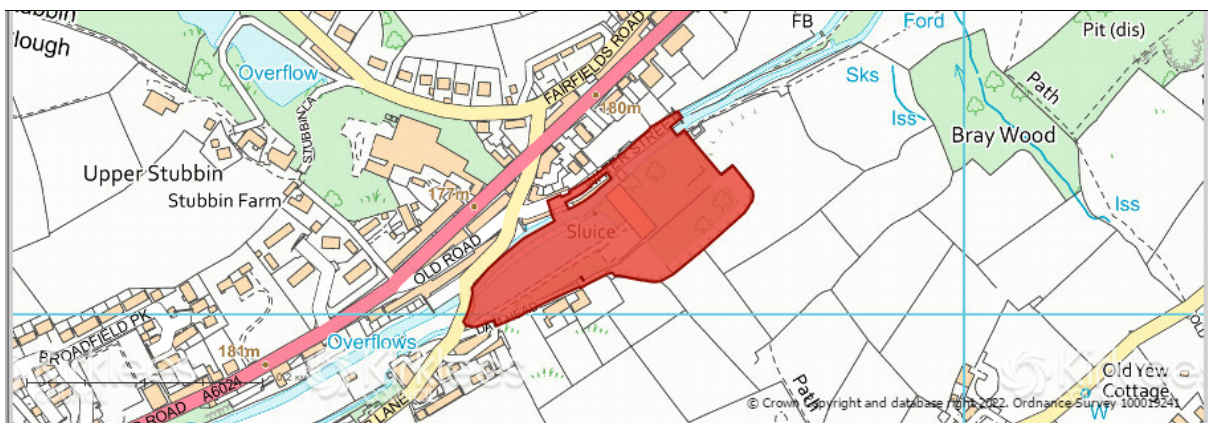
31-Jan-2023

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

[Public speaking at committee link](#)

#### LOCATION PLAN



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including, but not limited to, those contained within this report and to secure a S106 agreement to cover the following matters:

1. A financial contribution of £62,330 towards off-setting the loss of Biodiversity on the development site with supplementary management details in accordance with the Biodiversity Technical Advice Note
2. The provision of management companies for the purpose of maintaining shared spaces and drainage infrastructure serving the site.
3. To enter into a viability review no later than the point at which 75% of on-site units have been sold. The agreed developer profit is to be 15% of Gross Development Value and any profits in excess of this shall be paid to the council to meet identified planning policy contributions (Affordable Housing/Sustainable Travel/Public Open Space/ 10% BNG).

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

**1.0 INTRODUCTION:**

- 1.1 The full planning application detailed in this report and submitted before Strategic Planning Committee is for a residential development of 19 dwellinghouses on land forming the original Hinchliffe Mill site within the village of Hinchliffe Mill in the Holme Valley.
- 1.2 As set out within the Local Planning Authority's Scheme of Delegation, the proposal is referred to Strategic Committee on the basis of the significant number of representations received highlighting the strong public interest in the development from local residents.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The proposals relate to the 1.9HA of the former Hinchliffe Mill site, which currently include a three-storey stone-built mill building, the mill dam and mill pond and the surrounding land. The other mill buildings on site which historically formed part of the mill complex have now been demolished, leaving a large section of the site vacant but overgrown with sapling trees and other foliage. Topographically, the site slopes downwards in a south-north direction where it meets the River Holme which straddles the northern part of the site adjacent to Water Street.



- 2.2 The site is situated in the village and Conservation Area of Hinchliffe Mill, just south of the A6024 Woodhead Road and just under 2km south-west of the centre of Holmfirth. Residential properties are located north and west of the site on Water Street and Spring Lane respectively. Access to the site via these highways has been historically established through the Mill's commercial use and are evident on the 1850 OS Six-Inch Historic Maps. A vehicular bridge and public right of way bridge connect the site to Water Street over the River Holme.
- 2.3 Open fields and countryside forming Green Belt land surround the site to the south and east. The Mill is not listed under the Listed Building and Conservation Areas Act 1990 by Historic England (National Heritage List for England).

### **3.0 PROPOSAL:**

- 3.1 This application seeks full planning permission for the redevelopment of the former mill site to residential. The proposals include the conversion of the mill to 7 dwellings and the erection of a further 12 dwellings (total 19 unit). The proposal also includes the formation and improvement to access roads serving the site, off-road parking for up to 63 cars (43 spaces / 20 garage spaces) alongside associated hard and soft landscaping.
- 3.2 In respect of the layout of the development, units 1 and 2 comprise two individually designed house types, both of which are two-storey 4-bed detached dwellinghouses with contemporary northlight-style double bay roofs. Unit 1 has an additional sun room and detached garage, while Unit 2 has an attached garage. These dwellings would be accessed via the existing informal off-shoot track from Spring Lane, and are located directly south of and adjacent to the mill pond. In addition to the garages, each dwelling would have two other designated parking spaces and private outdoor amenity space.
- 3.3 The proposed mill conversion units (units 3-9) are located in the former mill building and are all 3/4-bed 'terraced' properties. Vehicular access to these units would be via Water Street and the existing bridge over the River Holme. Unit's 3 to 5 would utilise the top two storeys of the former mill building, whilst the other units would occupy all three floors, and have two parking spaces and utility space in the basement area. Each unit would have a minimum of two or three parking spaces each. Each unit would also have its own outdoor private amenity space on the south-western side of the building.
- 3.4 Units 10-16 comprise of detached houses in contemporary north-light style, all of which are three storey and offer 3 or 4 bed accommodation (the fourth bed potentially a home office or vice versa). The dwellings would be located east of the mill facing north towards the iver Holme with vehicular access via Water Street. Each unit would have three designated off-street car parking spaces, including a detached garage per unit. Each dwelling would also have its own outdoor private amenity space, front and back.
- 3.5 Units 17-19 would be positioned on the upper section of the site, also east of the mill, and would be accessed via Spring Lane. Units 17 and 18 incorporate an integral garage, whilst Unit 19 includes a separate detached garage. Like Units 10-16, Units 17 to 19 have been designed to reflect a contemporary north-light industrial style. Each dwelling is two-storeys and contains four bedrooms each. Each unit also includes a further two-off street parking spaces and private outdoor amenity space.

- 3.6 The materials proposed for the new dwellings include local sandstone and ashlar for the external walling, natural blue slate for the roofs, and aluminium rainwater goods and window surrounds.
- 3.7 A service vehicle turning head is to be provided within the site off the Spring Lane access, while access and turning will be provided for cars off Water Street. Bin collection points are to be provided at the front of the site adjacent to the River Holme and towards the rear of the site adjacent to the refuse turning head. A pedestrian footpath will link the lower and upper sections of the site, and a new footpath link in the north of the site will join the existing footpath network. The public footpath will be reinstated to be much closer to its original line (it being diverted some years ago when the mill was in operation).
- 3.8 A parking bay area (four spaces) at the western end of Spring Lane is to be provided for local residents. The mill pond will be retained and water swales will be created on the upper and lower development plateaus, as well as areas of open space and landscaping.

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

2010/91519 – Conservation Area Consent for demolition of former blending/mending shed, storage buildings and office buildings – Granted

2010/91518 – Change of use and alterations to convert existing mill building to 7 dwellings with garages and erection 12 dwellings with garages (within a Conservation Area) – Approved

2009/90369 – Conservation Area Consent for demolition of blending building - Granted

2009/90368 – Erection of replacement building to form two dwellings (within a Conservation Area) - Approved

2006/91184 – Conservation Area Consent for demolition of buildings - Granted

2006/91183 – Conversion and extension of existing mill buildings to form 19 No. residential units and erection of 2 No. dwellings with garages (partly within a conservation area) – Granted at Appeal

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

5.1 The following amendments to the scheme have been made in comparison to the original submission:

- Scheme reduced from 24 to 19 units to comply with HS190 allocation limitations for site yield;
- Parking bay with 4 spaces introduced on Dam Head/Spring Lane to provide for existing resident parking;
- Updated Flood Risk Assessment to meet Local Lead Flood Authority and Environment Agency requirements;
- Amendments to layout to ensure alignment of PRow 95/10 with the definitive map so that it is re-instated to its original position;
- Provision of tree removal/retention plan;

- 2no. Transport Statement Addendums following consultation with KC Highways DM;
- Independent Viability Process entered into which confirmed that the site was unviable even at the lowest recommended profit level of 15%;

## 6.0 PLANNING POLICY:

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

### Kirklees Local Plan (2019):

- 6.2 The site is allocated for Housing (ref: HS190) in the Kirklees Local Plan. Other Local Plan designations covering parts, or all of the site, are as follows:

#### *Constraints*

- Highways access unsuitable for intensification greater than indicative capacity;
  - Part of the site is within flood zone 3;
  - Potentially contaminated land;
  - Proximity to Special Protection Area/Special Area of Conservation;
  - Proximity to SSSI;
  - Part of this site lies within a UK BAP priority habitat;
  - Site is within the Wildlife Habitat Network;
  - Site is close to listed buildings;
  - Site is within a Conservation Area;
  - The original buildings shall be retained and reused as part of any development proposals, unless adequate justification is provided for their loss, in accordance with LP7 and LP24.
- 6.3 The red-line site area is indicated as 1.9HA, however the Site Designation box for Housing Allocation 190 states that the gross site area is 1.34HA and the net area is 0.62HA. The net area has omitted high flood risk areas removed from the developable area. The gross area appears to omit the River Holme and Water Street from the red line boundary thereby providing a lower gross area. The indicative site yield is 19 dwellings, and this has been established through historic applications submitted in 2006 and 2010.
- 6.4 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network

LP24 – Design  
 LP26 – Renewable and low carbon energy  
 LP27 – Flood risk  
 LP28 – Drainage  
 LP30 – Biodiversity and geodiversity  
 LP31 – Strategic Green Infrastructure Network  
 LP32 – Landscape  
 LP33 – Trees  
 LP34 – Conserving and enhancing the water environment  
 LP35 – Historic Environment  
 LP47 – Healthy, active and safe lifestyles  
 LP48 – Community facilities and services  
 LP49 – Educational and health care needs  
 LP51 – Protection and improvement of local air quality  
 LP52 – Protection and improvement of environmental quality  
 LP53 – Contaminated and unstable land  
 LP63 – New open space

Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide SPD (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Viability Guidance Note (June 2020)

Holme Valley Neighbourhood Plan

6.6 The Holme Valley Neighbourhood Development Plan was made at Full Council on 8 December 2021. The Plan was also made by the Peak District National Park Authority Planning Committee on 10 December as the Plan covers part of the Peak District National Park. For the Holme Valley Neighbourhood Area this means that the Holme Valley Neighbourhood Development Plan forms part of the development plan alongside the Kirklees Local Plan.

6.7 Relevant policies to this planning application include:

- *Policy 1* – Protecting and Enhancing the Landscape Character of Holme Valley;
- *Policy 2* – Protecting & Enhancing the Built Character of the Holme Valley and Promoting High Quality Design;
- *Policy 2* – Conserving and Enhancing Local Heritage Assets;
- *Policy 5* – Promoting High Quality Public Realm and Improvements to Gateways and Highways;
- *Policy 6* – Building Housing for the Future;

- *Policy 11* – Improving Transport, Accessibility and Local Infrastructure;
- *Policy 12* – Promoting Sustainability;
- *Policy 13* – Protecting Wildlife and Securing Biodiversity Net Gain;

6.8 The development is set within the Landscape Character Area 4 (LCA4) – ‘River Holme Settled Valley Floor’. The Character Management Principles for LCA4 are as follows:

- Ensure new development respects framed views from the settled floor to the upper valley sides and views across to opposing valley slopes and views towards the Peak District National Park.
- Retain and restore existing stone field boundaries and use stone walling in new boundary treatments.
- Maintain and enhance the network of PRoW to promote access and consider opportunities to create new links to existing routes particularly physical and visual links to the River Holme.
- Consider opportunities through major developments to provide interpretation of the historic industrial role of the river and mill ponds within the local landscape.

6.9 Character Management Principles for LCA4 are as follows:

- Regard should be had to the key characteristics that give these areas their distinctive character and should respect, retain, and enhance the character of existing settlements, including vernacular building styles, settlement patterns, alignment of the building line and the streetscene.
- Strengthen local sense of place through design which reflects connections to past industrial heritage related to each settlement including through retaining or restoring mill buildings and chimneys.
- Consider replacing asphalt and concrete with traditional surfacing such as stone setts and cobbles.

#### Climate change

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

## National Planning Policy and Guidance:

6.11 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

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

6.10 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – national described space standard (2015, updated 2016)

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was initially advertised by neighbour letter, newspaper advertisement and site notices in March 2021, a second round of publicity was undertaken in December 2021 and a final round of publicity undertaken in September 2022. A total of 145 representations have been received as of the date of this report.

7.2 Of the 184 representations received, 171 object to the proposal and 13 are in support of the development. Matters highlighted in representations are as follows:

### **Objections**

- Intensification of substandard accesses to the site, not only for cars of the occupiers in the dwellinghouses but also delivery and postal vehicles.
- Insufficient capacity on the local highway network to accommodate extra vehicles.
- Lack of off-street parking for existing local residents displaced by the development on Spring Lane. Requests for off-street parking provision.
- Lack of traffic generation information and limited consideration for school trips within the supporting Transport Statement.
- General criticism of the Transport Statement in respect of its assumptions.
- Highway safety concerns on Dobb Lane.

- Water Street and Spring Lane junction visibility inadequate.
- Lack of footways in the surrounding area is dangerous for pedestrians and this will be exacerbated by the development.
- Intensification of vehicular journeys on a local school route to the detriment of highway safety.
- Lack of access for emergency vehicles/access width issues.
- Changing the character of the Green Belt from its now Greenfield status.
- Inappropriate development in the Green Belt.
- Lack of provision for restoration and improvement of Mill Dam, the 2010 application allowed for this, for the benefit of all residents.
- Lack of affordable housing provision.
- Excessive on-site car parking is not in accordance with Kirklees' Climate Emergency.
- Over-intensification of the site due to the number (24), size and scale of the buildings proposed adjacent to the Mill.
- The shape of the proposed dwellings are not sympathetic to the Mill and the scale is out of keeping at 3 storeys in height.
- Concerns in respect of parking for residents on Water Street.
- Concerns in respect of privacy from windows serving the northern elevation of the mill building overlooking the properties on Water Street.
- Concerns in respect of development within a flood zone and general concern for creation of flooding in the local area as a result of the development.
- Lack of sustainable heating methods, such as a district heating network or air/ground source heat pumps.
- Concerns regarding wildlife and the disruption to habitats from the development.
- Negative impact on the conservation area or the appearance of the wider style of the village.
- Lack of local facilities, therefore the development will be car reliant.
- Units 1 and 2 will impact the character of the conservation area negatively.
- Site is now established woodland with trees in a conservation area set to be removed that have TPO status.
- Local infrastructure incapable of supporting the new dwellings.
- Potential for obstruction to local PROW 95/10.
- Negative impact upon the amenity of the residents of Water Street and Dam Head/Spring Lane.
- Excessive noise, disturbance and odour (unspecified).
- Contamination of the river during the construction/renovation process.
- Lack of school places to accommodate any new children in the area.
- Complaints relating to the housing mix and lack of 2 bedroom units.
- Inadequacy of public transport serving the local area.
- Lack of river unit consideration within the Biodiversity Metric

## **Support**

- In support of the application because the site is an eyesore and the plans look 'fantastic'.
- Design is 'in-keeping' with the local area.
- Upkeep and maintenance of the pond and surrounding area.
- Access is difficult but this is part of the local context of Holmfirth.
- The mill is derelict, development is supported as it is in-keeping with the area and keeps the character of the mill.
- New homes will be provided for people in the area to move to.
- General improvement of the site to improve amenity.
- The reduction in the number of units is positive.

- Support for re-development subject to the special character of the mill being retained.
- Many comments in general support the re-development of the mill but highlight the access issues that the development faces.
- Trees on the site have become overgrown and unkempt, the proposal will resolve this.

### **Comments/Observations**

- Application red line runs over my property at Lower Waterside Barn
- Dam Wall is infested with Japanese Knotweed which could exacerbate the dam wall's integrity and cause a flood.
- Request for re-instatement of the PROW footpath upon its original legal route.
- Development must be in-keeping with the mill and the local area.
- Consideration should be given to access for refuse collection and service vehicles.
- Water Street should be re-surfaced to account for the increase in use.
- The development should adhere to the site yield of 19 units as advised in the Local Plan.
- Proposal for alternative road arrangement that would allow for a multi-lane carriageway where vehicles can pass.
- PROW 95/10 remains obstructed due to historic development. The development should improve this situation.
- Request for a Committee site visit.
- Lack of documentation, especially in respect of Habitat Regulations Assessment concerning the Special Protection Area – Pennine Moors.
- Request for native planting in the soft landscaping scheme.

7.3 The Holme Valley Parish Council have been consulted on the application and have the following comments:

1<sup>st</sup> Response Logged 15<sup>th</sup> April 2021:

*The Parish Council is very supportive of the re-development of the site of the historic mill building at Hinchliffe Mill. However, the Parish Council objects to the current, proposed development on the basis of:*

- 1) *Over-intensification of the site including the use greenfield land*
- 2) *Regarding highways, concerns about the very limited parking available to existing residents of Dam Head, Spring Lane etc; a communal parking area should be part of the development*
- 3) *Heritage concerns regarding the unsuitable design of the new buildings*
- 4) *Flood risk*
- 5) *Ecological damage*

*The Parish Council feels that developers should undertake proactive engagement with the local community with regard to this site so that development can be sensitively managed.*



2<sup>nd</sup> Response Logged 18<sup>th</sup> January 2022

*The Parish Council remains very supportive of the redevelopment of the site of the historic mill building at Hinchliffe Mill and welcomes the proposed provision of smaller, more affordable homes within the mill.*

*However, the Parish Council objects to the current, proposed development on the basis of:*

- *Over-intensification of the site*
  - *Heritage concerns regarding the unsuitable design of the new buildings within a Conservation Area [Holme Valley Neighbourhood Development Plan - Policy 2: Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design]*
  - *Regarding highways, concerns about the very limited parking available to existing residents of Water Street, Dam Head, Spring Lane etc; a communal parking area should be part of the development and issues of pedestrian safety and the public right of way Flood risk*
  - *Ecological damage, - the scheme needs to include an action plan regarding environmental improvements to offset the biodiversity loss [Holme Valley Neighbourhood Development Plan - Policy 13: Protecting Wildlife and Securing Biodiversity Net Gain]*
- The Parish Council would expect more detail from a project of this size on meeting sustainability outcomes and addressing the climate emergency, - for instance, by incorporating solar panels, ground source heating and so on [Holme Valley Neighbourhood Development Plan Policy 12: Promoting Sustainability]*

3<sup>rd</sup> Response Logged 7<sup>th</sup> November 2022

The Parish Council continues to be very supportive of the re-development of the site of the historic mill building at Hinchliffe Mill. The Parish Council welcomes the reduction in the total number of houses over the original application. The Parish Council further welcomes the increase in parking provision for the residents of Water Street and Spring Lane.

