

Public Document Pack



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

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Wednesday 1 February 2023

Notice of Meeting

Dear Member

Planning Sub-Committee (Heavy Woollen Area)

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 9 February 2023**.

(A coach will depart the Town Hall, at 10.15am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Town Hall.)

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

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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

The Planning Sub-Committee (Heavy Woollen Area) members are:-

Member

Councillor Gwen Lowe (Chair)
Councillor Ammar Anwar
Councillor Nosheen Dad
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Fazila Loonat
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Joshua Sheard
Councillor Melanie Stephen

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

Substitutes Panel

Conservative

B Armer
D Hall
V Lees-Hamilton
R Smith
M Thompson
J Taylor

Green

K Allison
S Lee-Richards

Independent

C Greaves

Labour

M Kaushik
F Perry
M Sokhal E Firth
T Hawkins

Liberal Democrat

A Munro
PA Davies
A Marchington

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Sub-Committee

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

2: Minutes of Previous Meeting

1 - 4

To approve the Minutes of the meeting of the Sub-Committee held on 15 December 2022.

3: Declaration of Interests and Lobbying

5 - 6

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

4: Admission of the Public

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

5: Deputations/Petitions

The Sub-Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

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

6: Public Question Time

To receive any public questions.

In accordance with Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.

7: Site Visit - Application No: 2022/90928

Erection of 2 detached dwellings and detached garage adjacent to The Willows, Hallas Road, Kirkburton, Huddersfield.

Ward affected: Kirkburton

Contact: Alice Downham, Planning Services

8: Site Visit - Application No: 2022/92911

Change of use of vacant land to domestic garden at 39 Carr Side Crescent, Batley.

Ward affected: Batley East

Contact: Alice Downham, Planning Services

Planning Applications

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 6 February 2023.

To pre-register, please contact andrea.woodside@kirklees.gov.uk or phone Andrea Woodside on 01484 221000 (Extension 74993).

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.

**9: Application for an order to divert public footpath
Spensorough 24 (part) and 42 (part) at Whitechapel
Road, Cleckheaton. Town & Country Planning Act 1990,
Section 257** 9 - 36

To consider an application for an order to divert public footpath
Spensorough 24 (part) and 42 (part) at Whitechapel Road,
Cleckheaton.

Ward affected: Cleckheaton

Contact: Giles Cheetham, Public Rights of Way

10: Planning Application - Application No: 2022/90928 37 - 52

Erection of 2 detached dwellings and detached garage adjacent to
The Willows, Hallas Road, Kirkburton, Huddersfield.

Ward affected: Kirkburton

Contact: Alice Downham, Planning Services

11: Planning Application - Application No: 2022/92368 53 - 64

Change of use of building and land from equestrian to dog care
centre at land off Liley Lane, Grange Moor, Huddersfield.

Ward affected: Kirkburton

Contact: Alice Downham, Planning Services

12: Planning Application - Application No: 2022/92911 65 - 72

Change of use of vacant land to domestic garden at 39 Carr Side
Crescent, Batley.

Ward affected: Batley East

Contact: Alice Downham, Planning Services

Planning Update

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

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 15th December 2022

Present: Councillor Gwen Lowe (Chair)
Councillor Ammar Anwar
Councillor Nosheen Dad
Councillor Adam Gregg
Councillor Steve Hall
Councillor John Lawson
Councillor Fazila Loonat
Councillor Aleks Lukic
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay

Apologies: Councillor Joshua Sheard
Councillor Melanie Stephen

- 1 Membership of the Sub-Committee**
Apologies for absence were received on behalf of Councillors Sheard and Stephen.
- 2 Minutes of Previous Meeting**
RESOLVED – That the Minutes of the Meeting held on 27 October 2022 be approved as a correct record.
- 3 Declaration of Interests and Lobbying**
Councillors Anwar, Dad, Loonat and Ramsay advised that they had been lobbied on Application 2022/92094.

Councillors S Hall and A Pinnock advised that they had been lobbied on Application 2022/91817.
- 4 Admission of the Public**
It was noted that all agenda items would be considered in public session.
- 5 Deputations/Petitions**
No deputations or petitions were received.
- 6 Public Question Time**
No questions were asked.
- 7 Site Visit - Application No: 2022/91817**
Site visit undertaken.

Planning Sub-Committee (Heavy Woollen Area) - 15 December 2022

8 **Site Visit - Application No: 2022/90804**

Site visit undertaken.

9 **Site Visit - Application No: 2022/92094**

Site visit undertaken.

10 **Planning Application - Application No: 2022/92094**

The Sub-Committee gave consideration to Application 2022/92094 – Demolition of public house and erection of education centre and prayer room at the Nelson Inn, 145 Slaithwaite Road, Thornhill Lees.

RESOLVED - That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- Development to commence within three years
- Development to be undertaken in accordance with submitted plans and specifications
- Use of the site shall be limited to 15 students or 10 worshippers on site at any time
- Submission and subsequent approval of a management plan, which shall include the timings of classes and prayers, an attendance register and monitoring regime, before the use is first implemented
- Surfacing and drainage of the car park before the use is first implemented
- Provision of an electric charging point before the use is first implemented
- Reporting of unexpected land contamination

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

For: Councillors Anwar, Dad, Gregg, S Hall, Lawson, Loonat, Lowe, Lukic, Pervaiz, A Pinnock and Ramsay (11 votes)

Against: (no votes)

11 **Planning Application - Application No: 2022/90804**

The Sub-Committee gave consideration to Application 2022/90804 – Erection of dwelling, formation of access and other associated operations at Bell Cabin, Long Lane, Earslheaton.

RESOLVED – That the consideration of the application be deferred to enable the submission of further information regarding (i) the previous use of the site (ii) highway information relating to site lines, and approval of structural works adjacent to the highway and (iii) mitigation measures or scope to replace the loss of the wildlife habitat network.