However, the Parish Council objects to the current, proposed development on the basis of: 1) Overintensification of the site including the use of greenbelt land for the larger properties 2) Regarding highways, the narrowness of the routes is concerning for emergency vehicular access. The Parish Council is also worried about the risk to schoolchildren using the unpaved walk-to-school route on Dobb Lane. Parking provision for the existing residents is still inadequate despite the planned increase. 3) Continued heritage concerns regarding the unsuitable design of the new buildings within or adjoining the conservation area 4) Flood risk 5) Ecological damage.

The Parish Council would also expect much more detail in a project of this size on sustainability and renewable energy generation as per the Holme Valley Neighbourhood Development Plan pp152-156 Policy 12: Promoting Sustainability and should include a climate mitigation statement.

The Parish Council is dismayed by the loss of affordable, 2-bed housing in the development. The Parish Council feels that it would be in the developer's interest to reach out to local people and to undertake proactive consultation with the local community. Local feeling would appear to be generally in support of the development of the site in a sympathetic manner which fits in with the residential/conservation area and surroundings.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

Environment Agency: No objections subject to conditions and advisory comments in respect of environmental permits, biodiversity net gain etc.

Lead Local Flood Authority: No objections subject to conditions and agreement to a drainage management company via a S106 agreement.

KC Highways Development Management: No objections subject to conditions and the recommendation of sustainable travel measures that could be agreed via a S106 agreement.

KC Highways Structures: No objections subject to conditions.

Yorkshire Water: No objections subject to compliance with the submitted drainage strategy

Historic England: Initial concerns regarding units 17, 18 and 19 and the impact on the non-designated heritage assets and the conservation area. The consultee's objection has been withdrawn following the submission of indicative 3D visual plans.

Natural England: Generic advice provided. Inferred that a deferral to KC Ecology expertise preferred.

### **8.2 Non-statutory:**

Association for Industrial Archaeology: Advisory design comments included in a heritage condition.

KC Building Control: Some minor alterations likely required post-decision in respect of fenestration and ventilation systems to meet fire tests.

KC Crime Prevention: Request for artificial lighting to be conditioned. Further advice provided on natural surveillance.

KC Ecology: No objections subject to conditions and advise that the development is required to contribute a figure of £62,330 in off-setting habitat loss as a 10% Biodiversity Net Gain. This financial sum is to be secured via a Section 106 agreement.

KC Education: Application is below 25 units therefore an education contribution is not required.

KC Emergency Planning: Concerns expressed in respect of access/egress into the site by emergency service vehicles.

KC Environmental Health: No objections subject to conditions

KC Landscape: No objection subject to conditions. An indicative figure of £26,194 for POS is advised to be secured via Section 106 Agreement. The inclusion of the figure is not recommended by Officers due to the viability of the scheme.

Northern Gas Network: No objections.

KC Planning Policy: Advice provided in respect of Green Belt matters.

KC PROW: No objections subject to conditions

KC Public Health: No comment – Health Impact Assessment not required. This is despite the site allocation box for HS190 indicating a requirement to submit a HIA.

KC Strategic Housing: An indicative affordable housing requirement of 4 units (20% of yield) is advised to be secured via Section 106 Agreement. The scheme would be valid for claiming Vacant Building Credit. Nevertheless, the incorporation of the affordable housing is not recommended by Officers due to the viability of the scheme.

KC Trees: No objections subject to condition

KC Waste Strategy: No objections subject to conditions.

West Yorkshire Archaeology Advisory Service: No objections subject to condition.

Yorkshire Wildlife Trust: General advice provided.

## **9.0 MAIN ISSUES**

- Land Use and Principle of Development
- Transportation and Access Matters
- Heritage and Archaeological Matters
- Layout, Scale, Visual Appearance and Landscaping Matters
- Housing, Residential Amenity and Public Health
- Green Belt, Biodiversity and Tree Matters
- Site Drainage and Flood Risk
- Environmental Health, Site Contamination and Stability
- Climate Change
- Viability & Planning Obligations
- Representations
- Other Matters

## 10.0 APPRAISAL

### Principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. 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 as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum and taking account of windfalls, committed housing figures and losses/demolitions.
- 10.3 The planning application site consists of Local Plan housing allocation HS190. Full weight can be given to this site allocation for housing development in accordance with Local Plan policy LP3 – Location of New Development. Allocation of this and other greenfield sites was based on a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing, employment and other uses.
- 10.4 The Site Allocation Box in the Local Plan states that site HS190 has an indicative capacity of 19 dwellings. The net site area of allocation HS190 is 0.62 hectares which would elicit, under the density of policy LP7 – Efficient and Effective Use of Land and Buildings, that the site would have a capacity of 21.7 dwellinghouses based upon a density of 35 dwellings per hectare. The Holme Valley Neighbourhood Development Plan (HVNDP) supporting clause 4.5.16 identifies that housing sites in the Holme Valley are more likely to generate densities in the region of 30 dwellings per hectare. This lower density would suggest an allocation yield of 18.6 dwellings. The proposed development would meet, but not exceed the site allocation yield of 19 dwellings, in accordance with the restriction placed on the allocation in respect of access limitations to prevent greater intensification than the indicative allocation capacity. T
- 10.5 The development therefore initially meets the requirements of Kirklees Local Plan Policies LP1 – Presumption in Favour of Sustainable Development, LP3 – Location of New Development and LP7 – Efficient and Effective Use of Land and Buildings while also meeting the 30 dwelling per HA requirement of the HVNDP.
- 10.7 On the basis of the above, the principle of residential development at this site is considered acceptable as it would contribute towards meeting the housing delivery target of the Local Plan. However, the identified site constraints and the development's impacts would need to be appropriately mitigated, along with the need for a high quality development that responds to local character within a conservation area. These matters are considered later in this report.

## Transportation and Access Matters

- 10.8 A Transport Statement (TS) has been prepared and submitted by HDC Support LTD (ref HDC/ENG/0121 FINAL). A further two addendum's to the TS have also been submitted (ref HDC/ENG/0421 Addendum V2) and (HDC/ENG/0922 V2 FINAL). Highways Development Management have reviewed the statement and have made observations in respect of the access arrangements, trip generation, parking, emergency service access and sustainable travel measures.

### Access

- 10.9 Access to the development is taken from two points. The first, Water Street, is the former unadopted access to the now redundant mill buildings. Water Street currently serves 10 existing dwellings with undefined parking provision guaranteed through deeds and cited as unchanged on the submitted site plan. It should be acknowledged that the existing access along Water Street, up to the bridge access into the site over the River Holme, has long been established through historic use of the site as well as subject to an upheld appeal in 2006 and a further permission in 2010. It should also be noted that the proposed access roads and internal arrangement will remain private and shall not be adopted by the Council. Paragraph 3.15 of the Highway Design Guide sets the parameters for private drives as follows:

*New development serving more than five dwellings (or any existing private road which will serve more than five dwellings after completion of new development) should be laid out to an adoptable standard and be able to be offered for adoption.*

- 10.10 In the case of Water Street the road layout is existing, constrained and cannot be altered without removal of existing residential properties – this is a common limitation in the villages of the Holme Valley. Furthermore, KC Highways DM have confirmed that the internal layout of the site will be constructed to an adoptable standard. The development site may not be in use at the moment, however previous historic use has clearly evidenced that it is capable of being used for an intensive industrial purpose alongside 10 residential properties. Consequently, the introduction of a residential use on the former commercial site must be within the parameters of the access's capacity. As Water Street is existing, cannot be widened and has historically served the site when it was in a former use, it is discounted from being required to meet the parameters for access set out under the Highway Design Guide SPD.
- 10.11 In the case of Dam Head/Spring Lane, this access also serves 10 or more residential properties. Again, it is also unadopted and is of single track arrangement. On site observations have indicated that the existing residents along Dam Head park on this section at the junction of Dobb Lane and the entrance to the track beside the Mill Pond. KC Highways DM requested that a parking solution be provided to enable unrestricted access to the development along Dam Head. The applicant has subsequently proposed a row of four linear parking bays to be incorporated into the northern side of Dam Head. The introduction of the off-street parking bays is considered acceptable from a highways perspective. Conditions are listed in Section 12 covering the construction, surfacing and retaining structures necessary to ensure safe use of this new parking facility for local residents.

- 10.12 Some local residents have cited that visibility from Water Street and Dam Head onto Dobb Lane is poor and lends itself to high-risk egress from both junctions. Crash Map data indicates that no slight, serious or fatal collisions have occurred at these junctions in the previous 5 years (2017-21). The statistical evidence therefore points to the junctions operating to safe parameters and that road users drive to the highway conditions. The modest increase in movements for each access (between 4.5 and 5.5 in the AM and PM Peak explained in greater detail below) would appear to be within acceptable parameters for both the Water Street and Dam Head junctions onto Dobb Lane/Co-Op Lane.

### *Traffic Generation*

- 10.13 The trip generation has been assessed using the TRICS data base. The submitted TS assesses the traffic impact of 'Residential' development in trip generation terms. Section 9 in the originally submitted TS indicates the forecast traffic generation for 24 dwellings, this has since been revised in the addendums to reflect the reduction in development to a 19 dwelling capacity.
- 10.14 The TS assesses the traffic impact of a development numbering 19 dwellings utilising a trip rate of 0.48 movements per dwelling. This generates 9 two-way vehicle movements in the AM and PM peak periods, respectively. In context, this is a vehicle movement once every 6 minutes 40 seconds to or from the site, split over each junction at the busiest time of the day. Whilst this trip rate may appear to be on the low side (as highlighted by representors), should a more robust trip rate of 0.6 movements per dwelling be used, this would generate 11 vehicle movements in the AM and PM peak periods. Again this would reflect one vehicle movement approximately every 5 and a half minutes. Overall both scenarios present a negligible impact to highway capacity and KC Highways DM thereby consider the proposed trip generation acceptable in terms of impact on the overall network.

### *Parking*

- 10.15 The development provides sufficient off-street parking provision, in both size and quantum, for all proposed dwellings in line with the Highways Design Guide SPD. As previously mentioned, additional off-street parking would also be provided for the existing dwellings on Dam Head which also meets the SPD standards.

### *Pedestrian Footways*

- 10.16 Some representors have cited the lack of a footway across Dobb Lane being injurious to the safety of school children who frequent Dobb Lane on the way to school as well as other pedestrians who use this route. LPA Officers acknowledge these concerns, however the creation of a footway on Dobb Lane poses a number of challenges.
- 10.17 The scope of a footway would require significant engineering works and compulsory purchase of land that is unlikely to be welcomed by the local community as it would likely result in a significant alteration to the character of the area and the amenity of residents. Provision of a footway within the confines of the highway would also lead to the creation of a single carriageway which could pose issues in respect of increased journeys and vehicle turning.

The latter point is made in reference to vehicles, who do not wish to use the new route, blocking the highway through a three-point turn manoeuvre. Likewise, a Traffic Regulation Order would be unlikely to succeed in this instance as it could not be made without the support of local residents.

- 10.18 Overall, the scope of including a footway on Dobb Lane would not be reasonable for the development to take responsibility for. It is also unclear whether the scope of such works is feasible, or even required, given the Crash Map statistics aforementioned.

#### *Servicing and emergency access*

- 10.19 Many representors note concerns in respect of emergency service vehicles attending the site. Swept paths for a fire appliance have been demonstrated for both accesses in the TS Addendum (dated November 21) and considered acceptable by KC Highways DM. It follows that other emergency services that typically utilise smaller vehicles, such as ambulances, will be able to negotiate both accesses successfully, also. Further requirements in respect of fire safety and fire appliance access are generally considered under the building regulations regime and therefore the details submitted in respect of this application are considered sufficient to allow the application to progress to a Committee decision. With regards to the arrangements for refuse storage and collection, detailed discussions have taken place and suitable arrangements have been agreed to accommodate the requirements accordingly.

#### *Sustainable travel measures*

- 10.20 The Public Right of Way 95/10 would be re-aligned back to its original definitive legal position. KC PRow have confirmed that they have no objections to the indicative footpath design on the site plan subject to details being provided, via condition, relating to its treatment/surfacing, a scheme securing the safety of users as well as construction, management, implementation and retention of the renewed footpath. The site shall be linked to the PRow at the site's north east corner where a footpath link will connect from the private drive in front of plots
- 10.21 In respect of public transport services, the site is located within 400m walking distance of the nearest bus routes that operate on Woodhead Road. KC Highways DM generally take a pragmatic approach to walk distances to take the size and location of development sites into account. When doing so, Kc Highways DM also have to consider the development type and the level and quality of service (frequency and destinations served) at the destination bus stop.
- 10.22 Bus services which operate on Woodhead Road include the '314' which operates between Huddersfield and Holme via Holmfirth at a 60 minute frequency. The bus availability for the site is therefore considered to be acceptable. The size of the development is unlikely to change the bus route frequency, though it could theoretically support the sustainability of the bus route given pressures faced by rural bus routes. The closest bus stop to the site is 19113, on the Woodhead Road Corridor in the centre of Hinchliffe Mill, and it has been identified that this bus stop would benefit from the installation of a Real Time Information display at a cost to the developer of £10,000.00.

- 10.23 To encourage the use of the bus services in the area, it is recommended that the developer contributes towards sustainable travel incentives. Leeds City Council have recently introduced a sustainable travel fund. The fund can be used to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) for all or part of the site. This model could be used at this site.
- 10.24 The payment schedule, mechanism and administration of the fund would have to be agreed with Kirklees Council and WYCA and detailed in the S106 agreement. As an indication of the cost should the normal RMC scheme be applied based on a Bus Countywide ticket, the contribution appropriate for this development would be £12,276.00. This equates to Bus Only Residential MCards. Further discussion as to the Officer Recommendation relating to the Sustainable Travel measures/funds is made in the Viability and Planning Contribution section of this assessment.

### *Conclusion*

- 10.25 The general impact of the development on highway safety and capacity is relatively low and, where it does exacerbate issues, it does so at a low level as explained in the assessment above. For these reasons, the proposal is recommended to members as being in line with Policies LP20, LP21, LP22, and LP31 of the Local Plan as well as Policy 11 of the HVNDP.

### Heritage and Archaeological Matters

- 10.26 In determining this application, the Local Planning Authority should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### *Designated and Undesignated Heritage Asset Impact*

- 10.27 The proposal's new-build dwellinghouses have been designed to merge contemporary elements with the industrial character and heritage of the site. This is manifested in the combined architectural detailing of traditional materials, alongside asymmetric pitched roofs and multi-paned windows that once were present on the former 20<sup>th</sup> Century manufacturing and storage sheds that previously occupied the wider site. In respect of materials, all of the new-build elevations are to be finished in stone sourced from a local quarry, thereby ensuring a high quality appearance that is sustainable and reflective of the local vernacular.
- 10.28 The dwellings to the east of the Mill (Plots 10 to 16) are reminiscent of north light sheds, with the same theme being incorporated in Plots 17 to 19. The two detached dwellings to the west of the Mill (Plots 1 and 2) are of a similar north-light design with asymmetric rooflines. However a contrast is drawn with the dwellings set east of the Mill. This is due to Plots 1 and 2 incorporating domestic style one over one windows instead of the multi-paned windows proposed on the other new-build dwellings. The alternative windows for Plots



1 and 2 are due to these two dwellings being the only units located west of the Mill Building and being more obviously contrasted with the wider village which have similar sash and weaver cottage-style windows.

- 10.29 The proposed roofing material for the new dwellinghouses is yet to be determined (item A of the site elevation drawing 3372 (0-) 621 rev E) as are the window types (item E). KC Conservation would recommend that the roof covering of the new-build units is blue slate as referred to in the application form rather than pressed metal. Such detail will be required by pre-commencement condition, as set out in Section 12 of this report.
- 10.30 In respect of the Mill, its conversion is welcome as this will bring an important historic building back into use. External alterations to the Mill are mostly sympathetic to the character of the building and allow its significance to be retained. KC Conservation have stated that the retention and replacement of stone slates is preferred, and this detail will be captured, again, via condition.
- 10.31 The proposal for multi-paned windows reflects the industrial character of the building, although we would suggest that the number of panes in each window and external doors are reduced, with the loading doors shown on the elevation drawings and the pulley mechanism retained in the wall above these doors. We would recommend that the loading doors are designed to reflect the style of the historic doors. Again, these details are to be secured by condition.
- 10.32 As regards the proposed boundary treatments, these are determined appropriate to the setting, with dry stone walls typical of the local vernacular, metal estate railings which allow permeability, and hedges between rear gardens and to the southern boundary rather than timber fencing, to maintain soft edges. Improved footpaths and boundaries to the mill pond will enhance this area.
- 10.33 Historic England have also been consulted on the application and have stated that *'the development of this site represents an important opportunity to enhance the conservation area by bringing back into use one of its important assets and to reinvigorate the area with a sympathetic new development.'* The statutory consultee have also stated that they *'welcome the amendments that have been made to the area to the east of the mill building, including rationalisation of the detached garages and hard landscaping.'* Some further amendments to join the garages together have been recommended, however this advice has not been incorporated into the design of the scheme by the applicant. This is presumably due to the potential for a loss of rhythm to the spacing between the garages, which also provides
- 10.34 However Historic England had cited an objection to the proposal due to the unassessed impact of Plots 17 to 19 on the Mill when viewed from the Public Right of Way. The applicant has since provided 3D indicative visuals which contrast the size of the proposed dwellings relative to the historic warehouse that was in a similar location on the site. Following further consultation with Historic England, the statutory consultee has confirmed that they now have no objections to the scheme as some views of the Mill are retained between Plots 17 to 19.

- 10.35 Following amendments, the proposed development is an enhancement on the previous scheme, with references to the industrial heritage of the site along with the use of natural stone and slate in conjunction with sensitive landscaping. The proposal will ensure the conservation of the historic mill building in accordance with paragraph 199 of the NPPF, with the development enhancing the mill by bringing it into a viable use whilst preserving the building's significance into the future.
- 10.36 LPA Officers accept that there is harm resulting from the development, however it is considered that this is less than substantial harm to the Mill as an undesignated heritage asset as well as the wider conservation area. In this instance the less than substantial harm incurred is significantly outweighed by the wider public benefits of bringing the mill and the surrounding site back into use. The proposal consequently accords with NNPPF Paragraph 202.
- 10.37 In respect of Policy 3 of the HVNP, the new dwellings have been designed to respond to the context of the site in a contemporary way, with references to its textile heritage and industrial character. The use of natural stone for the external masonry, and dry-stone walling for boundary treatments, reflects the local vernacular.

#### *Archaeology*

- 10.38 West Yorkshire Archaeology Advisory Service [WYAAS] have been consulted on the application and have confirmed receipt of a Archaeological Building Record by Andrew Swann Historic Building Services (Report No. 03). WYAAS have confirmed that they have added the report to the West Yorkshire Historic Environment Record.
- 10.39 WYAAS have further advised that any below the ground disturbance in the northern interior of the Mill building will require a watching brief and written scheme of investigation. This is to record potential evidence relating to the means of generating and distributing power within the Mill including both the original Water Wheel and the later Steam engine installations. A condition securing this specific matter is listed in Section of this report. By consequence the proposal is considered to be in accordance with LP35 – Historic Environment and Policy 3 of the HVNDP.

#### *Conclusion*

- 10.40 This is a difficult site, with a substantial historic building and several site constraints, and it is determined that the construction of new dwellings on the previously developed land within the mill complex, is necessary to enable the restoration and re-use of the vacant mill building.
- 10.41 It is acknowledged that there is harm arising from aspects of the new build element of the scheme, however this harm is less than substantial and is outweighed by the considerable public benefits relating to the conversion and restoration of the vacant mill along with improvements to its setting given the dilapidated state of the land.

- 10.42 Given the detail and thoroughness of the submitted scheme, LPA Officers are satisfied that the development proposal is considered to be in accordance with LP35 – Historic Environment and Policy 3 of the HVNDP.

### Layout, Scale, Visual Appearance and Landscaping Matters

#### *Layout*

- 10.43 In respect of the layout of the proposed development, this is largely constrained by the significant level difference between the northern and southern sides of the Mill site which are split by a retaining wall in combination with the pre-existing accesses via the bridge over the River Holme from the north and the single carriageway track via Dam Head from the south/west.
- 10.44 The highway accesses are in set locations that determine where internal road layouts can be provisioned which, in combination with the retaining wall that splits the site in two, subsequently elicits the requirement for two turning heads to allow vehicle turning capacity within the confines of the site. The retaining wall is set in the proposed location of the rear elevations of Plots 10-16. Crossing the retaining wall with a highway to create a looped road would not be feasible due to the resultant highway gradient that would be incurred.
- 10.45 Historic aerial mapping imagery from 2001 and 2003 indicates that the development site, whilst in commercial use, was significantly more developed than the layout put forward under this application. The assessment of surface water drainage, to be addressed in a subsequent part of this report, indicates that levels of hardstanding will be reduced by between one quarter and one third than is currently in-situ. The layout consequently enables a somewhat more balanced level of built development on the site than had previously been the case when the site was in commercial use. Representors have also cited that the area west of the Mill, where Plots 1 and 2 are proposed, had not previously been developed. The aerial imagery further confirms that these areas had been developed at an extent significantly larger than that which is proposed under this application.
- 10.46 The linear row of north-light style dwelling houses is reflective of the Mill's footprint while units 1,2, 17, 18 and 19 also enable the development to merge into the surrounding rural landscape through their less uniform and more fragmented layout which evokes the layout of existing units on Dam Head.
- 10.47 Overall the layout of the site is a reflection of the site's former use whilst being constrained by historic development of the site. This approach is considered acceptable.

#### *Scale*

- 10.48 The Mill is a two, three and four storey building on account of its built form cutting into the hill-side and forming part of the River Holme's southern bank. Units 1, 2, 17, 18 and 19 are wholly two-storey in scale while units 10 to 16 being three storeys across their northern elevation and two storeys at their rear on account of the aforementioned retaining wall.
- 10.49 Plots 1 and 2 as well as 10 to 16 are in line with the height of the Mill. However, Plots 17, 18 and 19 are set higher than the roof of the Mill, but are limited to a 1.5 storey style to minimise their massing.

10.50 Overall the scale and massing of the proposal is responsive to the topographical challenges that characterise the site.

### *Appearance*

10.51 Many representors consider the scheme to be contrary to the setting and appearance of the conservation area. It is posited that this view does not necessarily take into account the previous built form of 20<sup>th</sup> Century buildings on the site.

10.52 The 2003 aerial imagery indicates that the, now demolished, c.20<sup>th</sup> Century commercial buildings were composed of asymmetric industrial rooves similar to that proposed under this application. The aerial imagery also suggests that the style was present on the buildings situated both west and east of the Mill building.

10.53 Appearance is often subjective, and the applicant has provided a more contemporary interpretation of redeveloping the site by drawing upon its former incorporation of asymmetric north-light style sheds, instead of drawing more heavily on the pastoral weaver-cottages that typify the village of Hinchliffe Mill. The Mill itself is evidently of a different vernacular than the village, given its more Palladian and symmetric façade. What's more, as the development is on former industrial land as opposed to the more bucolic residential land that typifies the village, the development's tendency toward the industrial vernacular is considered acceptable.

10.54 Indeed attempting to repeat the historic appearance of Weaver's Cottages on the site of Hinchliffe Mill is fraught with risk, as replicating such styles to imitate the rustic and pastoral appearance of such dwellings generally incurs a pastiche that is jarring and of clear contrast with the more historic units present in the village. Typically development of this type is restricted to extensions of buildings, not new planning units/buildings. As mentioned in the previous section, materials will not be compromised and this requirement is highly likely to help the development integrate with the appearance of the village.

10.55 To reiterate points made in the previous heritage section, Plots 1 and 2 utilise a more domestic fenestration layout given that these dwellings are more closely related to the existing village and it can therefore be argued that the proposal does attempt to integrate into the historic setting and appearance of the area.

### *Landscaping*

10.56 The submitted landscaping scheme has been reviewed by KC Landscape and an indicative off-site contribution figure has been generated of £26,194. This figure has arisen due to the various shortfalls in on-site provision for specific Public Open Space typologies set out within the adopted SPD. Further information pertaining to the landscaping contribution is available within the planning contribution section of this assessment.

10.57 With regard to content of the submitted landscaping scheme itself, KC Landscape identified that the mix of trees is within the visual and ecological parameters of the site, however the indicative spacing of the trees varied widely and was inconsistent. Some trees were proposed in impractical locations next to elevations of proposed units and, in one instance, occupy an entire garden. A revised landscaping plan including boundary treatments as well as hard and soft landscaping was provided by the applicant on the 28<sup>th</sup> November 2022. The revised information goes some way to providing sufficient detail in respect of boundary treatments and landscaping. Indeed, the specification and species of the trees has been clarified, street tree locations identified and appropriate boundary treatments to be installed to separate the eastern POS from Plots 15, 16 and 19. Nevertheless there are outstanding details required in respect of the landscaping strategy such as root protection barriers to prevent issues with trees being sited within drainage easements as well as detail as to the height and composition of boundary treatments to name a few issues. In any case, the quantum of outstanding detail is able to be addressed via an Landscape Ecological Design Strategy to be secured by condition.

### *Conclusion*

10.58 It is considered by LPA Officers that the proposed development is designed in acceptable principles of layout, scale, appearance and landscaping, as advised within the Housebuilders SPD, Policies 1, 3 and 6 of the HVNDP, Policy LP24 of the KLP and the National Design Guide.

### Housing & Residential Amenity

#### *Housing Mix*

10.59 Kirklees Local Plan Policy LP11 – Housing Mix and Affordable Housing requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. All proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure.

10.60 The development proposes to provide 5 three-bedroom properties and 14 four-bed properties. Table 7.1 in the Kirklees Strategic Housing Market Assessment 2016 (SHMA) sets out the distribution of need in the borough for all types of housing. Table 7.1 indicates that, for open-market need, 30.74% of the annual housing requirement should be composed of three bedroom units while 24.61% of the requirement should be four bedroom properties. Three and four bedroom houses consequently constitute 55.35% of the housing requirement, and this does not include the open-market need for similarly sized bungalow properties.

10.61 Due to the viability of the scheme, in that it is a form of enabling development for an historic yet derelict Mill building significant to the local area, the housing mix has been accepted by Officers as the proposed housing mix still provides for the needs of more than 50% of Kirklees' residents need and it is understood that the larger properties provide greater revenue by which to fund the redevelopment of the Mill which carries higher costs than standard residential development. The introduction of smaller dwellings would have the potential to increase development costs thereby affecting the revenue necessary to deliver the Mill renovation.

*Residential Amenity in respect of Privacy, Overshadowing & Overbearance*

10.62 All of the proposed dwelling houses have been reviewed and are found to benefit from adequate outlook, privacy and natural light. Adequate distances would, in most instances, be provided within the proposed development between the new dwellings. In the main, each dwelling house would have adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents as required by the Housebuilders SPD. It is acknowledged that the private gardens of some plots would be affected by boundary trees to be retained. However, it is considered that it would be up to the prospective buyer to decide whether or not the desired property garden meets their requirements and, in most cases, it is anticipated that the potential effects of shading are outweighed by privacy gains from canopy spread relative to adjacent windows.

10.63 In respect of the development's impact on existing residents adjacent to the site. The use of Water Street and Spring Lane would incur a greater number of vehicle movements that could create more noise and disturbance for residents of affected properties. However the Mill has been subject to planning permission previously for both 21 and 19 units respectively. The Mill has also been used commercially for most of its lifespan where a significant number of deliveries and employee movements would have been incurred. As such, the re-intensification in use of both accesses, though likely to be somewhat detrimental in noise terms, would be considered reasonable as rights of access have been established for a significant number of years.

10.64 In respect of privacy loss, the re-introduction of the use of windows on the northern elevation of the Mill facing over the River Holme to the southern elevations of residential properties on Water Street would incur a loss of privacy. Balconies are present across most of the rear of the properties spanning 4 to 10 Water Street and the rear habitable room windows of 8, 9 and 10 Water Street would be particularly affected. That being said, it should be acknowledged that the layout is historic and the traditional use of the site would have incurred privacy loss for the residents of Water Street through the pre-existing mutual fenestration layouts between the Mill Building and the Water Street dwellinghouses.

10.65 LPA Officers, cognisant of the longstanding privacy established by the Mill falling out of use, acknowledge that the re-introduction of a new use to the Mill should provide mitigation for potential privacy issues. As a result, a condition is listed in Section 12 of this report which will require the lower row of mullions of the windows serving the northern elevation of the Mill to be obscure glazed.

10.66 In respect of other potential amenity impacts, Plot 1 is set significantly lower than Lower Waterside Barn whilst also being at an offset angle front to rear. It is, therefore, highly unlikely that Plot 1 will overshadow, overlook or overbear Lower Waterside Barn. Plots 1 and 2 are also sited between 41m and 43m from the rear of residential properties on Water Street. Consequently, Plots 1 and 2 are determined to be a satisfactory distance from the rear of dwellinghouses on Water Street.

### *Internal Space Standards*

10.67 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

10.68 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

<b>Plot</b>	<b>House Type Description</b>	<b>Storeys</b>	<b>Sqm (GIA)</b>	<b>NDSS Sqm (GIA)</b>
<i>Open Market Sale</i>				
Plot 1	Detached, four bedroom house with detached garage	2	206	124
Plot 2	Detached, four bedroom house, with attached garage	2	196	124
Plot 3	End-terrace, three-bedroom Mill House	2	199	108
Plot 4	Mid-terrace, four bedroom Mill House	2	189	108
Plot 5	Mid-terrace, three bedroom Mill House	3	204	108
Plot 6	Mid-terrace, three bedroom Mill House	3	194	108
Plot 7	Mid-terrace, three bedroom Mill House	3	195	108
Plot 8	Mid-terrace, three bedroom Mill House	3	194	108
Plot 9	End-terrace, four-bedroom Mill House	3	227	130

Plots 10, 11, 12, 13, 14, & 15	Detached, four bedroom house with detached garage	3	168	130
Plot 16	Detached, four bedroom house with detached garage	3	173	130
Plot 17	Detached, four bedroom house with attached garage	2	185	130
Plot 18	Detached, four bedroom house with attached garage	2	179	130
Plot 19	Detached, four bedroom house with detached garage	2	179	130
<b>Total Units</b>		19		
<i>Total Market Units Below NDSS</i>		0		
<b>Total Below NDSS</b>		0 (0%)		

10.69 Given the above, all of the proposed units are considered to be NDSS compliant.

### *Conclusion*

10.70 Overall the development is considered to meet the amenity requirements set out in the Housebuilders Design Guide SPD, Policy 6 of the HVNDP, KLP Policy LP24, and the NPPF.

### Green Belt, Biodiversity and Tree Matters

#### *Green Belt Matters*

10.71 The red line boundary is within the green belt in the south west corner, across the whole of the width of the site to the rear, as well as to the north east. Each of these areas can be considered individually.

10.72 The most debated parcel of green belt land is in the south west corner of the site (former hardstanding at the head of Spring Lane). While the aerial photo from 2003 does show hardstanding the passage of time has materially altered the character of the site such that it is now considered to be greenfield, and the decision maker must consider the proposal against current policy and the prevailing circumstances at the time of the application. There is therefore no inconsistency in decision making. It should also be noted that even if this parcel were considered to be brownfield there would still be harm to the Green Belt from this proposal.

10.73 The engineering operation required to create the access and car parking must be considered against both openness and the purposes of including land in the Green Belt as required by NPPF paragraph 150. Access from Spring Lane is now proposed for 4 units (2, 17, 18 and 19) as well as for service vehicles and there are 4 car parking spaces proposed as well as the driveway entrance



to Plot 2. The number of units served off the Spring Lane access has been reduced from 9 and the proposed buildings within the Green Belt have now been removed. Nevertheless, as there is currently no use of the land, any use will materially impact on openness. The site has re-vegetated and its character is more closely associated with that of the adjacent countryside than any connection with the former mill site so, while encroachment may be limited, it is still material.

- 10.74 The Green Belt strip to the south of the site is proposed as a swale area. Though the characterisation of the landscape will be altered with the consequent potential impact on openness and encroachment into the countryside contrary to Green Belt policy, the applicant has confirmed that the swales will be with soft edges and will not be engineered with retaining walls.
- 10.75 The use of the area to the east of Plot 19 is to be subject to new planting as set out on the soft landscaping plan. It is proposed to be kept physically separate from Plot 19 through the location of PROW 95/10 such that it could not form part of the domestic curtilage.
- 10.76 The impact on openness caused by the access and car parking off Spring Lane alongside that of the swale across the southern part of the site is contrary to Green Belt policy outlined in NPPF Paragraph 148 and would represent inappropriate development in the Green Belt. The harm caused by inappropriate development carries substantial weight. However, it is highlighted by LPA Officers, that the removal of all structural elements and the reduction in the number of units served from Spring Lane has meant that the Green Belt harm incurred in this particular area is reduced to a level bordering on the minimum possible if *any* access off Spring Lane is to be allowed at all.
- 10.77 With regard to the proposed swale, though it would impact openness through an engineering operation, its inclusion in the plan of the development would meet the test under NPPF Paragraph 145 which requires '*LPA's to plan positively... to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land*' in the Green Belt. This is because the swale is intended to blend into the surrounding countryside and will not incur exposed man-made structures. A detailed design of the swale is yet to be produced, however LPA Officers are satisfied that the information supplied to-date ensures that the SuDS will meet the requirement of paragraph 145 through its enhancement of the visual amenity and biodiversity of the local Green Belt in this particular location.
- 10.78 In the context of the above, it is considered by LPA Officers that the scheme as a holistic package has sufficient merit and benefit to justify the existence of Very Special Circumstances in this instance. Indeed the positive benefits of bringing a dilapidated non-designated heritage asset back into use within and adjacent to a Conservation Area clearly outweighs the harm caused by inappropriate development, even though such harm carries substantial weight, and the limited amount of harm to openness and conflict with the purposes of including land in the Green Belt incurred within the Green Belt by the same development. The current state of the Mill and surrounding land is clearly adversely impacting the visual interest of the eponymous Conservation Area. By bringing Hinchliffe Mill back into use, the Conservation Area will be significantly improved in visual terms while also contributing towards the housing need of local area. The combined weight of these positive factors are considered to significantly outweigh the limited scope of inappropriate

development to the Green Belt as well as the harm incurred to the openness of the Green Belt through the alterations to the Spring Lane Access, its hardstanding and the introduction of the swale, respectively.

- 10.79 No other harm has been identified and it is not considered that this impacts the decision balance set out above. The development is therefore considered to be in accordance with Paragraph 148 of the NPPF.