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

To Refuse;

For: Councillors Lawson, Lukic and A Pinnock (3 votes)

Planning Sub-Committee (Heavy Woollen Area) - 15 December 2022

Against: Councillors Anwar, Dad, Gregg, S Hall, Loonat, Lowe, Pervaiz and Ramsay (8 votes)

To Defer;

For: Councillors Anwar, Dad, Gregg, S Hall, Loonat, Lowe, Pervaiz and Ramsay (8 votes)

Against: Councillors Lawson, Lukic and A Pinnock (3 votes)

12 **Planning Application - Application No: 2022/91817**

The Sub-Committee gave consideration to Application 2022/91817 – Erection of four storey mixed use and 22 one-bedroom, affordable, older persons apartments, roof garden and associated car parking at St Andrews Methodist Church Hall, Bradford Road, Littletown, Liversedge.

RESOLVED - That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- Development to begin within 3 years
- Development in accordance with approved plans
- Completion of a Section 106 Agreement (to include car usage for future occupiers)

Pre Commencement

- Construction Method Statement
- Contaminated Land Phase II Intrusive Site Investigation Report
- Details of Contaminated Land Remediation Strategy
- Implementation of Contaminated Land Remediation Strategy
- Contaminated Land Verification Report
- Details of surface and foul water drainage strategies
- Details of overland flow routing
- Details of construction phase surface water flood risk and pollution prevention plan
- Details of surface water pollutant interceptor for car park/hardstanding areas

No Development above Slab Level

- Details of all external materials
- Details of hard and soft landscaping including Landscape Management Plan
- Details of commercial kitchen extraction scheme
- Details of ventilation of habitable rooms
- Details of commercial pollution prevention (fats, oils, and grease)

Prior to First Use/Occupation

- Laying out of car parking, turning, loading areas
- Details of secure cycle parking
- Details of Electric Vehicle Charging Points
- Details of external lighting
- Details of refuse and waste storage and collection
- Details of acoustic performance of party floors, walls, and ceilings
- Details of integral bat boxes

Planning Sub-Committee (Heavy Woollen Area) - 15 December 2022

Other

- Separate surface and foul water drainage systems
- Completion of surface water drainage works prior to first piped discharge
- Development in accordance with Flood Risk Assessment
- Development in accordance with Bat Survey Report
- Development in accordance with Noise Impact Assessment
- Noise levels from fixed plant and equipment
- Hours of commercial operations
- Occupancy restrictions

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

For: Councillors Anwar, Dad, Gregg, S Hall, Lawson, Loonat, Lowe, Lukic, Pervaiz, A Pinnock and Ramsay (11 votes)

Against: (no votes)

KIRKLEES COUNCIL
DECLARATION OF INTERESTS AND LOBBYING
Planning Sub-Committee/Strategic Planning Committee

| Name of Councillor | | | |
|------------------------------------|---|---|------------------------------------|
| Item in which you have an interest | Type of interest (eg a disclosable pecuniary interest or an "Other Interest") | Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N] | Brief description of your interest |
| | | | |
| | | | |

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.



Name of meeting: Planning sub-committee (Heavy Woollen Area)

Date: 9 February 2023

Title of report: Application for an order to divert public footpath Spenborough 24 (part) and 42 (part) at Whitechapel Road, Cleckheaton. Town & Country Planning Act 1990, Section 257

Purpose of report: Members are asked to consider an application to divert public footpath Spenborough 24 (part) and 42 (part) as shown on appended plans. **Members are asked to make a decision** on making the order and seeking its confirmation.

| | |
|--|---|
| Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | Not applicable |
| Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?) | Not applicable If yes also give date it was registered |
| The Decision - Is it eligible for call in by Scrutiny? | No – Council committee |
| Date signed off by <u>Director</u> & name | 25 January 2023 - Colin Parr |
| Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance? | Yes- James Anderson on behalf of Eamonn Croston |
| Is it also signed off by the Service Director (Legal Governance and Commissioning)? | Yes - Julie Muscroft |
| Cabinet member portfolio | Not applicable |

Electoral wards affected: Cleckheaton

Ward councillors consulted: Cllr John Lawson, Cllr Andrew Pinnock, Cllr Kath Pinnock.

Public or private: Public

Has GDPR been considered? Not applicable

1. Summary

- 1.1 The Council received an application from BDW Trading Ltd to divert parts of public footpaths Spenborough 24 and 42 on the grounds that it is required to implement planning consent 2019/93658. The application is made under section 257 Town & Country Planning Act 1990. The planning permission is for the erection of 122 dwellings, landscaping and associated infrastructure. It was granted further to a decision of the strategic committee, a full s106 permission with conditions was issued on 24 June 2021.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93658>

- 1.2 The effect of the diversion proposal is shown on appended Plan 1. The location of the paths and development site are shown at appendix App A. The development site layout is shown at App B and at App F.
- 1.3 The section of the definitive footpaths to be stopped up is shown by the bold solid lines A-B-C-D, with the routes to be created shown by the bold dashed line between point A-E-F-G-H-J-D, J-K and G-L-M-D. The existing recorded definitive width of these footpaths is 1.2 metres, the new footpaths would be at least 2 metres wide.
- 1.4 Part of the alignment of public footpath Spenborough 42 outside of the development site is currently obstructed by a fence and trees, beyond the site boundary north of point C. This section of the footpath 42 is not within the ownership of the developer and these issues affecting the school site are subject of ongoing discussions with the school and Kirklees Council. An alternative route north through to Snelsins Bridge has been available outside the school playing fields on land adjacent to the motorway banking, north of point K. This current diversion proposal is a standalone application to deal with the length of public footpath within the development site, but is flexible enough to make allowance for access northwards towards the continuation of footpath 42 at Snelsins Bridge from point K and from point C. (Aerial photo 2021 at app D, path obstructed north of point D in the school grounds).
- 1.5 The proposal before members is slightly different than that which was shown in the informal consultation process on the diversion application. There are minor changes: at the southern end of the site, just north of the Priory pub, where the proposed path would run on a curved route through the public open space to address level differences between existing land and the new estate road; and at the northeast of the site where a slight change has been introduced due to the water attenuation tank. These minor amendments have been brought to the attention of ward members, as well as planning, flood management, landscape and highways colleagues, and also to those other respondents who made comments in the informal consultation on the diversion application. These changes reflect parts of the details to be agreed in connection with the discharge of planning conditions for the site, for which additional submissions have been made by the applicant to the Council. See appendix App F, for a draft landscape plan and a draft detail plan of the southern end of the diversionary path.
- 1.6 Separate from this section 257 order process, the developer will be dedicating multi-modal public rights of way over the route identified in appendix App E, connecting the estate road to land beyond the site boundary for an off-site potential future pedestrian/cycle link to the Spen Valley Greenway. The relevant Section 106 agreement for the development includes a sum to be provided towards these off-site improvements. The development also includes another pedestrian/cycle link at the

southeast of the site connecting the estate road to Whitechapel Road near the school gates. These routes do not form part of the s257 proposal, but may be considered for their effect on public access coming from the development.