### *Biodiversity Matters*

- 10.80 With regards to possible impacts on Malkin House Woods Local Wildlife Site (LWS), the EclA has addressed previous concerns set out by KC's Ecologist and determined that the proposed development will not bring about any significant impacts on the LWS. The assessment undertaken by KC Ecology from the information provided and other resources determines this conclusion to be sufficient and anticipates there will be minimal to negligible impacts on Malkin House Woods therefore no mitigation would be required by the proposed development.
- 10.81 Additional information has also been provided for foraging and commuting bats, which anticipates there will be minimal impact given the retention and enhancement of features of high foraging and commuting value within the red line boundary.
- 10.82 With special regard to the Screening Process necessary for the Habitat Regulations Assessment (HRA) of the development's impact on internationally important sites, the information provided in the EclA concludes that the proposed development will result in no impacts on sites of international importance. This on account of the significant distance between the application site and sites of international importance, their lack of connectivity and the absence of qualifying species.
- 10.83 Overall, KC's Ecologist has no objection to the information provided within the latest EclA, subject to the provision of a condition requiring confirmation that licences for works on the site that would have the potential to disrupt protected species are either granted or not necessary alongside a further condition for a Biodiversity Construction Management Plan which would secure the following information:
- a) Minimisation of Vegetation Removal: How the removal of trees, woodland and scrub will be minimised as far as practicable by minimising working areas.
  - b) Schedule 9 Invasive Weed Management Plan: An Invasive Weed Management Plan order to prevent the illegal spread of Variegated Yellow Archangel within and beyond the site.
  - c) Risk assessment of potentially damaging construction activities that refers to the most up-to-date site specific survey information and specifically to nesting birds, badgers and invasive plant species.
  - d) Identification of "biodiversity protection zones", where appropriate.
  - e) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - f) The location and timing of sensitive works to avoid harm to biodiversity features.

- g) The times during construction when specialist ecologists need to be present on site to oversee works, where appropriate.
- h) Responsible persons and lines of communication.
- i) Use of protective fences, exclusion barriers and warning signs, where appropriate.

10.84 An updated Biodiversity Net Gain Statement and Metric has been submitted with the application and which now includes details about the adjacent river habitat along the River Holme. The submitted metric and statement present that there will be no net loss in the value of the river, thereby maintaining the baseline score of 1.01 habitat units post development. Therefore, in order to achieve a 10% net gain for the river, a commuted sum made payable to the local authority, would be required. In addition to the river, the commuted sums required for each broad habitat area is as follows. Each commuted sum is calculated on the basis of £20,000 per unit (as taken from DEFRA's latest risk assessment) in addition to a 15% admin fee, as detailed in the Kirklees Biodiversity Net Gain Technical Advice Note. The Biodiversity contributions are calculated as follows:

- In order to achieve a 10% net gain in habitats, 3.85 units would be required, resulting in a commuted sum of £88,550.
- In order to achieve a 10% net gain in rivers, 0.1 units would be required, resulting in a commuted sum of £2,530
- Should the position of no net loss be pursued, 2.71 habitat units would be required, resulting in a commuted sum of £62,330.

The commuted sums set out above would be secured through an appropriately worded section 106 agreement.

10.85 Overall, through the combination of the Biodiversity Net Gain contribution (discussed in the Planning Obligations section below) and the measures outlined to avoid and mitigate for harm to protected species, the development is considered to meet the requirements of LP30 – Biodiversity and Geodiversity and Policy 13 of the HVNDP

#### *Arboricultural Matters*

10.86 The site and therefore the trees within it fall mostly within the Hinchliffe Mill Conservation Area. The tree survey submitted has provided a detailed assessment of the site's trees and would suggest that many of the trees on the site would be considered low quality within the BS5837 assessment criteria. The report highlights that many of the trees were regenerating from stumps and poor-quality pioneer species.

10.87 Following consultation with KC Trees, it has been confirmed that the amended/updated tree information consisting of the submission of a tree retention/removal plan is sufficient to satisfy the comments made by KC Trees on the 16<sup>th</sup> April 2021.

10.88 The Tree Assessment Plan (ref. 1507 Rev 1 [02/12/21]) clearly shows which trees would be removed to facilitate the proposals. The trees identified for removal are of low or limited value due to their condition or location. KC Trees have no objection to the tree removals proposed and the mitigation planting proposed in the Soft Landscaping Strategy indicatively provides good replacement of what is to be removed, given its low quality and potential.

landscaping details are to be conditioned so that greater detail is provided, however the current landscaping proposals are sufficient for this stage of the development process. The indicated mix of trees and shrubs is a good replacement over what is on site at the moment and, given the constrained nature of the site, larger tree species would be difficult to incorporate.

- 10.89 Overall proposals are acceptable from an arboricultural perspective as they seek to retain good quality trees and sufficiently mitigate for the loss of low quality trees. Submission of a Tree Protection Plan via condition is listed in Section 12 so that detail setting out the tree protection measures required on the site would be submitted prior to commencement of the development.
- 10.90 The proposal is consequently found to be in line with LP33 of the KLP and Policy 2 of the HVNDP

### Site Drainage and Flood Risk

#### *Site Drainage*

- 10.91 The development will reduce a significant amount of hardstanding on the site. The impermeable area of the existing site owing to the presence of historic hardstanding and the retained Mill roof total 8,728sqm. The proposed site will reduce the combined hardstanding area, albeit inclusive of increased roof footprints, to 6264sqm which is approximately 28.2% lower than the status quo.
- 10.92 As a consequence, the LLFA confirms that the proposed attenuated surface water discharges of 3.0 l/s to the mill pond (Plots 1 & 2) and of 50.5 l/s to the river (Plots 3-19) are accepted as indicated on the Proposed Drainage Layouts (G560-CHG-XX-00-DR-C-0300 Rev P5 & 0301 P6). Flows from the roof of the existing mill and the land drainage from the swale on the southern boundary can discharge to the river unattenuated. Flows from the northern swale into the river and from Plots 1 and 2 into the Mill Pond shall be subject to vortex type flow control devices that can handle 1 in 100 year storm events (+30% for climate change), details of which are to be included in the wider submission of detailed drainage design set out in the condition list in Section 12.
- 10.93 The further investigation works should be undertaken as detailed in Section 4 of the Drainage Strategy (Rev 1.5) regarding soakaway permeability testing (in line with BRE365 guidance) alongside CCTV surveys of the existing surface water drainage to be retained and any repairs identified in the CCTV surveys to be carried out.
- 10.94 All foul water connections will discharge to a Yorkshire Water sewer that traverses beneath the River Holme. Plots 1, 2 and 3 require package pumping stations due to their topographical location.
- 10.95 The long term maintenance of the swales, mill pond, permeable paving, flow control devices, flood attenuation facilities and surface water drainage systems are proposed to be arranged via negotiation of the Section 106 agreement through installation of a management company until such time as the drainage system is to be adopted by the statutory undertaker.

10.96 The Local Lead Flood Authority do not object to the proposed drainage strategy and, subject to attachment and discharge of adequately worded conditions relating to permanent drainage design, flood routing and temporary drainage, the development is found to be in compliance with LP27 and LP28 of the KLP as well as Policy 12 of the HVNDP

### *Flood Risk*

10.97 As the site is allocated in the Local Plan as HS190, the site does not require a sequential assessment to be conducted that would identify preferable sites, as advised in paragraph 166 of the NPPF. The discussion below relates primarily to the exception test set out under paragraph 164 and 165 of the NPPF.

10.98 The submitted Flood Risk Assessment (FRA) suggests that, that the site is unlikely to flood except in extreme conditions. The primary flood risk to the site is from fluvial flooding from the River Holme. The FRA suggests that ground water, surface water and sewer flooding are either insignificant or low risk sources for the application site. In any case, the southern swale is to be provided to capture ground and surface water sources to the south of the site with unrestricted flow into the River Holme.

10.99 Site-specific flood defence measures are identified in the FRA which are expected to afford the development site protection from fluvial flooding. The measures identified in include the following requirements:

- a) All new build development shall be located within Flood Zone 1 where the least risk of flooding is expected;
- b) The finished floor levels of the Lower Ground Floor of Units 3-9 (Mill Units) shall be no lower than 166.50 metres Above Ordnance Datum (AOD);
- c) No residential living quarters would be located on the Lower Ground Floor of Units 3-9;
- d) Submission, approval and implementation of a scheme for flood-proofing the Mill units (3-9).

10.100 The Environment Agency have removed their objection to the proposed development on account of the flood defence measures listed above. The Environment Agency have consequently recommended that a condition, in the event of approval of the application, is attached to the decision notice. The condition is listed in Section 12 of this report.

10.101 By consequence the development meets the requirements of clauses (a) and (b) set out in paragraph 164 of the NPPF relating to the flood risk exception test. This is because the development provides wider sustainability benefits to the community, shall be safe through its lifetime whilst reducing flood risk elsewhere on account of the proposed drainage strategy combined with the mitigation listed above, to be controlled by condition.

## *Conclusion*

10.102 The proposed development is considered to accord with the requirements of policies LP27 – Flood Risk and LP28 – Drainage – of the Kirklees Local Plan and Chapter 14 of the NPPF in respect of Planning and Flood Risk.

## Environmental Health, Site Contamination and Stability

### *Noise*

10.103 KC Environmental Health have reviewed the site and have indicated that no permanent noise attenuation is required as no significant noise vectors are identified adjacent to the site.

10.104 The consultee has, however, suggested that a Construction Environmental Management Plan (CEMP) be submitted (via condition) so that best practice in respect of temporary issues that arise during the construction period (including noise, dust mud, worker parking) are adequately mitigated to minimise disruption to local residents. The CEMP is listed as a condition in Section 12 of this report.

### *Protection of Drinking Water*

10.105 The proposed development is in a semi-rural location and in close proximity to properties which rely on alternative sources of water for their drinking water supply. It is therefore important that the proposed development does not have an adverse impact on existing private water supplies and/or the collection grounds of private water supplies which could constitute as a potential risk to human health. A condition is listed in Section 12 that will require submission of a schedule of works that clearly demonstrates that any nearby private water supply and/or collection ground of private water supplies will not be adversely impacted by the proposed development.

### *Contaminated Land*

10.106 A Phase I desk-based assessment and Phase II initial on-site testing for ground contaminants have been submitted in support of the application.

10.107 It is apparent from the Phase I report that there have been potentially contaminative uses on the site (and/or adjoining land) which could impact upon the development and/or the environment. These include, a woollen mill, mill pond and tanks. The Phase I report identifies several past site investigations previously completed. From this, it is recommended that a supplementary phase of intrusive investigation works is completed for this site to confirm that the condition of the site has not changed since the completion of the c.2011 investigations. It is also stated that no further gas monitoring is required as risk assessment remains unchanged.

10.108 The Phase II aspect of the report identified arsenic, lead, and PAH contamination at the site and recommended that a remediation strategy is produced. KC Environmental Health agree with this aspect of the Phase II report. However, several issues have been identified with the Phase II aspect of the report. These are addressed in the following three paragraphs:

- 10.109 Notably, the submitted Phase II and addendum reports pre-date the Phase I report. Furthermore, it is recommended in the newer Phase I report that a supplementary phase of intrusive investigation works is completed to confirm that the condition of the site has not changed since the completion of the c.2011 investigations. We agree that it is plausible that the site conditions have changed since the time of writing. A new site walkover and Phase II investigation is required to confirm the validity of the previous Phase II reports.
- 10.110 The only ground gas data provided is from 2 visits. This does not reflect the 6 visits over 3 months quoted in Section 5.4.1 of the report. It is unclear why these have not been provided given the date of the report. Also, it is unclear how 2 readings can adequately characterise the ground gassing regime at the site, as no justification has been provided for the curtailing of gas monitoring at the time of writing. Further information is therefore required.
- 10.111 No information has been provided concerning the response zones of the gas monitoring wells. This does not appear to be in line with C665 and BS8485:2015+A1:2019 guidance. In some instances, there appears to be groundwater ingress into the standpipes. There is insufficient consideration for groundwater levels and ingress into monitoring well response zones. Further clarification relating to the effect of groundwater on-site upon the ground gas regime is subsequently required.
- 10.112 In general, the Phase I report is satisfactory. However, further information is still required in relation to Phase II. For that reason, the full suite of contaminated land conditions are required concerning intrusive investigation, potential site remediation and validation. Any updated information must confirm, to a high degree of confidence, the ground contamination status including the ground gas regime. The conditions proposed by KC Environmental Health have been added to the list of conditions set out under Section 12 of the report.

### Climate Change

- 10.113 Officers note that measures are included in the scheme to encourage the use of sustainable modes of transport. Should planning permission be granted, adequate provision for electric vehicle charging points would be secured by condition. The drainage design and flood risk minimisation measures also take into account climate change and would also be secured by condition and/or via a Section 106 Agreement, in line with Local Plan policies LP27, LP28 and LP29.

### Viability & Planning Obligations

#### *Development Viability*

- 10.114 The PPG clarifies that to define land value for any viability assessment, a benchmark land value (BLV) should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. This uplift is often referred to as 'existing use value plus's (EUV+). CP Viability have used the residual appraisal methodology, as is established practice for viability assessments. In simple terms the residual appraisal formula is as follows:

**Gross Development Value less Total Development Cost (inclusive of S106 obligations, abnormal development costs and finance) less/minus Profit, equals the Residual Land Value.**

- 10.115 The Residual Land Value is then compared to the Benchmark Land Value (BLV) as defined in the Planning Policy Guidance on Viability. Where the Residual Land Value produced from an appraisal of a policy compliant scheme is in excess of the Benchmark Land Value the scheme is financially viable, and vice versa:

**Residual Land Value > Benchmark Land Value = Viable**

**Residual Land Value < Benchmark Land Value = Not Viable**

- 10.116 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.117 The applicant's viability assessment evidenced that their BLV was **£525,000**. CP Viability, as the independent assessor, provided the following comments on the submitted BLV:

*Having analysed the comparable evidence put forward by Bramleys we consider that the most weight should be attributed to the Former Calder Vale Mill, which is described as a "Disused mill site, cleared of all buildings and heavily self-seeded and overgrown". This sold for the equivalent of £189,000 per acre. Applied to the 'usable' area of the subject property (as described by Bramleys, which extends to 2.34 acres, this equates to an existing use value of £442,260. This is therefore broadly in keeping with Bramleys allowance of £445,000.*

*Having considered all the above, we conclude that Bramleys existing use value of £445,000 for the subject site is broadly reasonable. As for the premium uplift, given the nature of the site, level of abnormalities etc a circa 18% uplift is broadly reasonable. In summary, we therefore agree that a benchmark land value of £525,000 is reasonable for the subject property and have adopted the same in our appraisal.*

- 10.118 In respect of an identified profit scenario, the independent assessor has the following observations:

*In this case, as discussed above in para 3.5, using RH's own appraisal assumptions, even before any planning policies are factored in, the scheme at best only generates a developer profit of 3.60% on revenue. This suggests that the applicant considers there to be little prospect of achieving their 'target profit' of 20% on revenue (or even the 15% minimum suggested in the guidance). However, the scheme is still being brought forward which either suggests (i) other appraisal assumptions are incorrect or (ii) the scheme can come forward at a profit level below the target rate of 20% on revenue. We would also comment that in our*



*experience, smaller scale schemes can typically come forward at lower profit levels than larger scale developments (involving larger housebuilders that have increased central overheads / margins). For example, the 20-dwelling mill conversion scheme referred to above in para 4.19 the applicant considered a 15% on revenue profit to be at a viable level. Having considered all the above, we conclude that a 15% developer profit is appropriate to apply to the modelling.*

10.119 The 15% profit scenario is provided below which establishes the residualised land price output based upon the profit level resulting from the Gross Development Value minus Gross Development Costs – the residualised price is a proportionate component factor of the Gross Development Costs. For the purpose of interpretation, the residualised value equates to the BLV and planning obligations would only be accepted if the residualised price is above the BLV. The values provided below are the latest that were updated through the November 2022 2<sup>nd</sup> Addendum of the Independent Financial Viability Appraisal by CP Viability:

15% Profit Scenario –

Gross Development Revenue/Value (GDV)	£9,468,400
Gross Development Costs (inc. finance and land value)	£8,048,140
Profit on GDV 15%	£1,420,260
Residualised Land Value	(£513,039)

\*Brackets indicate a negative land value.

10.120 The independent assessor explains the above figures as follows:

*The scheme generates a residual land value of £513,039 (when the developer profit is set at 15% on revenue). This is below the benchmark land value of £525,000. At best, this can therefore only be regarded as being marginally viable, before planning policies are factored in. In summary, and in spite of the amended scheme, we again conclude that the scheme is unable to viably support any level of planning policy contributions.*

10.121 On account of the negative land value generated by the independent appraisal, CP Viability conclude that a fully planning compliant scheme is not viable. On this basis the outcome of the viability process is accepted by the Local Planning Authority and assigned significant weight in decision-making terms with regard to planning obligations. That being said, due to the marginality of the assessment results, an overage clause for the purpose of reviewing the financial viability of the scheme post-commencement has been recommended to be pursued in this instance by the independent assessor.

10.122 The viability review is set out within the Officer Recommendation as being required to be included within a S106 agreement attached to a decision on the application subject to Committee approval. The purpose of the viability review would be to ensure that any profits in excess of the agreed profit level of 15%

are paid to Kirklees' Council to meet identified planning policy contributions set out below. Such an eventuality would occur should development costs be lower and/or development revenue higher than anticipated.

### *Planning obligations*

10.123 Planning obligations, that would need to be secured by a Section 106 Agreement, would be necessary to mitigate against the impacts of the proposed development, should planning permission be granted. In accordance with paragraph 57 of the NPPF, planning obligations should only be sought where they are:

- 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

10.124 For clarity and completeness, the following planning policy contributions have been identified as applicable for this scheme:

- **Affordable Housing** – 2 On-Site Units (1 Social Rent & 1 First Home) taking into account Vacant Building Credit (VBC) by bringing the vacant Mill back into use. An off-site contribution figure, inclusive of the VBC would be between £485,421.00 and £510,420.60 as advised by KC Strategic Housing.
- **Biodiversity No Net Loss** - £62,330 for the purpose of off-setting harm incurred by the development upon Biodiversity. This figure has been calculated in line with the Biodiversity Technical Advice Note.
- **Public Open Space** – Shortfalls in on-site typologies have been identified in line with the Open Space SPD which results in an off-site contribution figure of £26,194.
- **Sustainable Travel** – Highways Development Management have identified the need for £10,000 to upgrade a Bus Stop to include a Real Time display on Woodhead Road as well as £12,276.00 for Bus Only MCards for the site's future occupants.