- 1.7 The definitive alignment of the public footpaths across the site, including those proposed to be stopped up, is currently subject to a temporary closure order. A temporary informal diversion route has been available running all along the western (motorway) edge of the site from Whitechapel Road near the M62 bridge to point K on Plan 1 – please note that this temporary route is not the same as the permanent diversion routes proposed and has been provided by the developer to retain public access between Whitechapel Road and Snelsins Bridge north of the school site.

2. Information required to take a decision

- 2.1 The Council may make and confirm an order under Section 257 of the Town & Planning Act 1990 Act if it considers that it is expedient to do so when the following criteria are met:-

- a) it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- b) The Council must also take into account the suitability of the proposal and the effect the change would have on those entitled to the rights that would be extinguished.

Alternatively, following amendment of Section 257 by the Growth and Infrastructure Act 2013, an order may be made in anticipation of planning permission. However an order made in advance of planning permission cannot be confirmed by either the authority or the Secretary of State until that permission has been granted.

<https://www.planningportal.co.uk/permission/responsibilities/other-permissions-you-may-require/footpaths-bridleways-or-restricted-byways-stopping-up-or-diverting>

- 2.2 The statutory procedure is a two-stage process which involves the making of a footpath diversion order. The order would be subject to public consultation by way of statutory advertisement and notices posted on site. If no objections are received or they are resolved, the Council may confirm the order as unopposed. If the order is opposed and the objections cannot be resolved it would need to be submitted to the Secretary of State (DEFRA) for determination, to progress.
- 2.3 A preliminary public consultation has been held on the proposal; the details are listed in section 4 of this report.
- 2.4 Circular 1/09 is guidance published by DEFRA for local authorities regarding PROW matters. Section 5 deals with changes to the public rights of way network.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf
- 2.5 An extract of the executive summary of the ROWIP is appended at App C.
- 2.6 Option 1 is to decide to refuse the application to make the order.
- 2.7 Option 2 is to authorise the Service Director, Legal, Governance & Commissioning to make an order under section 257 of the Town & Country Planning Act **and only to**

confirm it if unopposed, but to defer its decision on sending any opposed order to the Secretary of State at DEFRA.

- 2.8 Option 3 is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 257 of the Town & Country Planning Act 1990. This would authorise confirmation of the order by the Council if unopposed, or seeking confirmation of an opposed order by forwarding it to the Secretary of State to confirm.

3 Implications for the Council

3.1 Working with people

There has been public consultation regarding this application.

3.2 Working with partners

There has been consultation with partners regarding this application.

3.3 Place based working

Not applicable

3.4 Climate change and air quality

Promoting walking and other green transport and providing better facilities for physical activity works towards local and national aims on healthy living, climate change and air quality.

3.5 Improving Outcomes for Children

See 3.4.

3.6 Financial Implications for the people living or working in Kirklees

3.6.1 The Council receives applications to change public rights of way, in this case to facilitate development, where planning consent has been authorised by Council committee. There are conditions which are yet to be discharged.

3.6.2 The Council may make orders which propose to change public rights of way and may recharge its costs of dealing with applications and making orders, as appropriate.

3.6.3 Any person may make an objection or representation to the order.

3.6.4 The Council may choose to forward an opposed order to the Secretary of State at DEFRA ("SoS") to determine or may abandon it. If an order is forwarded, any such objection would be considered by an inspector appointed by the Secretary of State, who may or may not confirm the order. The Council recharges the costs of applications to the applicant as appropriate, but the Council may not recharge the costs incurred by it in the process of determination of an opposed order by DEFRA. The Council would have to cover its own costs of forwarding the order to DEFRA and its costs associated with that decision process, potentially including a public inquiry.

3.6.5 If the Council confirms its own order, or after an order has been confirmed by the SoS, the Council may recharge its costs of concluding the order process, including bringing an order into force.

3.6.6 Land management and development proposals, potentially including those given planning consent, may depend on the making and coming into force of public path orders, such as those changing or extinguishing public rights of way. Without such PROW orders, changes to land use and development may well be delayed, prevented or rendered unviable, with the subsequent effects on matters such as the local economy and provision of homes.

3.7 **Other (eg Legal/Financial or Human Resources) Consultees and their opinions**

Not applicable

4 Consultees and their opinions

- 4.1 Cllr Kath Pinnock states that her main objection is the diversion of the path to go alongside the M62. This will mean walking with a very noisy motorway on one side and a high acoustic fence on the other. It will be neither safe nor pleasant due to the noise levels. Any diversion could follow the boundary with the school site and then turn to join an access to the Greenway. **Officers would note that:** where the proposed path splits, one part goes to the west nearer the M62, whilst there is also an alternative route to be provided to the east of the site; the acoustic fence proposed would be between the proposed western path and the motorway (see site layout in App B, a submission in the ongoing application 2021/93587 for discharge of condition 17 (acoustic barrier) of permission 2019/93658); and that, in relation to the last point, in the approved plan that received planning consent, there is no space for the path to run next to the school boundary, as the land forms rear gardens.
- 4.2 No response to the preliminary consultation has been received to date from the other ward councillors.
- 4.3 The West Yorkshire Police Designing Out Crime Officer has no concerns as the planning application for the site has been assessed for security measures.
- 4.4 The Peak and Northern Footpath Society (“PNFS”) representative visited the site and noted that there is currently no access to Spen 24 and 42. PNFS indicated that it’s a concern that Kirklees granted temporary closures ahead of the formal diversion process as this inevitably leads to the destruction and permanent obstruction of the definitive paths. **Officers offered** to arrange a site meeting with PNFS and explained that the temporary path allowed views of the site. Officers have informed the applicant not to make any permanent above ground constructions obstructing the path and the applicant has undertaken not to obstruct the public footpaths proposed to be stopped up.
- 4.5 The Open Spaces Society representative indicated that works currently being undertaken affect the PROW. Can you please advise the position re-ongoing works affecting the existing footpath, as the diversion, identified in your documentation, appears not yet to be approved. A follow up response from the representative states that it appears the developer has already done other works affecting the footpath. **Officers have** discussed these concerns with the OSS representative, explained the temporary closure order, the proposed new two footpath routes, that the temporary closure informal route is not the same as the diversion proposal, and clarified the stage that the diversion application has reached.