10.125 The development yield is below 25 units and an Education contribution is not triggered, in accordance with the '*Providing for Education Needs Generated by Housing*' *Guidance Note*'.

10.126 Each of the planning policy contributions will be reviewed in turn following on from the outcome of the independent viability review above.

### *Affordable Housing*

10.127 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. The same policy states that '*the proportion may be less where viability evidence demonstrates that there are development costs which would otherwise prejudice the implementation of the proposal*'. Policy 6 of the HVNDP states: '*Provide a suitable proportion of affordable housing in line with the recommendations in the Kirklees Local Plan and NPPF*'.

- 10.128 In this instance, 20% of the proposed 19 dwelling units would represent 3.8 affordable dwelling units. The Council's Interim Affordable Housing Policy states that the 20% affordable housing contribution will normally be rounded to the nearest whole number. This equates to 4 units.
- 10.129 However KC Strategic Housing Officers have confirmed that the proposal would be valid for vacant building credit. The calculation provided by Strategic Housing infers that the floorspace of the vacant Mill building constitutes 41.28% of the overall floorspace of the development proposal and therefore 20% is applied to 59.72% of the floorspace – this equates to 11.34 units or an effective overall contribution of 11.94% on the 19 unit yield. This elicits that 2.4 affordable units are required instead of 4 units, which is again rounded to the nearest number and equates to 2 affordable units with the following tenure split – 1 Social Rent and 1 First Home.
- 10.130 Following submission of the applicant's viability appraisal relating to their proposed development of the site, the subsequent independent viability assessment and its addendums have concluded that under even the lowest profit scenarios, the proposed development would not be able to be viable with any planning obligations – this includes affordable housing.
- 10.131 As the purpose of the independent assessment was to challenge the assumptions within the applicant's viability submission, it would be considered unreasonable for the Local Planning Authority to justify refusal of the proposed development on the basis of the removal of the affordable housing element when it has been independently corroborated that the site could not be developed with its inclusion. As previously set out above, Kirklees Local Plan Policy LP11 makes provision for this eventuality and the removal of the affordable housing component is consequently deemed to be acceptable in planning policy terms as the circumstances of the case, in this instance, are reflective of the revenue and cost expectations of developing a constrained site.

#### *Biodiversity Contribution*

- 10.132 As highlighted by the independent viability assessment, the proposed development is not determined as viable and is not therefore compelled to provide any planning policy contributions when viewed purely in respect of commercial considerations. However, given that development of the site would incur harm to Biodiversity and that this harm would not be offset elsewhere, the applicant is compelled to provide a contribution of No Net Loss to Biodiversity with a value of £62,330, as the development would not otherwise be acceptable in planning terms and would result in an Officer recommendation of refusal to Strategic Committee. The applicant has subsequently confirmed that they will enter into a Section 106 agreement to voluntarily provide the No Net Loss figure set out above so as to make the proposal acceptable.
- 10.133 The higher 10% Net Gain figure which would trigger an elevated financial contribution of £91,080 is not able to be pursued by the Council as the Biodiversity Net Gain powers set out within the Environment Act are subject to secondary legislation which is yet to be provided to enable the primary legislation to come into effect.

## *Public Open Space*

10.134 KC Landscape have highlighted that the development site's shortfall in the open space typologies set out within the Open Space SPD incur a figure of £26,194 that would be used for improvements to local facilities. However, due to the independent viability outcome, the applicant is not compelled to provide this financial contribution and has confirmed that they do not wish to do so.

## *Sustainable Travel*

10.135 Highways Development Management have identified the need for £10,000 to upgrade a Bus Stop to include a Real Time display on Woodhead Road as well as £12,276.00 for Bus Only MCards for the site's future occupants. However, due to the independent viability outcome, the applicant is not compelled to provide this financial contribution and has confirmed that they do not wish to do so.

## *Conclusion*

10.136 Overall the conclusions of the independent viability appraisal allude to the marginal viability of the scheme with the headline residual land price result pointing toward the scheme being unviable, even without planning policy contributions. The scheme is forced to provide a No Net Loss Biodiversity contribution without which it would not be acceptable given the level of Biodiversity harm that would not be offset elsewhere. Officers would prefer the scheme to come forward with a full suite of planning policy contributions, however the independent viability exercise has concluded that the scheme could not come forward with additional contributions as this would incur the developer profit falling below the minimum recommended within the Planning Practice Guidance.

10.137 It should be highlighted that the independent appraisal noted that the outlook for the housing market is turning negative due to the increase in the Bank of England Base Rate which is feeding into elevated mortgage costs that, in turn, have the potential to significantly reduce house values in the medium term. That being said, should any excess profits emerge from the scheme due to unexpected falls in costs or up lifts in revenue, this would be captured via a viability review exercise to be secured via the Section 106 – this being included in the Officer recommendation to Strategic Committee.

10.138 Given the wider economic context in which this scheme is presented to Strategic Committee, the Officer recommendation for approval is made in the context of the significant benefits of bringing a derelict Mill back into use whilst contributing toward the housing need of the Borough.

## Representations

10.139 To date, a total of 184 representations have been received in response to the council's consultation and subsequent re-consultations whilst 3 representations were received from the Holme Valley Parish Council. The material considerations raised in comments following publicity of the application have been fully addressed in this report as follows:

### *Highway, Transport and PROW Matters*

- Intensification of substandard accesses to the site, not only for cars of the occupiers in the dwellinghouses but also delivery and postal vehicles.
- Insufficient capacity on the local highway network to accommodate extra vehicles.
- Lack of off-street parking for existing local residents displaced by the development on Spring Lane Requests for off-street parking provision.
- Lack of traffic generation information and limited consideration for school trips within the supporting Transport Statement.
- General criticism of the Transport Statement in respect of its assumptions.
- Highway safety concerns on Dobb Lane.
- Water Street and Spring Lane junction visibility inadequate.
- Lack of footways in the surrounding area is dangerous for pedestrians and this will be exacerbated by the development.
- Intensification of vehicular journeys on a local school route to the detriment of highway safety.
- Lack of access for emergency vehicles/access width issues.
- Concerns in respect of parking for residents on Water Street.
- Potential for obstruction to local PROW 95/10.
- Inadequacy of public transport serving the local area.

**Officer response:** The concerns raised in regard to highway safety and transportation are addressed in the main assessment above.

### *Character, Appearance, Heritage & Green Belt Matters*

- Changing the character of the Green Belt from its now Greenfield status.
- Inappropriate development in the Green Belt.
- Lack of provision for restoration and improvement of Mill Dam, the 2010 application allowed for this, for the benefit of all residents.
- Negative impact on the conservation area or the appearance of the wider style of the village.
- Over-intensification of the site due to the number (24), size and scale of the buildings proposed adjacent to the Mill.
- The shape of the proposed dwellings are not sympathetic to the Mill and the scale is out of keeping at 3 storeys in height.
- Units 1 and 2 will impact the character of the conservation area negatively.
- Site is now established woodland with trees in a conservation area set to be removed that have TPO status.

**Officer response:** The concerns raised relating to design, heritage and Green Belt have been addressed in the main assessment above.

### *Ecological & Sustainability Matters*

- Concerns regarding wildlife and the disruption to habitats from the development.
- Lack of river unit consideration within the Biodiversity Metric
- Contamination of the river during the construction/renovation process.

**Officer response:** The concerns raised relating to wildlife, protected species and Biodiversity off-setting have been addressed in the main assessment above.

- Lack of sustainable heating methods, such as a district heating network or air/ground source heat pumps.

**Officer response:** Though there is the ability to consider sustainable heating methods within schemes, there is no weight in local or national planning policy that can be attributed to justifying refusal of a proposal should such features not be included.

- Excessive on-site car parking is not in accordance with Kirklees' Climate Emergency.

**Officer response:** The level of car parking on the site complies with the requirements of the Highways Design Guide SPD and though the Council wishes to reduce reliance on vehicles, development decisions need to be realistic about the level of reliance rural communities have on private motor vehicles and plan accordingly.

#### *Residential Amenity Matters*

- Concerns in respect of privacy from windows serving the northern elevation of the mill building overlooking the properties on Water Street.
- Negative impact upon the amenity of the residents of Water Street and Dam Head/Spring Lane.
- Excessive noise, disturbance and odour (unspecified).

**Officer response:** The concerns raised relating to privacy and wider residential amenity concerns have been addressed in the main assessment above.

#### *Flood Risk Concerns*

- Concerns in respect of development within a flood zone and general concern for creation of flooding in the local area as a result of the development.

**Officer response:** The concerns raised relating to development within a flood zone and wider flood risk concerns have been addressed in the main assessment above. The proposal has been assessed as acceptable by both the Environment Agency and the LLFA.

#### *Miscellaneous Planning Matters*

- Complaints relating to the housing mix and lack of 2 bedroom units.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Lack of affordable housing provision.

**Officer response:** This specific matter results from the viability of the scheme and has been addressed in the main assessment above.

- Lack of local facilities, therefore the development will be car reliant.

**Officer response:** Increases to population in a settlement often make existing business more viable through increased footfall and spend. The development site is within walking distance of public transport facilities on Woodhead Road and there are local shopping facilities on the same street within the village. The development will not be solely reliant on vehicular trips only.

- Local infrastructure incapable of supporting the new dwellings.
- Lack of school places to accommodate any new children in the area.

**Officer response:** Relevant consultees including Yorkshire Water, the Local Highway Authority and Northern Gas Network have not objected to the proposed development. Educational and health facility planning is subject to separate planning by relevant bodies who base infrastructure requirements on population trends.

### **Comments/Observations**

- Application red line runs over my property at Lower Waterside Barn

**Officer response:** The applicant has advertised the application in accordance with the requirements of Certificate D signed on the application form. A copy of the advertisement has been provided to the Council verifying that the application was advertised appropriately in the Huddersfield Examiner on 23<sup>rd</sup> February 2021. The reference for this is TM REF 901887910-01. A separate matter relating to a landscaping plan proposing to block an access point has also been rectified through submission of amended plans.

- Dam Wall is infested with Japanese Knotweed which could exacerbate the dam wall's integrity and cause a flood.

**Officer response:** This specific matter would be addressed through a condition set out in Section 12 below.

- Request for re-instatement of the PROW footpath upon its original legal route.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Development must be in-keeping with the mill and the local area.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Consideration should be given to access for refuse collection and service vehicles.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Water Street should be re-surfaced to account for the increase in use.

**Officer response:** This specific matter would be addressed through a condition set out in Section 12 below.

- The development should adhere to the site yield of 19 units as advised in the Local Plan.

**Officer response:** The submission is for 19 units in accordance with the Local Plan Allocation requirement.

- Proposal for alternative road arrangement that would allow for a multi-lane carriageway where vehicles can pass.

**Officer response:** Such a design would not be feasible due to the constraints of engineering the site which would have an unacceptable impact on residential amenity, biodiversity and the character of the residential estate. The internal site levels and retaining wall would also likely prevent an acceptable internal highway gradient to be achieved. The distribution of vehicular movements across two accesses is the preferred design solution by KC Highways.

- PROW 95/10 remains obstructed due to historic development. The development should improve this situation.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Request for a Committee site visit.

**Officer response:** The site has been visited by Strategic Committee members on the morning of the 3<sup>rd</sup> November 2022.

- Lack of documentation, especially in respect of Habitat Regulations Assessment concerning the Special Protection Area – Pennine Moors.

**Officer response:** This specific matter has been addressed in the main assessment above.

- Request for native planting in the soft landscaping scheme.

#### Other Matters

10.140 There are no other matters.

### **11.0 CONCLUSION**

11.1 The site has constraints in the form of its historic context (being an undesignated heritage asset within a conservation area), its topography, its location adjacent a Mill Dam and the River Holme, its highway accesses, the surrounding Green Belt and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant or can be addressed at conditions stage. The proposal poses less than substantial harm to the significance of the conservation area and undesignated heritage asset which is clearly outweighed by the public benefit of bringing the site back into



beneficial use through its contribution to housing need and upon the general improvements to the local area's visual amenity.

- 11.2 The quantum of development is in line with the indicative yield in the site policy of the Local Plan. Likewise, a viability process has been entered into and reviewed in detail by the LPA through an initial independent report and two subsequent addendums which confirm that the proposal is not able to provide planning obligations relating to affordable housing, sustainable travel or open space, though it is able to off-set the harm incurred to viability through an off-site contribution to be secured via a Section 106 Agreement. When weighed in the planning balance, the proposal has responded appropriately to the character and appearance of the surrounding area, and the quality of residential accommodation is considered acceptable.
- 11.2 Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. TCPA Standard 3 Year Time Limit for Commencement;
2. Development in Accordance with Approved Document List;
3. Restrictions on occupation of the development to ensure Mill Conversion is completed;
4. Material Samples, Fenestration Detailing, Heritage Feature Retention Report (Prior to Commencement);
5. Archaeological Recording (Prior to Commencement);
6. Boundary Treatment Plan;
7. Obscure Glazing for Protection of Privacy of Water Street Residents;
8. Installation of Heritage Information Boards ;
9. Environment Agency Flood Risk Mitigation Measures;
10. Detailed Foul and Surface Water Drainage Design (Prior to Commencement);
11. Exceedance Event Assessment and Overland Flow Routing (Prior to Commencement);
12. Temporary Drainage Design (Prior to Commencement);
13. Lighting Design Strategy for Biodiversity;
14. Submission of a Phase II Intrusive Site Investigation Report for Contaminated Land (Prior to Commencement);
15. Submission of a Remediation Strategy for Contaminated Land (Prior to Commencement);
16. Implementation of Site Remediation for Contaminated Land;
17. Submission of Validation Report for Contaminated Land;
18. Protection of Private Water Supplies (Prior to Commencement);
19. Electric Vehicle Charging Points;
20. Construction Management Plan (Prior to Commencement);

21. Submission of Structural Retaining Wall Details (Prior to Commencement);
22. Submission of Highway Structure Details within the Carriageway (manholes etc) (Prior to Commencement);
23. Submission of Retaining Wall Facing Materials;
24. Submission of Tree Protection Plan;
25. Submission of Waste Management Plan;
26. Submission of Temporary Waste Management Plan;
27. Submission of Pre and Post Development Highway Condition Survey (Prior to Commencement);
28. Private Access Road Surfacing Details (Prior to Commencement);
29. Submission of the details relating to the Parking Layby proposed on Spring Lane/Dam Head (Prior to Commencement);
30. Parking Area Surfacing;
31. Construction Environmental Management Plan: Biodiversity (Prior to Commencement);
32. Landscape Ecological Design Strategy (Prior to Commencement);
33. Public Open Space Details;
34. Removal of Invasive Plant Species;
35. Protected Species Licence (Prior to Commencement);
36. PROW Alignment, Construction and Safety Details.

**Background Papers:**

Application and history files.

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f90800>

Certificate of Ownership – Certificate D signed and advertised in the Huddersfield Examiner on 23<sup>rd</sup> February 2021. The reference for this is TM REF 901887910-01.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 08-Dec-2022

**Subject: Planning Application 2022/92718 Demolition of fire training building, extension and landscaping of RTC yard, including erection of fuel pump and tank, bin store and dog kennels, recladding of the BA building and erection of an enclosed link between BA and TRTC, provision of a new sub-station and new boundary treatments, retaining and landscaping works. Oakroyd Hall, West Yorkshire Fire And Rescue Service Headquarters, Bradford Road, Birkenshaw, BD11 2DY**

#### APPLICANT

West Yorkshire Fire &  
Rescue Service

#### DATE VALID

12-Aug-2022

#### TARGET DATE

07-Oct-2022

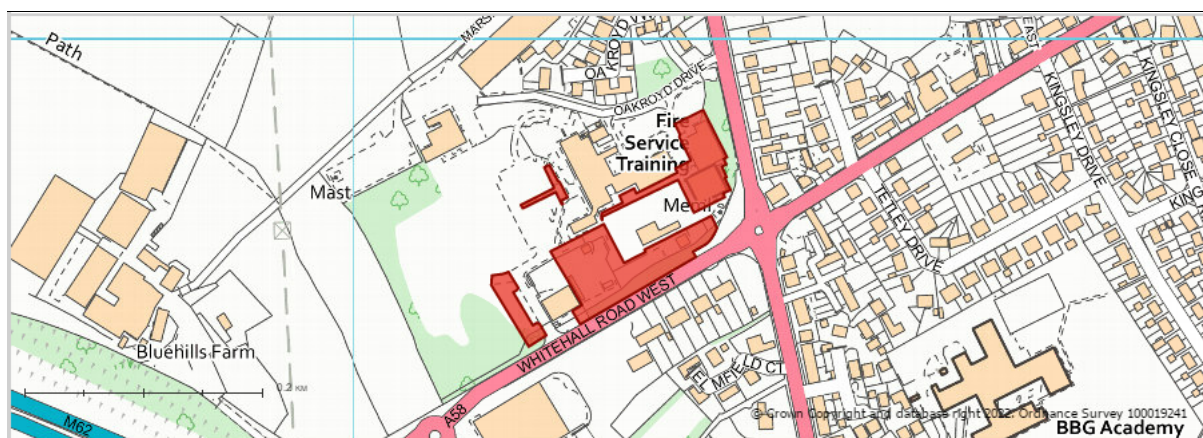
#### EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Birstall and Birkenshaw**

**Ward Councillors consulted: No – minor application.**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including, but not limited to, those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 This full planning application seeks permission for works as part of the redevelopment of the Birkenshaw Fire and Rescue Service site. The proposal includes the demolition of fire training building, extension and landscaping of RTC yard, including erection of fuel pump and tank, bin store and dog kennels, recladding of the BA building and erection of an enclosed link between BA and TRTC, provision of a new sub-station and new boundary treatments, retaining and landscaping works.
- 1.2 The proposal constitutes a significant upgrade on the existing facility and a significant public sector investment in the borough of Kirklees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The West Yorkshire Fire and Rescue Headquarters has been located in Birkenshaw, a Borough of Kirklees, part of the Birstall and Birkenshaw ward in West Yorkshire for almost 50 years. The site is approximately 4.2 miles (6.7km) to the south-east of Bradford and 7 miles (11.5km) to the south-west of Leeds.
- 2.2 The site of a former colliery, most of the buildings were constructed in the late 20th century. There are two existing main points of access into the site; one off Bradford Rd (A651) on the eastern boundary and the other off Whitehall Rd West (A58) to the southern boundary. These two access points create prominent vistas into the heart of the site and an existing viewpoint to an existing memorial can be captured from the intersection of the two roads on the south-east corner.