- 4.6 KCOM has no apparatus or proposals for new apparatus in the vicinity of the works
- 4.7 Ramblers, Auto Cycle Union, Byways & Bridleways Trust, Cycle Touring Club, Spenn Valley Civic Society, British Horse Society, Huddersfield Rucksack Club, Kirklees Bridleways Group, British Gas, YEDL, National Grid, West Yorkshire Fire Service, NAVTEC, West Yorkshire Ambulance, BT, NTL, Yorkshire Water, MYCCI, Freight Transport, Passenger Transport Executive, RAC, and Road Haulage Association offered no response.
- 4.8 Notices were posted on site for 28 days and details were posted on the Council website – including the following links:

<https://www.kirklees.gov.uk/beta/countryside-parks-and-open-spaces/pdf/Spennborough-24-and-42-proposal-plan.pdf>

<https://www.kirklees.gov.uk/beta/countryside-parks-and-open-spaces/pdf/Spennborough-24-and-42-build-plan.pdf>

[Changes to the Definitive Map and Statement | Kirklees Council](#)

5 Next steps

- 5.1 If an order is made, it would be advertised and notice served.
- 5.2 If the order is unopposed the Council may confirm it.
- 5.3 If any objections are duly made and not withdrawn, the Council may forward the order to the Secretary of State at DEFRA seeking its confirmation. Alternatively, the Council may decide to abandon the order.
- 5.4 If members decide to authorise the making of an order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:
- 5.4.1 any objections that are received, and
 - 5.4.2 potential referral of the order (if opposed) back to the Secretary of State, or
 - 5.4.3 abandonment of an opposed order.
- 5.5 If sub-committee refuses the application, the order is not made. There is no appeal right for the applicant against a refusal.

6 Officer recommendations and reasons

- 6.1 Officers recommend that members choose option 3 at 2.8 above and give authority to the Service Director, Legal, Governance and Commissioning to make and seek confirmation of an order under section 257, Town & Country Planning Act 1990.
- 6.2 The diversion would be required for the implementation of planning consent 2019/93658 and be expedient when considering the effect on the holders of the rights to be extinguished. The proposal provides a choice of links through the development site and connects to the public open spaces, the continuation of public footpath 42 and the access/egress point at the boundary of the site at the northwest corner. The routes are considered to be of an appropriate construction and design, tarmac or

stone surfaced. The development proposes additional public access benefits through the multi-modal links.

6.3 The site was and would be subject to ground level differences, which the applicants have demonstrated may be addressed satisfactorily.

6.4 Officers continue to work on submissions regarding discharge of conditions for relevant planning consents. (See App G).

6.5 The s257 proposal as described would stop up public footpaths, provide alternatives and allow for residential development to occur in line with the aims of the Council's Local Plan.

7 Cabinet Portfolio Holder's Recommendations

Not applicable

8 Next steps

8.1 If the diversion order is made, there will be a statutory 28-day notice period during which time the public may make representations and objections. Any opposed Order could only be confirmed after referral to the Secretary of State, DEFRA. This may result in a public inquiry.

8.2 If the diversion order is not made, then the planning application could not be fully implemented as proposed.

9 Contact officers and relevant papers

Contact Officer: Giles Cheetham

10 Background Papers and History of Decisions

10.1 PROW files

872/Div/11/24&42

Rights of Way Improvement Plan (ROWIP)

10.2 Planning consent 2019/93658

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93658>

10.3 Appendices

10.3.1 **Plan 1** – Proposed diversion

10.3.2 **App A** – Location Plan

10.3.3 **App B** - Development proposal plan from 2021/93587 applicant submissions for discharge of condition 17, acoustic fence.

10.3.4 **App C** – ROWIP extract

10.3.5 **App D** – aerial photo (2021)

10.3.6 **App E** – plan submitted during discussions regarding proposals for footpath diversion and discharge of relevant PROW-related conditions, showing multi-modal pedestrian/cycle links proposed to be dedicated by separate process.

10.3.7 **App F** – draft landscape masterplan and draft detail of southern public footpath through POS, submitted during discussions regarding proposals

for public footpath diversion and discharge of relevant PROW-related conditions.

- 10.3.8 **App G** – list of discharge of condition applications for conditional s106 full permission for erection of 122 dwellings, landscaping and associated infrastructure 2019/93658

11 Service Director responsible

Service Director: Highways And Streetscene; Environment & Climate Change Directorate

Name of meeting and date:

Planning sub-committee (Heavy Woollen Area) 9 February 2023

Title of report:

Application for an order to divert public footpaths Spenborough 24 (part) and 42 (part) at Whitechapel Road, Cleckheaton. Town & Country Planning Act 1990, Section 257.

1. Purpose of report

Members are asked to consider and decide whether to authorise the making of an order to divert parts of public footpaths Spenborough 24 & 42, which if confirmed and brought into force, would stop up part of public footpaths and provide diversionary footpath routes. The public footpath routes to be stopped up, and the proposed diversionary routes to be created are shown on appended plan 1. Members are asked to make a decision on the Council's making and confirmation of a relevant order.

2. Summary of Report

An application has been made to the Council for an order to stop up part of public footpaths Spenborough 24 (part) and 42 (part) at a residential development site and provide alternative routes. Conditional full s106 planning permission was granted under reference 2019/93658. A number of houses are proposed to be built on the current legal lines of the above public footpaths, prompting an application for an order to stop up and divert public footpaths at the site. A number of planning conditions are yet to be discharged and are the subject of numerous applicant submissions and ongoing discussions with officers, to be finalised under delegated powers. For an order to be made under section 257, there must be a relevant planning consent or in anticipation of a planning consent. For an order under section 257 to be confirmed, planning consent must be granted. Two user groups have raised procedural concerns which are included in part 4 of the committee report.

3. Ward Councillor comments

Ward members have been consulted, as part of the informal preliminary consultation.

Cllr Kath Pinnock raised concerns in objection to the proposal, regarding proposed path alignment and noise concerns for users, which are described at paragraph 4.1 of the committee report, with officer comment.

No response was yet received from the other ward members. Officers would update committee as appropriate on any further comment.

4. Officer recommendations and reasons

Officers recommend that members authorise the making of an order to divert public footpaths 24 (part) and Spenborough 42 (part), and for officers to seek confirmation of the diversion order. Officers consider that the proposal is appropriate and would satisfy the relevant legal criteria, described in the full report.

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Proposed diversion of public footpaths Spenborough 24 (part) and Spenborough 42 (part) at land at Whitechapel Road, Cleckheaton. Town & Country Planning Act 1990, section 257

A-B-C Public footpath to be stopped up (24)

C-D Public footpath to be stopped up (42)

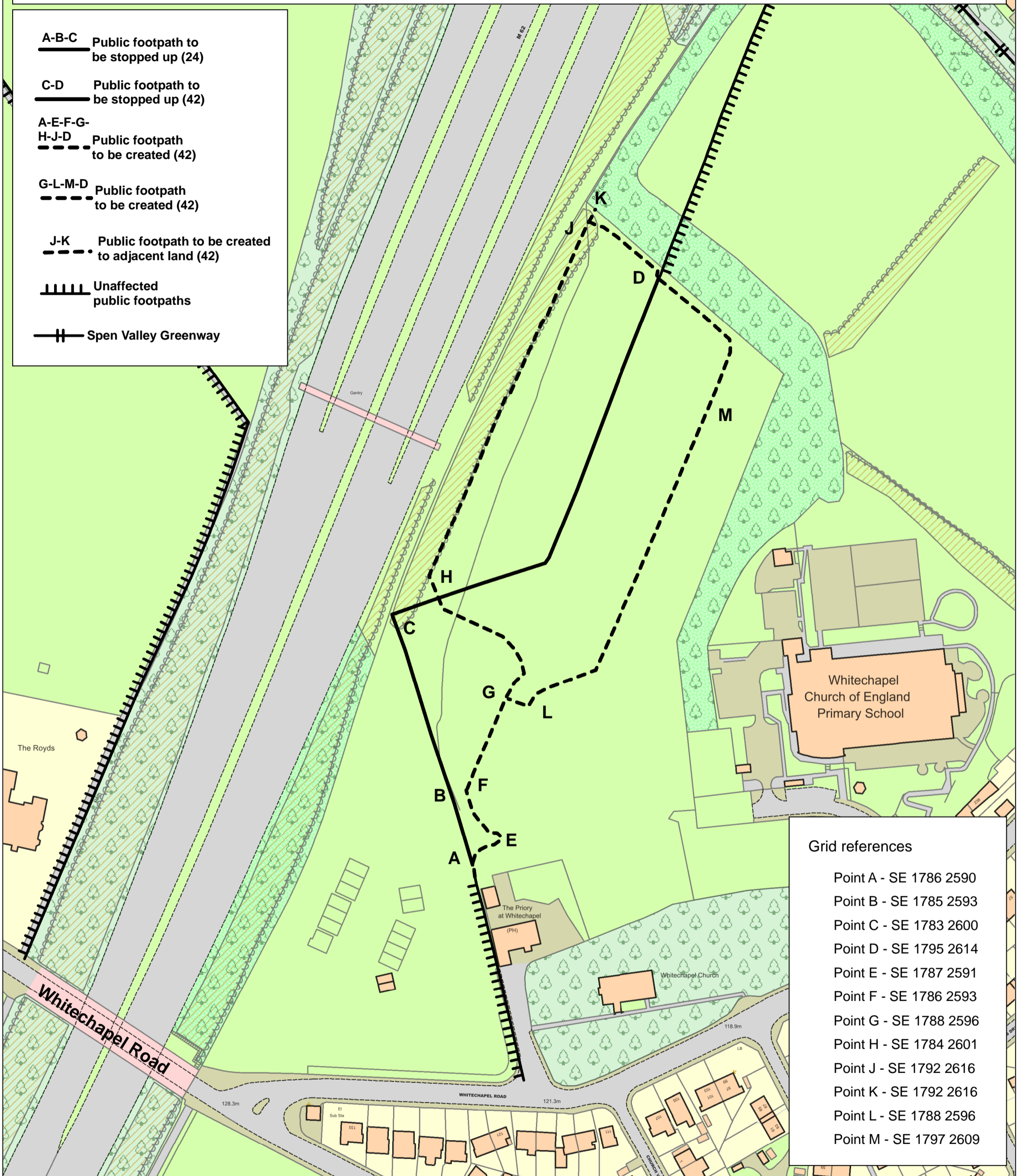
A-E-F-G-H-J-D Public footpath to be created (42)

G-L-M-D Public footpath to be created (42)

J-K Public footpath to be created to adjacent land (42)

Unaffected public footpaths

Spen Valley Greenway



Grid references

- Point A - SE 1786 2590
- Point B - SE 1785 2593
- Point C - SE 1783 2600
- Point D - SE 1795 2614
- Point E - SE 1787 2591
- Point F - SE 1786 2593
- Point G - SE 1788 2596
- Point H - SE 1784 2601
- Point J - SE 1792 2616
- Point K - SE 1792 2616
- Point L - SE 1788 2596
- Point M - SE 1797 2609