- 2.3 The Grade II listed war memorial to the south-east of the site was erected in 1924 to commemorate six fire officers who died in the Low Moor explosion in 1916. To the north-west corner of the site is the Grade II listed Oakroyd Hall. The site is surrounded to the north and west by open space and to the south and east by residential properties. There is a mature landscaped boundary on all edges and numerous mature trees that help to screen the site from the main roads to the south and east.
- 2.4 The local pallet of materials consists of a mixture of natural stone and rendered housing and a combination of brick and render/cladding to more commercial type of buildings within the site itself and buildings located adjacent Whitehall Rd West, representing the varied nature of development over the last 30 years.
- 2.5 The application site currently comprises of a range of existing buildings which are currently occupied and utilised by West Yorkshire Fire and Rescue Services. With the exception of the current HQ and occupational health buildings which are required to be demolished to allow the construction of the new HQ and Training Facility, all the of the existing building stock will remain. The existing USAR building will be extended and repurposed to create the new Fire Station.

### **3.0 PROPOSAL:**

3.1 In summary this application includes the following proposals:

- Demolition of fire training building;
- Extension and landscaping of RTC yard, including erection of fuel pump and tank;
- Bin store and dog kennels;
- Recladding of the Breathing Apparatus (BA) building and erection of an enclosed link between the BA building and Technical Training Centre (TRTC);
- Provision of a new sub-station and new boundary treatments;
- Retaining and landscaping works.

3.2 The proposals seek permission for works as part of the redevelopment of the Birkenshaw Fire and Rescue Service site. The works proposed are works in relation to the new, previously approved Headquarters and Training Centre. The Proposed Development will facilitate the creation of modern, purpose-built facilities to support the Site's role as the County Headquarters for the fire service, providing essential training facilities for the fire and search and rescue services.

#### *RTC Yard Alterations and Extension*

3.3 The changes and extension to the RTC are to form a new vehicular access into the Fire Station as well as increasing the facilities and provision of the site in general. The RTC yard is also proposed to be extended along the southern boundary of site. The works here also include demolition of a small existing fire training building, new hard standing, drainage and retaining structures. New fencing is also proposed, with palisade fencing to tie in with the existing palisade fencing and gate proposed at the western perimeter. At the southern boundary (adjacent Whitehall Road) close board fencing is proposed for the

full length of the proposed RTC yards. This combined with works proposed under separation application 2022/92681 would allow fire tenders returning back to the fire station to drive straight into the appliance bays rather than reversing. This would create a looped one-way system for emergency vehicles, supporting a rapid response. The yard would also provide 5 new parking spaces for operational vehicles. The extension of the RTC yard would result in the loss of 25 trees along the southern boundary of the site, which are proposed to be replaced with 35 new trees planted across various locations within the site.

#### *Breathing Apparatus Building Alterations*

- 3.4 In terms of alterations to the Breathing Apparatus (BA) building, the building, which is located on the eastern side of the site, would be overclad the first floor of the west and north elevations so that the materials match that of the Training Arena building (approved under Planning Application 2022/91138). Additional landscaping works are also proposed in this area including a new external access approach to the buildings, as well as resurfacing and drainage works to the south of the new Training Arena (permitted under the extant 2022/91138 perm ss on). A substation is also proposed to the north of the BA building, which will support all of the works proposed within the site including the new electric vehicle charging points proposed.

#### *Technical Training Centre Alterations and Link Extension*

- 3.5 Alterations to the Technical Training Centre (TRTC) are the removal of the existing canopy and the formation of a new covered space for Breathing Apparatus equipment would be formed in the current space between the BA and TRTC buildings forming a link extension effectively. A new brick external wall would be built in line with the existing BA building and using a similar brick colour. A new flat roof would be formed connecting between the BA and TRTC buildings. There would be access through the existing building entrance and additionally from the rear of the TRTC building. A new canopy is also proposed to the eastern elevation of the TRTC building. Hard landscape proposals around the TRTC buildings include a new path following the building edge and a ramp to provide level access to an existing door on the southern façade.

#### *Other Works Proposed*

- 3.6 Other works include the reconfiguration of the footpath entrance to the already approved HQ building but falls outside of the red line boundary of that application hence why it is proposed on this application. Landscaping works and a new boundary fence to the west of the permitted fire station in the south west corner of the site are also proposed. A bin store enclosed by close board fencing and a matching double gate at 1.8m high is proposed by the RTC yard. A 15,000 litre above ground fuel tank with fuel pump and associated lay bye for re-fuelling is also proposed by the RTC yard. Finally, a dog kennels to accommodate two service dogs is also proposed.

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

##### **4.1** The site, or parts of the site, have been subject to the following planning applications (the list is not exhaustive):

98/60/90117/e3 - outline application for erection of residential development – granted

2002/91236 - removal of redundant communications tower and formation of new car parking – granted

2002/93490 - formation of two new parking areas – granted –

2003/93793 - demolition of existing training centre and erection of new training facility – granted.

2007/90921 - formation of plant enclosure and steps – granted

2009/90733 - erection of extension & alterations, new reception & site fencing – granted

2009/92533 - erection of extension and alterations to ba building, new reception & site fencing – granted

2015/91626 - erection of fire attack box and goods lift with associated ventilation plant and 4 stop goods lift – granted

2019/90231 - certificate of lawfulness for proposed erection of training rig – granted.

2022/91138 - demolition of existing training centre and occupational health buildings, erection of new headquarters including indoor training centre, extension of existing building to form new fire station, extension of car parking and associated landscaping and drainage – granted.

2022/92681 - variation condition 2 (plans) on previous permission 2022/91138 for demolition of existing training centre and occupational health buildings, erection of new headquarters including indoor training centre, extension of existing building to form new fire station, extension of car parking and associated landscaping and drainage – decision pending

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

5.1 The application follows a series of applications and pre-application enquiries at the site. The previous applications and pre-applications have outlined the scope of this application specifically. Therefore, this application has been formed off the back of a series of discussions and negotiations from the previous applications.

5.2 Under this application discussion have taken place with regard to the scope and timing of the conditions, the location of the dog kennels, highways, tree matters and biodiversity. No major amendments have been made.

## **6.0 PLANNING POLICY:**

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

### Kirklees Local Plan (2019):

- 6.2 Relevant Local Plan policies are:
- LP1 – Presumption in favour of sustainable development
  - LP2 – Place shaping
  - LP3 – Location of new development
  - LP7 – Efficient and effective use of land and buildings
  - LP8 – Safeguarding employment land and premises
  - LP13 – Town Centre Uses
  - LP20 – Sustainable travel
  - LP21 – Highways and access
  - LP22 – Parking
  - LP23 – Core walking and cycling network
  - LP24 – Design
  - LP26 – Renewable and low carbon energy
  - LP27 – Flood risk
  - LP28 – Drainage
  - LP30 – Biodiversity and geodiversity
  - LP31 – Strategic Green Infrastructure Network
  - LP32 – Landscape
  - LP33 – Trees
  - LP35 – Historic Environment
  - LP47 – Healthy, active and safe lifestyles
  - LP51 – Protection and improvement of local air quality
  - LP52 – Protection and improvement of environmental quality
  - LP53 – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

- 6.3 Relevant guidance and documents are:
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
  - Negotiating Financial Contributions for Transport Improvements (2007)
  - Highway Design Guide SPD (2019)
  - Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
  - Green Street Principles (2017)
  - Housebuilders Design Guide SPD (2021)
  - Open Space SPD (2021)
  - Biodiversity Net Gain Technical Advice Note (2021)



## Climate change

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

### National Planning Guidance:

- 6.5 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:
- Chapter 2 – Achieving sustainable development
  - Chapter 4 – Decision-making
  - Chapter 9 – Promoting sustainable transport
  - Chapter 11 – Making effective use of land
  - Chapter 12 – Achieving well-designed places
  - Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
  - Chapter 15 – Conserving and enhancing the natural environment
  - Chapter 16 – Conserving and enhancing the historic environment
  - Chapter 17 – Facilitating the sustainable use of materials.
- 6.6 Since March 2014 Planning Practice Guidance for England has been published online.

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of site notices, an advertisement in the Dewsbury Reporter and by direct neighbour notification to adjoining properties.
- 7.2 As a result of the application’s publicity, no comments have been received on the application to date.

## **8.0 CONSULTATION RESPONSES:**

- 8.1 Statutory:-

The Coal Authority – no objections.

Yorkshire Water – no objections.

Historic England – no comments.

Lead Local Flood Authority – support the application.

KC Highways Development Management – formally no comments have been received, informal verbal discussions raised no issues. Formal comments expected in time for the committee update.

The Environment Agency – no comments.

## 8.2 Non-statutory:-

KC Crime Prevention – no objections.

KC Conservation and Design – no objections.

KC Trees – no objections.

KC Ecology – no objections.

KC Environmental Health – no objections.

## 9.0 MAIN ISSUES

### 9.1 The appraisal of the application will review the following topics: -

- Principle of Development
- Layout, Scale, Visual Appearance and Heritage Matters
- Residential Amenity and Noise
- Site Contamination and Stability
- Landscape, Trees and Biodiversity Matters
- Transportation Matters
- Site Drainage and Flood Risk
- Representations

## 10.0 APPRAISAL

### Principle of Development

10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. 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 as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

10.2 Given the nature of the proposal, the following Local Plan Policies are applicable in this instance: LP2 – Place Shaping, LP3 – Location of New Development, LP7 – Efficient and Effective use of Land and Buildings and LP8 – Safeguarding Employment Land and Premises.

- 10.3 The site is developed and is in operational use by the West Yorkshire Fire and Rescue Service. The proposals submitted under this application seek to enhance the current provision and further expand upon the previously approved plans. The scheme would ultimately result in a better provision of facilities within the site.
- 10.4 In respect of Policy LP8 – Safeguarding Employment Land and Premises, the development is not within a Priority Employment Area and is not technically applicable. However, in the most general form, the up increase in facilities at floorspace is welcomed as it more efficiently utilises the site from a land use perspective.
- 10.5 Given that the use proposed reflects the existing employment use, that the redevelopment of the site seeks to utilise the land more efficiently for operations purposes whilst also retaining and securing use of the site into the future, the principle of development is determined to be acceptable as it is found to meet the requirements of Local Plan Policies LP2, LP3, LP7 and LP8.

#### Layout, Scale, Visual Appearance and Heritage Matters

- 10.6 The West Yorkshire Fire and Rescue Headquarters is located on the site of a former colliery, with most of the buildings constructed in the late 20th century. On the prominent south-east corner of the site is a Grade II listed war memorial, erected in 1924 to commemorate six fire officers who died in the Low Moor explosion in 1916. It was originally located in Scholemoor Cemetery and was relocated to the headquarters in 2003. Towards the north-west corner of the site is the Grade II listed Oakroyd Hall which dates to 1867. This well-detailed stone villa was formerly a large detached private dwelling and is now used as administrative office accommodation for the fire service. It is set away from the main complex which is the subject of this application, with soft landscaping to the south and mature trees separating them. KC Conservation and Design determine that deem that the proposed development would not harm or even materially impact the setting of the Grade II listed Oakroyd Hall or Fire Service Memorial.
- 10.7 In regard to design and visual appearance of the proposed works, the proposal would provide a consistent design approach and enhanced landscaping. Whilst many elements of this proposal are of a functional design which cannot be avoided, where possible thought has been given to the visual amenity of the site. For example, the proposed cladding to the BA building would match that of the approved Training Arena building. The proposed link extension to provide a room for breathing apparatus would also match the existing building. The proposed canopy structure to the BA building would give a lightweight and modern finish to this part of the development also. The proposed landscaping would also enhance the site visually. The proposed bin store is suitable screened to also. The existing tree line to the southern boundary would screen any impact from the extension of the RTC yard also.
- 10.8 In summary, the proposal enhances the existing and previously approved provision of the facility whilst improving the visual amenity of the site wherever possible. The functional designs of some elements are accepted given the wider development of this site would improve the visual amenity and appearance of the headquarters as a whole, in accordance with Local Plan Policy LP24 and Chapter 12 of the NPPF.

### Residential Amenity and Noise

- 10.9 Dwellings can be found to the south, east and north of the application site, on the opposite sides of Whitehall Road West, Bradford Road and Oakroyd Drive. Given where the proposed development is within the wider headquarters site, dwellings on Oakroyd Drive will not be affected in any way.
- 10.10 As all dwellings are located on the opposite side of the Whitehall Road West and Bradford Road, considering that the scope of this application is for low level development with the single storey canopy being the tallest part of the proposal, no dwellings will be overshadowed by the proposed scheme.
- 10.11 The site is bound by extensive tree lines on to Whitehall Road West and Bradford Road. All development would be set behind these trees which are subject to a TPO (Tree Preservation Order). As such no aspect of the development would appear overbearing either. Such tree line also preserves the privacy of the dwellings within the area. The sheer presence of Whitehall Road West and Bradford Road between the application site and dwellings also mitigates any harm with regard to privacy.
- 10.12 The only slight concern with regard to amenity of neighbouring dwellings is from the proposed dog kennels which are proposed at the south of the site next to the entrance from Whitehall Road West. This is approximately 50m from the closest dwellings. The kennels would hold two dogs. Officers note this is a low number of dogs, and that are only to be kept on site during the day and taken home with their handler in the evening. As such the impact of these dogs kennels in regard to noise would be lesser than having domestic dogs at any of the dwellings nearby, as such, it is unreasonable to condition any matters with regard to the kennels. This view is supported by KC Environmental Health.
- 10.13 Also, considering the site is adjacent to existing residential properties. All reasonable steps must be taken to minimise and mitigate adverse effects from construction related activities that may lead to a loss of amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP), a condition to secure one is required.
- 10.14 Subject to the forementioned conditions, the proposed development would accord with Policies LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the NPPF with regard to residential amenity and noise.

### Site Contamination

- 10.15 This site has been identified on the Council's GIS system as potentially contaminated land due to its previous use (site ref: 22/2 and 23/2). Contaminated land conditions are therefore necessary. The agent has submitted documents regarding land contamination, which have been assessed by KC Environmental Health.

- 10.16 A Preliminary Geoenvironmental Appraisal & Coal Mining Risk Assessment has been submitted in support the application. The report is a preliminary geoenvironmental appraisal and mining risk assessment of land at in the RTC Yard extension. From the evidence in the report, it is concluded that there will be a negligible risk to end-users. However, gas protection elements must be installed in the link extension area as per the planned installation of gas protection elements in the wider side (previous permission 2022/91138). It is noted a remediation strategy has been submitted for the wider site under a different application. However the remediation strategy must be site-specific to the area under this application and address the risks presented from the submitted report. As such, conditions are required for the submission of a site specific remediation strategy and validation report
- 10.17 Subject to these conditions, the proposal is considered acceptable with regard to contaminated land conditions, in accordance with Local Plan Policy LP53 and Chapter 15 of the NPPF.

### Landscape, Trees and Biodiversity Matters

#### *Trees*

- 10.18 With regard to existing trees on the site, the proposals are a significant redevelopment that result in impacts on the tree cover on the site. The scheme marks 25 trees marked for removal, none of these trees are protected. The scheme proposed 35 new trees as replacement planting. The Arboricultural Impact Assessment (AIA) submitted provides a detailed assessment of the tree cover and the proposals. KC Trees agree with the summary of the AIA owing that the trees proposed for removal are necessary for this development. The trees for removal are not protected themselves and are set on the internal side of a TPO tree cluster which runs along the southern boundary of the site. As such the visual impact value of the trees proposed for removal is minimal and inconsequential as they cannot be seen from the outside of the site.
- 10.19 The arboricultural report submitted with the application identifies that a number of the trees that are proposed to be removed have been infected with Chalara Ash Dieback. Upon reviewing this KC Trees state 9 of the trees to be removed are Ash with moderate symptoms of ADB, this would suggest that the trees are likely to succumb to the disease, but it is possible some would survive.
- 10.20 35 new trees are proposed in order to mitigate the losses of 25 trees, to which non were protected and some were diseased. Due to overcrowding in the existing TPO and low light conditions, the AIA states it would not be viable to plant the replacement trees within the existing, closest tree group. As such, other locations within the ownership boundary have been identified where the trees have a better chance of establishing. The submitted Arboricultural Method Statement (AMS) will ensure protection of the trees on the site that are to remain. Officers agree with this statement and consider there to be more visual amenity value by spreading the replanting across the site than behind existing tree clusters anyhow.

10.21 Subject to conditions for the tree works to be carried out as per the submitted information, KC Trees are satisfied that the proposals meet Kirklees Local Plan policies LP24i and LP33 because of the overriding public benefit of the nature of the proposals and the suitable mitigation proposed by the proposed replacement trees. As such the scheme is considered acceptable with regard to this matter.

#### *Biodiversity and Ecology*

10.22 With regards to ecology and biodiversity, the applicant has undertaken a biodiversity net gain design stage report/assessment, an Ecology Desk Study, an Ecological Assessment and an Arboricultural Impact Assessment.

10.23 In this case there are ecological receptors present within the site, thus, proposed mitigation measures are required to ensure there are no negative impacts brought about by the proposed developments. The mitigation measures highlighted in the forementioned documents should be adhered to throughout the development, which shall be conditioned. In summary, these include details set out in the Landscape Strategy. The proposed development will result in the loss of 0.02ha broadleaved woodland and 0.03ha bramble scrub. The Landscape Strategy will replace this with an area of species rich turf, as stated in earlier sections of the appraisal, the 25 trees to be removed shall be replaced with 35 new ones.

10.24 The BNG assessment submitted with the application details that the development proposals result in an overall net gain of 0.38 biodiversity units (+21.57%). This assessment clearly demonstrates that there will be a net gain in these from the current baseline situation. There is currently no requirement to provide a 10% net gain on the site as a part of this development and it should be recognised that the applicant is intending to do so independently.

10.25 Subject to the cited conditions, KC Ecology have no objection to the proposed development as it will result in an overall enhancement to biodiversity ensuring it complies with Policy LP30, Chapter 15 of the NPPF and the Biodiversity Net Gain Technical Advice Note (2021).

#### *Landscape*

10.26 The applicant has provided a landscape masterplan and well precise landscaping details. The landscaping plan appears to improve the overall landscaping across the site. The details the forementioned removal and replacement of trees alongside all other hard and soft landscaping. The proposals would without a doubt enhance the landscape character of the site. Whilst the landscaping would not be prominent from outside the site, internally, the settings of the buildings within the site would be improved by the patterns of hard and soft landscaping. As such the scheme is considered acceptable with regard to Landscape, in accordance with Local Plan Policy LP32 and Chapter 12 of the NPPF. However, conditions are required to ensure the landscaping is implemented.

### Site Drainage and Flood Risk

- 10.27 The Lead Local Flood Authority (LLFA) have commented on the application and have no objections to the scheme. A Flood Risk Assessment and a Drainage Strategy (Revision 7) have been submitted. The submitted documents suitable demonstrate that appropriate drainage and floor risk mitigation would be put in place for the site. Subject to a condition for works to detailed in these documents to be carried out, the proposal is considered to accord with the requirements of Local Plan Policies LP27 and LP28 with regard to flood risk and drainage.

### Highways

- 10.28 The proposed development has some works which affect the internal layout of the site. The proposed reconfiguration and regrading of the existing ramped access into the RTC yard to the east of the fire station to allow fire vehicles to enter to rear of the fire station in a forward direction. This will negate the need for fire tenders to reverse off the access road to the west and improve the overall internal layout of the site in terms of efficiency. Furthermore the yard has been reconfigured to allow 5 no. Urban Search and Rescue (USAR) vehicles to park in the south west corner whilst retaining access to the rear of the fire station, which again is better in terms of highways efficiency and is safe.
- 10.29 Other works such as alterations to the Breathing Apparatus (BA) building; provision of the new substation; and, alterations to the building entrances to the Technical Training Centre (TRTC) including connection with adjacent BA building would have very little impact on highways matters.
- 10.30 Ultimately, the scheme updates do not change the number of approved car parking spaces and will not materially change the potential number of additional staff working. As such it is not considered this specific application would create any additional generated trips. It is, therefore, concluded that proposals accord with the relevant highways policies.

### Representations

- 10.31 No representations have been received.

### Other matters

- 10.32 There are no other matters that require assessment.

## **11.0 CONCLUSION**

- 11.1 The proposals seek permission for works as part of the redevelopment of the Birkenshaw Fire and Rescue Service site. The works proposed are works to compliment the new, already approved Headquarters and Training Centre. The proposed development will facilitate the creation of modern, purpose-built facilities to support the Site's role as the County Headquarters for the fire service and will allow for a more efficient operation for the fire service in an existing sustainable location.

- 11.2 The scheme has been well designed to mitigate any impacts with regard to residential amenity of neighbouring occupiers. Whilst the loss of trees and harm to ecology will also be suitable mitigated through replacement planting. There would be no harm to the heritage assets in the area either. Impacts in respect of noise and construction have been set out under submitted reports, reviewed by Environmental Health and are to be minimised through compliance with appropriately worded conditions recommended in section 12 below.
- 11.3 Transport impacts are considered to be minimal in respect of highway safety and capacity, with on-site car and cycle parking provision being deemed sufficient. Similarly, a 21.57% Biodiversity Net Gain is to be provided on the site which is currently over and above the minimum 'No Net Loss' required by the Kirklees Local Plan. This latter point is welcomed by LPA Officers.
- 11.4 Overall the proposed development meets the requirements of the policies of the Local Plan set out in the assessment above and is consequently recommended to Strategic Committee for approval, subject to conditions.

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

- 1) In accordance with the approved plans
- 2) Commencement with 3 years
- 3) Development shall not commence until works to remediate shallow coal mine workings has been carried out.
- 4) Prior to the occupation of the development, a signed statement or declaration confirming that the site has been made safe shall be submitted.
- 5) Development in accordance with the submitted Flood Risk Assessment and foul and surface water drainage strategy
- 6) Prior to development commencing a Construction Environmental Management Plan (CEMP) to be submitted.
- 7) Development in accordance with the Arboricultural Method Statement contained within the arboricultural impact assessment
- 8) Submission of Remediation Strategy
- 9) Implementation of the Remediation Strategy
- 10) Submission of Verification Report relating to any site remediation prior to site being brought in to use (If applicable).
- 11) Noise from Fixed Plant & Equipment to be controlled to not exceed background sound level.
- 12) Before the installation of external artificial lighting commences a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.
- 13) In accordance with BNG design stage report.
- 14) In accordance with landscape plans
- 15) Brick to link for BA room to match existing BA & Command building



**Background Papers:**

[link to planning application details](#)

[Planning application de https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/92718](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/92718) tails | Kirklees Council

Certificate of Ownership – Certificate A signed: 08/08/2022

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 08-Dec-2022

**Subject: Planning Application 2022/92651 Use of land as ‘glamping site’ with 6no. glamping pods with decking, alterations to access to Moor Lane with formation of access road and parking areas, change of use of stables to form gym and Class E shop and café, installation of package treatment system**

**Moorgate Farm, Moor Lane, Netherthong, Holmfirth, HD9 3UP**

#### APPLICANT

Kirsty Green

#### DATE VALID

11-Aug-2022

#### TARGET DATE

06-Oct-2022

#### EXTENSION EXPIRY DATE

09-Nov-2022

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

[Public speaking at committee link](#)

#### LOCATION PLAN



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**  
REFUSAL

**1.0 INTRODUCTION:**

1.1 This application is brought before Strategic Committee for determination, under the terms of the Delegation Agreement, since the area of the site is in excess of 0.5 hectare.

**2.0 SITE AND SURROUNDINGS:**

2.1 Moorgate Farm is located on the northern side of Moor Lane roughly 800m west of the edge of Netherthong village. It is a Grade II listed cottage, dating from the early to mid-18<sup>th</sup> Century, built in stone and stone slate, which is located 6m in from the highway boundary and surrounded by other buildings which are classed as historic curtilage buildings. The land that is the subject of this application consists of a roughly L-shaped block with its own gated entrance 115m west of the farm house, extending 75m back from the highway and about 36m in width, with further land to the east which comprises a maintained lawn towards the northern boundary and a large building constructed in blockwork, stone and timber placed near the southern boundary, with a concrete forecourt. The has vehicular access both to the curtilage of Moorgate Farm to the south and the field to the west.

2.2 There is a general downward slope from the highway into the field. There are a number of mature trees near the site boundaries, especially on the road frontage.

2.3 The surroundings of the site are rural and undeveloped.

**3.0 PROPOSAL:**

3.1 The proposal is for the formation of a glamping site comprising the installation of 6 no. pods for guests within the western part of the site, the change of use of the existing building to provide guest facilities, and associated access works.

3.2 A vehicular access track would be formed from the existing gated access leading in a clockwise direction around the western and northern margins of the site to an existing area of hardstanding within which 4 no. parking spaces are shown. A further three spaces would be available in the open bays forming the eastern part of the building; the middle part of the building would become a coffee shop and gift shop, the western part a gym, all for use by guests.

3.3 The four larger pods, with two bed spaces each, would measure 10m by 3.6m, the smaller two, placed at the northern end of the site near the car park, would be 5m by 3m.

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

4.1 96/92642 – Deemed application via enforcement appeal for erection of 4 no. timber huts. Deemed approval. The 2002 aerial photograph shows three huts in the north-eastern part of the site. There was no trace of the huts remaining at the time of the case officer's site visit.

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

5.1 20-Sep-2022: Visibility splay drawing and other supporting information. These were not re-publicised since they were not considered to raise substantial new planning issues.

#### **6.0 PLANNING POLICY:**

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

- The site is within land designated as Green Belt on the Local Plan proposals map.
- Moorgate Farm is a Grade II Listed Building
- A Public Right of Way (Hol/57/30) runs through the eastern part of the site
- There is an Area Tree Preservation Order (TPO) across part of the frontage of the site.

##### Kirklees Local Plan (2019):

6.2 The site is within the Green Belt within the Local Plan Proposals Map.

##### **Kirklees Local Plan:**

- **LP 10:** Supporting the rural economy
- **LP 13:** Town centre uses
- **LP 21:** Highways and access
- **LP 22:** Parking
- **LP 24:** Design
- **LP 30:** Biodiversity and geodiversity
- **LP 33:** Trees
- **LP 35:** Historic environment
- **LP 52:** Protection and improvement of environmental quality
- **LP 53:** Contaminated and unstable land
- **LP 60:** The reuse and conversion of buildings

The site falls within Landscape Character Area 5 – Netherthong Rural Fringe:

### 1.1 Key Characteristics

- The elevation offers extensive views of the surrounding landscape with long distance views towards Castle Hill and Huddersfield and the valley sides afford framed views towards settlements in the valley below.
- Within Netherthong and Oldfield views of the surrounding landscape are often glimpsed between buildings.
- Distinctive stone wall field boundary treatments divide the agricultural landscape.
- Public Rights of Way (PRoW), including the Holme Valley Circular Walk, cross the landscape providing links between settlements. National Cycle Route no. 68 also crosses the area.

### 1.2 Character Management Principles

- Respect long distance views towards Castle Hill, Huddersfield and the surrounding landscape, and framed and glimpsed views from the valley sides and within and from Netherthong and Oldfield towards the settlements in the valley below.
- Retain and restore existing stone field boundaries and use stone walling in new boundary treatments.
- Maintain and enhance the network of PRoW to promote access and consider opportunities to create new links to existing routes.

Relevant Policies to this application within the Plan are:

- Policy 1 - Protecting and Enhancing the Landscape Character of Holme Valley
- Policy 2 - Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- Policy 7 – Supporting Economic Activity
- Policy 11 – Improving Transport, Accessibility and Local Infrastructure
- Policy 12 – Promoting Sustainability
- Policy 13 – Protecting Wildlife and Securing Biodiversity Net Gain

#### Supplementary Planning Guidance / Documents:

#### 6.3

- KC Highways Design Guide 2019

#### Other Documents

- Biodiversity Net Gain Technical Advice Note 2021
- Climate Change Guidance for Planning Applications 2021

#### National Planning Guidance:

#### 6.4

- **Paragraph 11** – Presumption in favour of sustainable development
- **Chapter 2** – Achieving sustainable development
- **Chapter 7** – Ensuring the vitality of town centres

- **Chapter 12** – Achieving well-designed places
- **Chapter 13** – Green Belts
- **Chapter 14** – Planning for flood risk, climate change and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 19-Sep-2022 (publicity by site notice and press publicity in addition to neighbour letter on the grounds that the proposal is a departure from the development plan, would affect a public right of way or its setting, and would affect the setting of a Listed Building).

7.2 7 representations made, objecting to the proposal.

7.3 Summary of concerns raised:

- Highway safety and traffic. It is a 40mph country road and vehicles often exceed the speed limit. Limited sight lines because of bends, no footway. Accidents have already occurred, one fatal. Insufficient parking for guests and visitors to shop and café, and for traders. The village already struggles with congestion.
- Noise pollution especially at night. No mention of how the ban on party bookings will be enforced.
- Air pollution from log burners in a smoke control area, also barbecues and firepits.
- Light pollution in an area that at present enjoys near perfect darkness.
- Impact on local wildlife and livestock. Hares, owls and voles live in the area and their natural habitat will be affected. Also great crested newt.
- The pods will stand out, being made of bright new wood with shiny metal chimneys. They will be clearly visible from Knoll Lane and public footpath even if they are partly screened from Moor Lane. Also the visual impact of vehicles.
- Tree removal and impacts
- Inappropriate in Green Belt
- Rubbish (which would be a threat to livestock) and odours.

Holme Valley Parish Council – The Parish Council is keen to promote tourism in the Holme Valley but opposes this application on the basis of 1) concern over highway access and 2) development in the Green Belt.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

- KC Conservation & Design – Do not support the proposal in its present form.
- KC Public Rights of Way – No objections.
- KC Highways Development Management – Objection on highway safety grounds. Proposal would not have sufficient visibility

### **8.2 Non-statutory:**

- KC Environmental Health – No objection subject to conditions.
- KC Planning Policy (informal response) – Recommend refusal.
- KC Arboricultural Officer (informal response) – Do not support the proposal in its present form.
- KC Waste Strategy – No objections in principle.
- KC Ecology – Should not be determined until the applicant has demonstrated biodiversity net gain.

## **9.0 MAIN ISSUES**

- Principle of development
- Appropriateness within the Green Belt
- Impact on local commercial centres
- Design and landscape issues (including heritage considerations)
- Residential amenity
- Highway issues
- Impact on trees
- Impact on biodiversity
- Representations
- Other matters
- Conclusion

## **10.0 APPRAISAL**

### Principle of development

- 10.1 The site is within the Green Belt on the Kirklees Local Plan Proposals Map. As such the proposal will be assessed having regard to NPPF chapter 13 paragraph 148 which advises that planning authorities should ensure that “very substantial weight” is given to any harm to the Green Belt and that inappropriate development should not be approved unless very special circumstances can be demonstrated. Since the scheme also involves change of use of an existing building, Policy LP60 (reuse and conversion of buildings) is also applicable.



- 10.2 When making decisions on planning applications for development that would affect a Listed Building or its setting, there is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses. In this context preservation means not harming the interests of the building as opposed to keeping it unchanged. Chapter 16 of the NPPF and Policy LP35 of the Local Plan also support this aim.
- 10.3 In addition, the following NPPF policies are relevant here:
- Ensuring the vitality of town centres – aims to support town centres as being the primary location of retail and service provision and prevent the proliferation of out-of-centre commercial activity.
  - Achieving well-designed places – planning decisions should aim to ensure that developments will function well, be visually attractive, be sympathetic to local character, establish and maintain a strong sense of place, optimise the potential of the site to accommodate development and create safe and accessible environments.
  - Meeting the challenges of climate change flood risk and coastal change – opportunities should be taken to reduce the causes and impacts of flooding, and prevent new and existing development from being put at unacceptable risk from, or contributing to unacceptable levels of, pollution or land instability;
  - Conserving and enhancing the natural environment – to minimise the impact on biodiversity and where possible enhance this.
- 10.4 The aims of the following Local Plan policies will be relevant to the assessment: LP10 (to support and increase tourism development where compatible with Green Belt policy); LP13 (main town centre uses to be located in defined centres); LP21-22 (development to provide safe access and sufficient parking); LP24 (design to respect its surroundings and conserve amenity); LP30 (biodiversity to be protected and enhanced); LP33 (trees of significant value to be retained and protected); LP52 (impacts of pollution to be assessed and mitigated); LP53 (development should not be put at risk from contamination). The aims of the relevant Holme Valley NDP policies as listed above (1, 2, 7, 11-13) also fall to be considered.
- 10.5 The applicant does not explicitly address climate change but contains a few short paragraphs on the theme of sustainability, making the following points:
- Water run-off will discharge naturally into permeable areas;
  - Efficient construction methods will be used;
  - Efficient waste collection;
  - Each pod will have its own cycle racks.
- 10.6 The proposal would have the potential to give rise to increased carbon emissions since it is assumed that most guests would be car-borne. This would be slightly mitigated by the provision of facilities on site that would help to minimise the need to make separate trips to local town or village centres, although it is also likely that many guests would make day trips by car to go on

walks or to visit other local attractions. An assessment of trip generation has not been undertaken. It is noted however that the pods are, in themselves, relatively light-weight structures that would contain little embodied energy, and that it involves repurposing of an existing permanent building. If officers were minded to approve, further information could be sought detailing how it would contribute to the above carbon reduction aims in line with the aims of LP24(d) and NPPF Chapter 14.

#### Appropriateness within the Green Belt

- 10.7 Under para. 149 of the NPPF, the erection of new buildings within the Green Belt is inappropriate in principle unless they are for a limited range of purposes, such as agriculture and forestry. New buildings intended to be used as holiday or visitor accommodation are inappropriate in principle since they are not considered to fall within the definition of “appropriate facilities for outdoor recreation” (149b).
- 10.8 The existing land and its wider surroundings consist mainly of open agricultural land. The site is prominent from the local highway network (Moor Lane and Knoll Lane), and whilst its visibility is somewhat reduced by the mature trees on the boundary of the site, any screening effect they provide will only apply when they are in leaf. The proposed development would introduce residential-style timber buildings which would be connected to services and would form permanent structures where no buildings currently exist. This in itself would result in very significant harm to the openness of the Green Belt. The openness of the Green Belt would be further harmed by the provision of vehicular access and parking spaces, screen fencing, bin stores, decking and cycle racks.
- 10.9 It is acknowledged that the pods are a type of development that it would be relatively easy to remove, and restore the site, if they were to become redundant, but the development is clearly intended to be long-term, and this does not negate the harm to the openness of the Green Belt that would occur as long as they are present. Overall, this scheme would cause very significant harm to the openness of the Green Belt. When assessing the proposal against the purposes of including land within the Green Belt, the relevant purpose is purpose c) - to assist in safeguarding the countryside from encroachment. The construction of timber glamping pods would have an urbanising effect and would be incongruous in the wider landscape. The provision of parking spaces, decking, and the other works already referred to would add to this urbanising effect. Overall, this proposal would conflict with the purposes of including land within the Green Belt as it would result in very significant encroachment into the countryside.
- 10.10 The change of use of the building to provide a café and gym would not necessarily be deemed inappropriate in Green Belt terms (under paragraph 150d) if viewed in isolation, nor would it introduce incongruous domestic or urban characteristics into the landscape since there is already hardstanding in place to serve it. But as its entire purpose is to provide facilities for future glamping pod users, it cannot be considered separately from the proposed glamping site and is therefore not deemed appropriate development in the context of this application.