Plan 1 - proposed diversion - Whitechapel Road

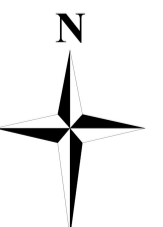
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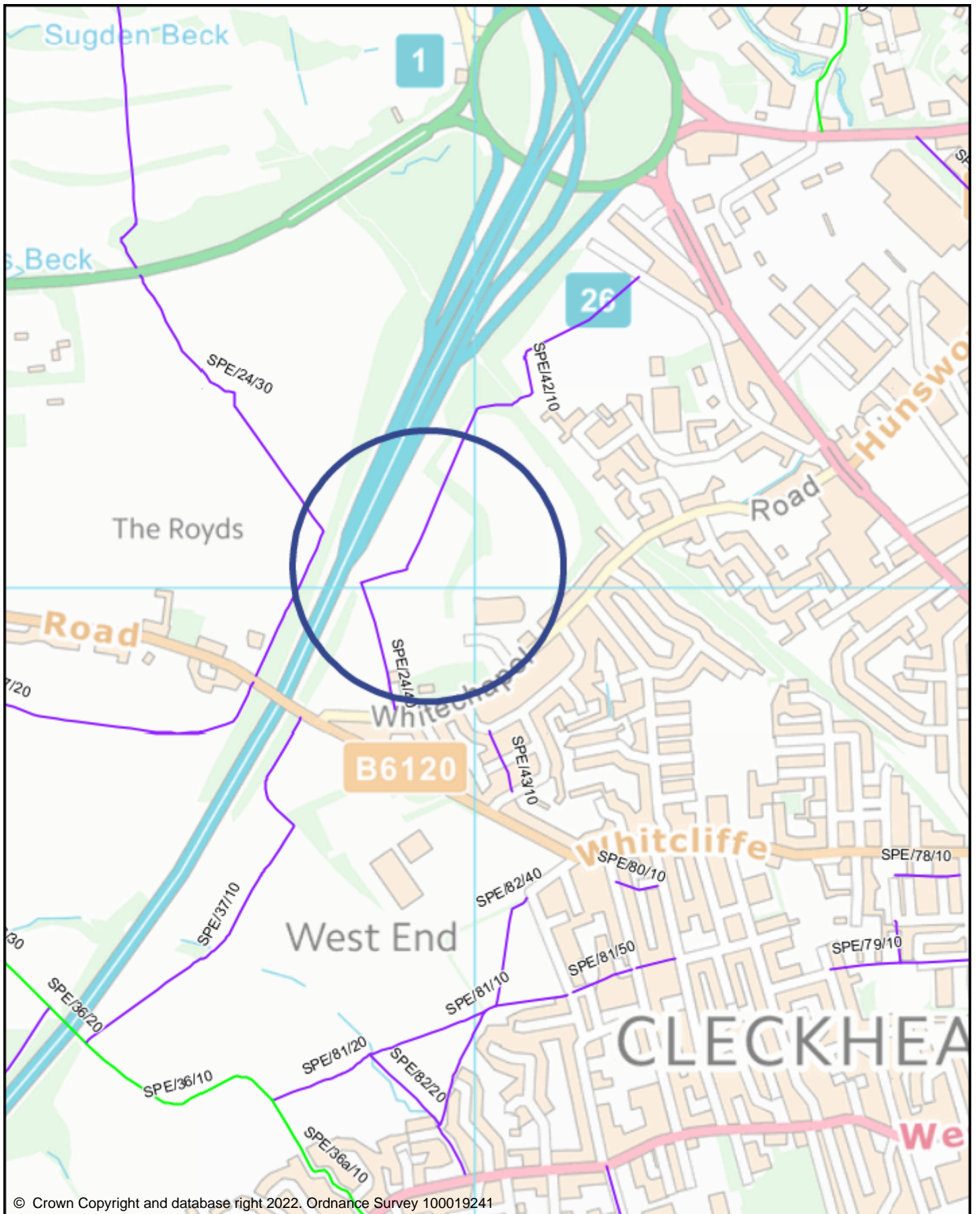
Filename:




Public Rights of Way



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| | | | |
|---|--|--|---|
|  <p>Kirklees COUNCIL</p> | <p>Kompass Kirklees Mapping Service</p> | <p>Appendix A - Location plan Scale = 1:10000 maps@kirklees.gov.uk</p> |  |
| <p>© Crown Copyright and database right 2020. Ordnance Survey 100019241</p> | | | <p>Page 21</p> |

PROW (1)

RouteCode: SPE/42/10

Status: FOOTPATH

Disclaimer: The Public Rights of Way data, whilst based upon the Definitive Map, is not the legal document and is for information only. The council will not accept liability for any loss, damage or injury (financial, contractual or otherwise) sustained as a result

AdminArea: SPE

Length: 689.6156

LegalType: ROW

XGCreated: null

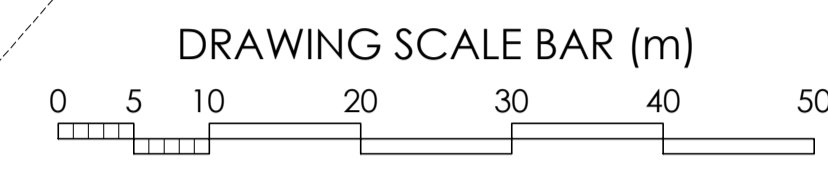
XGEdited: 2022-01-17

This site is classed as "High Exposure". All detailing to follow BDHW Severe Exposure Detailing & Specifications. All Masonry work in Mortar class M6: Mortar designation (II) in accordance with NHBC STANDARDS Chapter 6.1.14 for areas of severe exposure and high durability

SITE POSTCODE: BD19 6HR

| 17 5076 - WHITECHAPEL ROAD, CLECKHEATON | | | | | | | | | | | |
|---|---------|--------|-----|-------|------|-------------|--------------|--------------|-----------------|-----------------------|--------------|
| Type | Parking | Storey | Bed | Sq Ft | No | Total Sq Ft | | | | | |
| 60 | Apt | PS | 1 | 18/2P | 448 | 6 | 2688 | | | | |
| 61 | Apt | PS | 1 | 18/2P | 465 | 6 | 2790 | | | | |
| Kewdale | End | PS | 2 | 28/4P | 844 | 4 | 3376 | | | | |
| Kewdale | Mid | PS | 2 | 28/4P | 844 | 2 | 1688 | | | | |
| Kewdale | Semi | PS | 2 | 28/4P | 844 | 4 | 3376 | | | | |
| Kirkbridge | Semi | PS | 2 | 38/5P | 920 | 2 | 1840 | | | | |
| Total Affordable | | | | | | | 24 | | | | |
| Maidstone | End | PS | 2 | 38/5P | 830 | 7 | 5810 | | | | |
| Maidstone | Mid | PS | 2 | 38/5P | 830 | 3 | 2490 | | | | |
| Maidstone | Semi | PS | 2 | 38/5P | 830 | 9 | 7470 | | | | |
| Lockton | Semi | DT | 2 | 38/6P | 939 | 4 | 3756 | | | | |
| Moresby | End | PS | 2 | 38/5P | 855 | 1 | 855 | | | | |
| Moresby | Semi | PS | 2 | 38/5P | 855 | 1 | 855 | | | | |
| Kingsville | End | PS | 2.5 | 48/6P | 1072 | 3 | 3216 | | | | |
| Kingsville | Mid | PS | 2.5 | 48/6P | 1072 | 5 | 5360 | | | | |
| Kingsville | Semi | PS | 2.5 | 48/6P | 1072 | 6 | 6432 | | | | |
| Brentford | End | PS | 3 | 38/6P | 1162 | 1 | 1162 | | | | |
| Woodcote | End | PS | 2.5 | 48/6P | 1217 | 6 | 7302 | | | | |
| Woodcote | Mid | PS | 2.5 | 48/6P | 1217 | 3 | 3651 | | | | |
| Woodcote | Semi | PS | 2.5 | 48/7P | 1217 | 8 | 9736 | | | | |
| Moresby | Det | PS | 2 | 38/5P | 855 | 9 | 7695 | | | | |
| Denby | Det | Int | 2 | 38/6P | 880 | 8 | 7040 | | | | |
| Kingsley | Det | SG | 2 | 48/6P | 1085 | 3 | 3255 | | | | |
| Ashburton | Det | Int | 2 | 48/6P | 1471 | 6 | 8826 | | | | |
| Alleyway | Det | SG | 2 | 48/7P | 1225 | 6 | 7350 | | | | |
| Radleigh | Det | SG | 2 | 48/6P | 1312 | 9 | 11853 | | | | |
| Total Freesale | | | | | | | 98 | | | | |
| Total Site | | | | | | | 122 | | | | |
| Net Area | | | | | | | 28368 | | | | |
| Road | | | | | | | 4544 | | | | |
| | | | | | | | m2 | Acres | Hectares | Sq Ft Per Acre | 17100 |
| | | | | | | | 4544 | 7.01 | 2.84 | 2448 | 37 |

Retaining
 Masonry retaining wall
 Gravel board/sill on edge
 Geowall
 Geowall
 Ramp



Technical Layout Legend

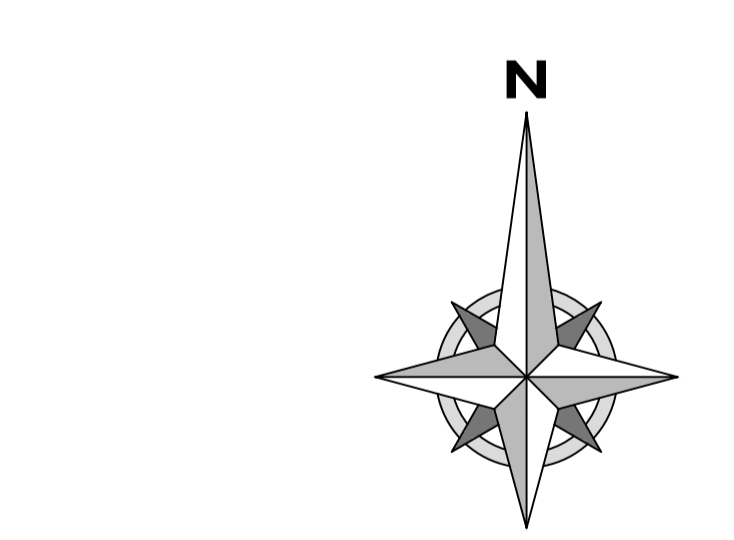
- Existing dwelling
- Private parking bay / drive
- 1.8m high brick wall
- 1.8m high brick wall and infill fence panels
- 1.8m high artstone wall
- 1.8m high artstone wall and infill fence panels
- 1.8m high close boarded timber screen fence
- 0.45m high timber knee rail
- Acoustic fence
- Estate Railings
- Affordable - Discount market sale
- Affordable - social tent
- Side windows removed due to zero-plotting of dwelling
- Front entrance door
- Secondary entrance
- Lockable personnel gate
- Drainage easement
- Block paving to private drives
- Path to rear access
- Visitor parking
- Bin collection point
- Plot frontage landscaping
- Shared private drive - block paved
- Electric vehicle charging point
- Rear garden cycle store
- Existing public right of way SP22/40 & SP24/210
- Proposed public right of way (diverted through the site)
- Proposed multi modal link route
- Existing trees to be retained
- Existing trees to be removed
- Brindle black paving roads with charcoal hard mags where required
- Block paving - Charcoal coloured to private drives and plot drives
- Plots extended to retaining structure (Plots 96-108)

Acoustic Enhancements

- REFER TO S.L.R. NOISE ASSESSMENT FOR DETAILS OF ACOUSTIC GLAZING AND S.L.R. OVERHEATING ANALYSIS FOR MECHANICAL VENTILATION DETAILS
- Facade to receive acoustic glazing - refer to Noise Assessment
- Plot to receive mechanical ventilation to habitable rooms - refer to Overheating Analysis for which rooms are affected

General Notes:

- All optional windows to be installed unless plot is zero-plotted and marked with the following symbol X
- This drawing is based on Terra Measurements Topographical Survey, ref 1908_A, dated 03.07.20.
- All rear gardens to be gated with 1800mm high lockable gates.
- Refer to external works drawings for drainage and retaining structure details.
- All semi-detached and fence plots, to be constructed in accordance with accredited Robust Detail E-WM-22.
- All plots to be pressure tested.
- Garage sizes (Width x Length):
 Small Single - LSG118 - 4800 x 6740mm
 Twin - LDG218 - 6450 x 6740
 Sales Centre - 6450 x 6740
- All plots (including mix units) to be provided with pedestrian path 900mm wide to rear access (French Doors) as shown.
- Boundary Setting Out:
 Refer to Boundary Setting Out Drawings. Set boundaries out in accordance with the above mentioned layout. If a boundary cannot be constructed in accordance with the Setting Out (e.g. if there is an obstruction) please contact the Technical Department for advice.