- 10.11 Development that is inappropriate in nature should not be permitted unless “very special circumstances” can be shown to exist, such that the harm to the Green Belt (arising from inappropriateness and any other harm caused) is clearly outweighed by other considerations.
- 10.12 The applicant has submitted a supporting statement making, in brief, the following arguments in support of the proposal:
- Glamping is a relatively new type of accommodation that typically is best suited to countryside as guests want to enjoy an ‘escape’ to peaceful atmospheres and away from the hustle and bustle of everyday life.
  - This application also supports rural development and farm diversification with the aim to positively impact the local community through guests enjoying neighbouring tourist attractions whilst using the wealth of community shops, restaurants and bars.
  - The site is intended to not damage the character and appearance of the existing area and this has been carefully considered on design of this proposed site. The Glamping PODs consist of mainly timber on appearance to blend with the natural surrounds and are envisioned to capture the essence of countryside living without impacting the landscape views.
  - It is believed this site will meet demand for further tourist accommodation in the nearby area with the Holmfirth area. The surrounding areas currently have insufficient hotel and overnight accommodation which would further entice visitors to the area.
  - Glamping sites exist within the area however none will provide guests with the facilities that are associated with this proposal – on-site gym facilities, including an indoor sauna the aim is to promote health and well-being.
  - The site is close to the public footpath network including the Kirklees Way
  - The development would provide significant economic benefits to the nearby towns and villages of Netherthong, Meltham, Thongsbridge, Holmfirth, Holmbridge, Slaithwaite and Honley. The site operator aims to contact local businesses within these communities to offer a ‘partnership’ where each establishment is promoted within one another.
- 10.13 Policy LP10 of the Local Plan supports tourism-related development and farm diversification but also states that where development is located in the Green Belt, regard must be paid to the relevant national and local Green Belt policies. Similarly, HVNDP Policy 7 supports the creation or sustainable expansion of existing businesses solely in instances where, if the site is in the Green Belt, the proposal accords with national Green Belt Policy.
- 10.14 The applicant’s statement claims that there is insufficient overnight accommodation within the local area to meet demand. The submitted “Market Research” document does not back up this claim by means of statistics pertaining to Kirklees or the Holme Valley specifically. Moreover, under Local Plan and Holme Valley NDP policies, an unmet demand for visitor accommodation, or the desire of some visitors to stay in a novel form of

accommodation such as pods or huts in a strongly rural setting, do not provide a basis for going against Green Belt policies. It is acknowledged that there may be both direct and indirect economic benefits to local businesses as a result of the income generated by the glamping site and visitors making use of local restaurants, pubs, shops and visitor attractions, but again it is considered that this would not provide a clear policy-based justification for approving the application, especially in the light of LP10 and Holme Valley NDP Policy 7.

- 10.15 In conclusion, it is considered that the development would cause significant harm to the openness of the Green Belt and undermine at least one of the purposes of including land within it. Very special circumstances that clearly outweigh the harm the development would cause to the Green Belt by reason of inappropriateness or other harm have not been demonstrated by the applicant. The development is therefore contrary to Chapter 13 of the NPPF, Policy 10 of the Local Plan and Policy 7 of the Holme Valley NDP.

#### Impact on local commercial centres

- 10.16 The proposal includes a small gift shop, a café and a gym, which would normally be classed as “main town centre uses”. Since the location does not lie within, or close to, a designated commercial centre, it would normally be subject to a sequential test.
- 10.17 The design and access statement states that the gift shop and café will be accessible to the wider community. This is contradicted by the agent’s later statement dated 20<sup>th</sup> September that this element of the scheme would be for guest use only.
- 10.18 It would certainly be unusual for a campsite or caravan park of this size to provide a café or gym, and even a hotel or guest house with such a small number of bed spaces would not usually provide this range of facilities. But it is likely that the pods would be marketed as high-class or luxury accommodation, at the upper end of the tourist market. It is therefore considered that the size of the facilities is not disproportionate to the amount of accommodation provided.
- 10.19 Making the gym accessible to overnight guests only should not present any problems (for example, by means of a key or code available only to staying guests). It might be more difficult to prevent non-residents from calling at the gift shop or café (for take-away hot drinks or snacks, for example) since these are located less than 20m off the course of the Public Right of Way and there is no fence or barrier separating them. One possible solution, if officers were generally minded to approve the application, could be the erection of a fence along the line of the PROW (with a gate to enable access and egress by guests’ and service vehicles) with appropriate signage advising walkers that it is private land.

- 10.20 In the event of an approval, conditions could be also imposed to the effect that the facilities would be ancillary to the main use as visitor accommodation, and that signage be installed at the main entrance stating that on-site facilities were to be for overnight guests only. Subject to these measures, it is considered that the development would be able to function without undermining the vitality or viability of town and village centres within the Holme Valley, and would thereby accord with the aims of Chapter 7 of the NPPF and Policy LP13 of the Local Plan.

### Design and landscape issues

- 10.21 It is acknowledged that the pods are, visually, a relatively low-impact form of development. Whilst they would represent, as previously stated, an intrusion of built development into open countryside, it is noted that they are single-storey timber structures, that a significant part of the site would remain undeveloped, that many (though not all) trees would be retained, and that indigenous shrubs would be planted to help further soften the impact of the pods and improve biodiversity. It is considered therefore that direct impact on the visual character of the area and local landscape arising from the pods and associated infrastructure would not necessarily be negative, and that in the absence of the Green Belt designation, their visual impact would not provide a reason to refuse the application.
- 10.22 It is also noted that the applicant intends to use low-impact lighting – further details could be sought if officers were minded to approve. Whilst a landscaping and planting scheme would at least minimise visual impact as required by Policy 1(1) of the Holme Valley NDP, the scheme would however fail to ensure the retention of all valuable or important trees (see section 6 below) and in the absence of a formal tree survey or impact assessment it must be concluded that the resultant tree loss would be likely to have a negative visual and landscape impact.
- 10.23 As such it is considered it would not respect or enhance the character of the landscape as required by Policy LP24(a) of the Local Plan.
- 10.24 *Impact on setting of Listed Building:*  
Conservation and Design have expressed some concerns that the proposed glamping development will have a detrimental impact on the setting of the Farm complex on the grounds of the rigid layout, and the prominence of the pods owing to their high sides. The Conservation Officer has recommended that the layout could be improved, that the pods could be better integrated into the landscape, and that the access road should be in grasscrete or similar, not tarmac.
- 10.25 Planning officers' observations are that the Listed Building, Moor Gate Farm, is a considerable distance (well over 50m) from the pods and access track, and would not be seen in the same context. It is therefore considered that whilst there are possible improvements that could be made to the landscaping, which could be the subject of further negotiation if the scheme were acceptable in principle, the development in its present form would not adversely affect the setting of the Listed Building and would thereby comply with the aims of LP35, NPPF Chapter 16, and the Council's duties under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Residential Amenity

- 10.26 The proposed development is of a type that is likely to give rise to noise emissions, arising firstly from the comings and goings of vehicles (mainly guests' but also service vehicles) and secondly from the behaviour of guests on site, who may in the summer months spend much of their time relaxing or socialising outside their pods.
- 10.27 The site is however relatively isolated. The nearest dwellings are Knoll Bridge Farm, Ox Lane Farm and Nos. 201-205 (Cartref), all of which are in the range of 150-200m from the site boundary. It is noted that Environmental Health has not raised any concerns on the grounds of noise, and if it were deemed a concern then in the event of an approval it would be possible to mitigate noise emissions by means of a noise management plan. It is therefore considered that for a development of this scale there would be no conflict with the aims of Policies LP24(b) and LP52.

### Highway issues

- 10.28 The development would use an existing access. In response to Highways concerns about visibility, an amended layout plan was submitted showing a 2.4m by 90m visibility splay. The proposed splay to the west however crosses land that is outside the red line boundary and appears to be in third party ownership. On the basis of the plans now being considered, it is therefore not possible to guarantee that a sufficient visibility splay to the west can be provided or retained in perpetuity.
- 10.29 Even if the red line boundary included all relevant land and there were no land ownership issues, there are mature trees within the visibility splay which are covered by a Tree Preservation Order. The provision of a visibility splay in either direction would require the removal of a number of trees, which it is considered cannot be justified in terms of planning policies.
- 10.30 It is therefore considered that the development would endanger the safety of existing highway users and users of the proposed development and is therefore in conflict with the aims of LP21 and LP22 of the Local Plan and those of Policy 11(4&5) of the HVNPD.
- 10.31 *Impact on Public Right of Way:* The development would not interfere with the use of the public right of way (Holmfirth 57) or increase danger to users. It is therefore considered to accord with the user hierarchy principle as set out in LP20.

### Impact on trees

- 10.32 Policy LP33 states that the Council will not grant permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Paragraph 13.35 of the policy justification recommends that a detailed tree survey is undertaken before a scheme is designed.

- 10.33 Paragraph 174(b) of the NPPF states that: “Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”
- 10.34 The line of trees along the road offers a significant visual amenity and as such are already protected by TPO 66/92/G1. The applicant has not submitted a formal tree survey, tree constraints plan or impact assessment. The Design Statement acknowledges the presence of mature trees on the site:
- “There are multiple existing trees located around the site, however, the layout and design of the proposal have been carefully considered to ensure that no development will create any adverse effect on the existing trees or would require any to be removed. As seen on the supporting layout plan, no units encroach towards the tree line. Due to only topsoil being required to be removed to create pod footing, no harm would come to any of the root protection areas around the tree either.”
- 10.35 It goes on to claim that only one tree will need to be removed, in order to facilitate access. The site layout plan shows one (non-protected) tree removed from the northern part of the site. There are other mature trees in the north-western part of the site, mostly on or near the northern boundary. These are not covered by a TPO but make at least a modest positive contribution to the character of the area and its wildlife value. They would not appear to be directly affected by the setting out of the pods and formation of the access track, or present problems of compatibility with the use of the site. There is another belt of trees on a north-south line just within the eastern boundary of the site, but again these would appear not to be directly affected.
- 10.36 The access as shown on the original drawings would not have provided sufficient visibility. A subsequent drawing showed visibility splays in each direction meeting current standards. It can be seen from observations on site that a number of mature roadside trees each side of the access, which are covered by the TPO designation referred to above, fall within the proposed visibility splay and would therefore have to be removed.
- 10.37 The development does not accord with the aims of Policy LP33 or those of HVNPD 2(3) which states that any significant trees should be retained. It has not been supported by an Arboricultural Survey or Impact Assessment formally appraising the value of the trees on site, explaining how they would be affected and what mitigation or compensation could be undertaken. In the absence of information to the contrary, it would imply the removal of several trees that are covered by a TPO and are considered valuable to amenity. The purported benefits of the proposed development are not considered to provide justification for their loss.

#### Impact on biodiversity

- 10.38 The site within the twite (*Carduelis flavirostris*) buffer zone but not under any other designation for biological conservation purposes. The site however occupies what is deemed to be semi-natural habitat, including what appears to be unimproved or semi-improved grassland, trees and hedgerows. It is

deemed to fall within the Mid-Altitudinal Grasslands biodiversity opportunity zone. The proposals have not demonstrated a biodiversity net gain in accordance with Policy LP30(ii). The Biodiversity Net Gain Technical Advice Note requires that a 10% net gain should be achieved on sites over 0.5ha. Since the site exceeds 0.5ha it is considered that it would be unreasonable to determine it without an ecological survey, impact assessment and calculation of biodiversity net gain since this would be contrary to the aims of the above Technical Advice Note, Policy LP30 of the Local Plan and Policy 13 of the HVNDP.

#### Drainage issues

- 10.39 The site is not known to be at risk of flooding. The applicant proposes that disposal of surface water is to be by means of a sustainable drainage system, disposal of foul sewage by a package treatment plant. Further details could be sought, or be the subject of a condition, if officers were minded to approve. It is considered that the proposal does not raise significant concerns from the point of view of drainage.

#### Representations

- 10.40 Concerns relating to traffic, amenity, biodiversity, trees and appropriateness within the Green Belt have been examined in the main part of the Assessment above but are highlighted here together with other issues raised and officer responses.

- Highway safety and traffic. It is a 40mph country road and vehicles often exceed the speed limit. Limited sight lines because of bends, no footway. Accidents have already occurred, one fatal. Insufficient parking for guests and visitors to shop and café, and for traders. The village already struggles with congestion.  
**Response:** Whilst it is noted that Netherthong village centre is already somewhat congested on account of the substandard highway network, guest trips are unlikely to significantly increase congestion or local traffic at peak times, and since Highways Development Management have raised no concerns about this aspect of the development it would not be reasonable to refuse on such grounds.
- Noise pollution especially at night. No mention of how the ban on party bookings will be enforced.  
**Response:** The submission and approval of a management plan explaining how guest noise will be minimised, could be the subject of a condition in the event of an approval.
- Air pollution from log burners in a smoke control area, also barbecues and firepits.  
**Response:** Environmental Health have advised Planners that to accord with smoke control legislation only exempted appliances must be installed, and only exempted fuels burned outdoors.
- Light pollution in an area that at present enjoys near perfect darkness.  
**Response:** Lighting could be designed so as to avoid spill or trespass. This could be the subject of a condition.



- Impact on local wildlife and livestock. Hares, owls and voles live in the area and their natural habitat will be affected. Also great crested newt.  
**Response:** This concern is considered to be justified, since in the absence of a preliminary ecological survey it is not possible to determine what the impacts on biodiversity would be nor assess whether a 10% net gain would be achievable.
- The pods will stand out, being made of bright new wood with shiny metal chimneys. They will be clearly visible from Knoll Lane and public footpath even if they are partly screened from Moor Lane. Also the visual impact of vehicles.  
**Response:** Design details could be modified if deemed necessary, and improved landscaping sought, if officers were minded to approve.
- Tree removal and impacts  
**Response:** This is deemed a serious concern (see Section 6 above).
- Inappropriate in Green Belt  
**Response:** This is accepted as correct.
- Rubbish (which would be a threat to livestock) and odours  
**Response:** In the event of an approval, further information such as a management plan could be submitted.

10.41 Holme Valley Parish Council's concerns over access and development in the Green Belt are noted, and are found to be substantiated in this instance for the reasons set out in the main part of the Assessment.

#### Other Matters

- 10.42 *Contaminated land:* The development is near to three infilled former quarries. Since only shallow foundations and minimal land disturbance will be involved, this is not a major concern and in the event of an approval it would be sufficient to add the standard precautionary note on unexpected contamination to fulfil the aims of Policy LP53.
- 10:43 *Water supply:* The applicant has confirmed, in response to Environmental Health concerns, that the intention is that the development would be connected to the mains water supply.

## **11.0 CONCLUSION**

11.1 The proposed development would, for the reasons set out above, constitute inappropriate development. It would cause significant harm to the openness of the Green Belt and would undermine the purposes of including land within it. It is officers' assessment that very special circumstances clearly outweighing the harm to the Green Belt have not been demonstrated in this instance. Since there is no guarantee that acceptable visibility splays could be formed or retained in perpetuity, there are unresolved concerns over whether safe access to the public highway network would be achievable. Furthermore, it appears that the proposal would result in the loss of valuable protected trees and it has not been demonstrated that biodiversity net gain could be delivered following the loss of existing natural habitat on site. The proposal is therefore contrary to policies on landscape and biodiversity as set out in the Local Plan and Holme Valley Neighbourhood Development Plan.

## 12.0 Reasons for refusal

1. The proposed development is inappropriate in principle within the Green Belt since buildings for holiday or visitor accommodation do not fall within the definition of “appropriate facilities for outdoor recreation” nor any of the other categories listed in paragraphs 149-150 of the National Planning Policy Framework (NPPF). It is considered that the development would cause significant harm to the openness of the Green Belt and undermine the purpose of including land within it as set out in paragraph 138(c) of the NPPF in that it would represent an encroachment of built development into open countryside. Very special circumstances that clearly outweigh the harm the development would cause to the Green Belt by reason of inappropriateness or other harm have not been demonstrated by the applicant. The development is therefore contrary to Chapter 13 of the NPPF, Policy 10 of the Kirklees Local Plan and Policy 7 of the Holme Valley Neighbourhood Development Plan.
2. The proposed visibility splay to the west crosses land that is outside the red line boundary and appears to be in third party ownership. It is therefore not possible to guarantee that a sufficient visibility splay to the west can be provided or retained in perpetuity. Consequently, the use of the access by the proposed development would give rise to a material increase in risks to highway users, and therefore due to impacts upon highway safety, the proposal is contrary to the aims of Policy LP21 of the Kirklees Local Plan and Policy 11(4&5) of the Holme Valley Neighbourhood Development Plan.
3. The application has not been supported by an Arboricultural Survey or Impact Assessment formally appraising the value of the trees on site, explaining how they would be affected and what mitigation or compensation could be undertaken. The provision of visibility splays as shown on drawing 220430-01-11 would appear to require the removal of a number of mature trees that are the subject an Area Tree Preservation Order, reference 66/92/g1. The development therefore does not accord with the aims of Policy LP33 the Kirklees Local Plan or those of Holme Valley Neighbourhood Development Plan Policy 2(3) which state that any significant trees should be retained.
4. The Kirklees Biodiversity Net Gain Technical Advice Note requires that a 10% net gain should be achieved on sites over 0.5ha. The proposal has not been supported by a baseline ecological survey or impact assessment. It is therefore not possible to assess the value of any existing semi-natural habitat that would be lost (including, but not restricted to, mature trees) nor establish how the appropriate biodiversity net gain would be achieved. The proposal therefore does not accord with the aims of Policy LP30(ii) of the Kirklees Local Plan and Policy 13 of the Holme Valley Neighbourhood Development Plan.

### **Background Papers:**

Application and history files.

[link to planning application details](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92651>

Certificate of Ownership – Certificate A signed.