- D MB 28.04.22** Plot 8 & 106-107 changed to gable end roof. Entrance railings and pier shown. Pump Station lower elevation & tank arrangement updated. Plots to 96/108 increased to 1.8m. Drive hatch updated. Garden wall of plot 116 redesigned. Acoustic glazing requirements updated (P.O.S. diamond removed from 1-12, 27-34 & 111-122). Existing sewer shown in P.O.S. to south 90/1.
- C BH 17.02.22** Stone articulation and Maidstone end IT codes corrected. Kewdale End, Mid IT codes corrected. Private drives shown on block plans. Note in key added. Note re severe exposure added. Plot codes added. Acoustic glazing and estate mags profile corrected to working drawings. Type 40 & 41 Codes added to Block 47-50, 55-58 & 68-71.
- B MB 25.04.21** Plots 10-21 re-allocated to match Planning Consent P1702603/M4.
- A MB 25.04.21** Acoustic glazing and bespoke mechanical ventilation highlighting IT codes for Kewdale and Kirkbridge updated.
- * MB 16.04.21** First issue.

| REVISION | DATE | BY | REASON |
|----------|------|----|--------|
| | | | |

TECHNICAL LAYOUT

PROJECT: RESIDENTIAL DEVELOPMENT

PROJECT ADDRESS: WHITECHAPEL ROAD CLECKHEATON

DRAWN: MB SCALE: 1:500 @ AD DATE: APR. 2021

JOB REF: H8040 DWG. NO: TL 01 REVISION: D

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Executive Summary

The public rights of way network is a significant part of Kirklees' heritage and a major recreational resource. It enables people to get outdoors and away from increasing motor traffic and to enjoy the countryside which they would not otherwise have access - or simply to use it for fresh air and exercise. These rights of way are also important in the daily lives of many people who use them for travelling, particularly on short journeys, to shops, schools and other facilities as well as being an important link between neighbourhoods and settlements.

As part of Kirklees Vision, the Rights of Way Improvement Plan is to have a rights of way network; that is accessible for all, helps towards improving the health and well being of our residents, supports the economy through tourism and helps to reduce Kirklees' "carbon footprint". It aims towards improving sustainable transport with member authorities within West Yorkshire as well as working with other neighbouring authorities whose aims and objectives are the same or similar. The aims of the plan are to:

1. Protect, improve and develop the rights of way network as an important means of access both within urban areas and the wider countryside to meet with the present and future needs of the public.
2. Ensure the condition of the rights of way network is maintained and enhanced in keeping with the needs of local communities.
3. Afford opportunities for safe and sustainable travel and for access to work, schools, shops and other facilities and amenities as well as providing further opportunities for outdoor recreation and enjoyment of the area.
4. Improve the accessibility of rights of way for all members of the community in particular those from ethnic and deprived areas and especially for those with mobility problems or other impairments.
5. Identify opportunities to further improve public access in Kirklees by working with partners and volunteer groups in providing well-connected, well maintained, traffic free routes that are safe, attractive and well used by residents and visitors.
6. Enable and encourage people to enjoy the benefits of regular exercise whilst going about their daily business and to take advantage of the wide variety of countryside that exists within Kirklees.
7. Ensure the rights of way network contributes to the development of economic opportunities in Kirklees through tourism.

Each highway authority is required to prepare "A Statement of Action" for the management of its Rights of Way Network and for securing improvements to local rights of way, with particular regards to the matters dealt with in the criteria contained in the Countryside and Rights of way Act 2000.

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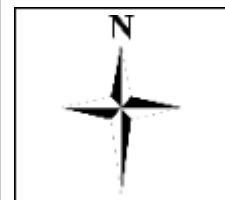


Kompass
Kirklees Mapping Service

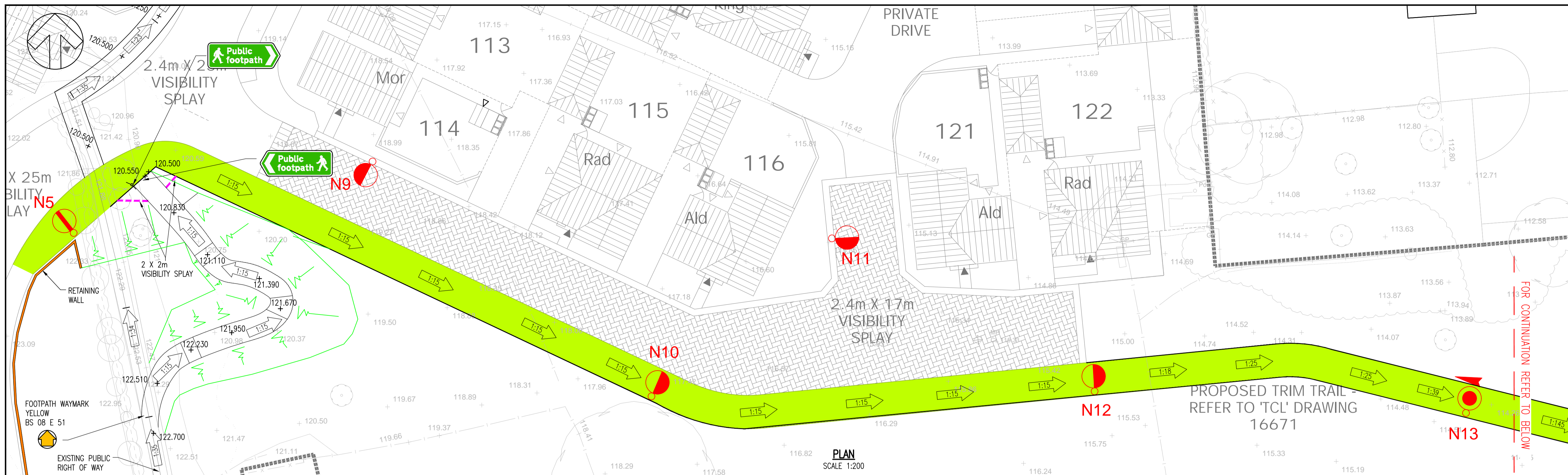
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maps@kirklees.gov.uk



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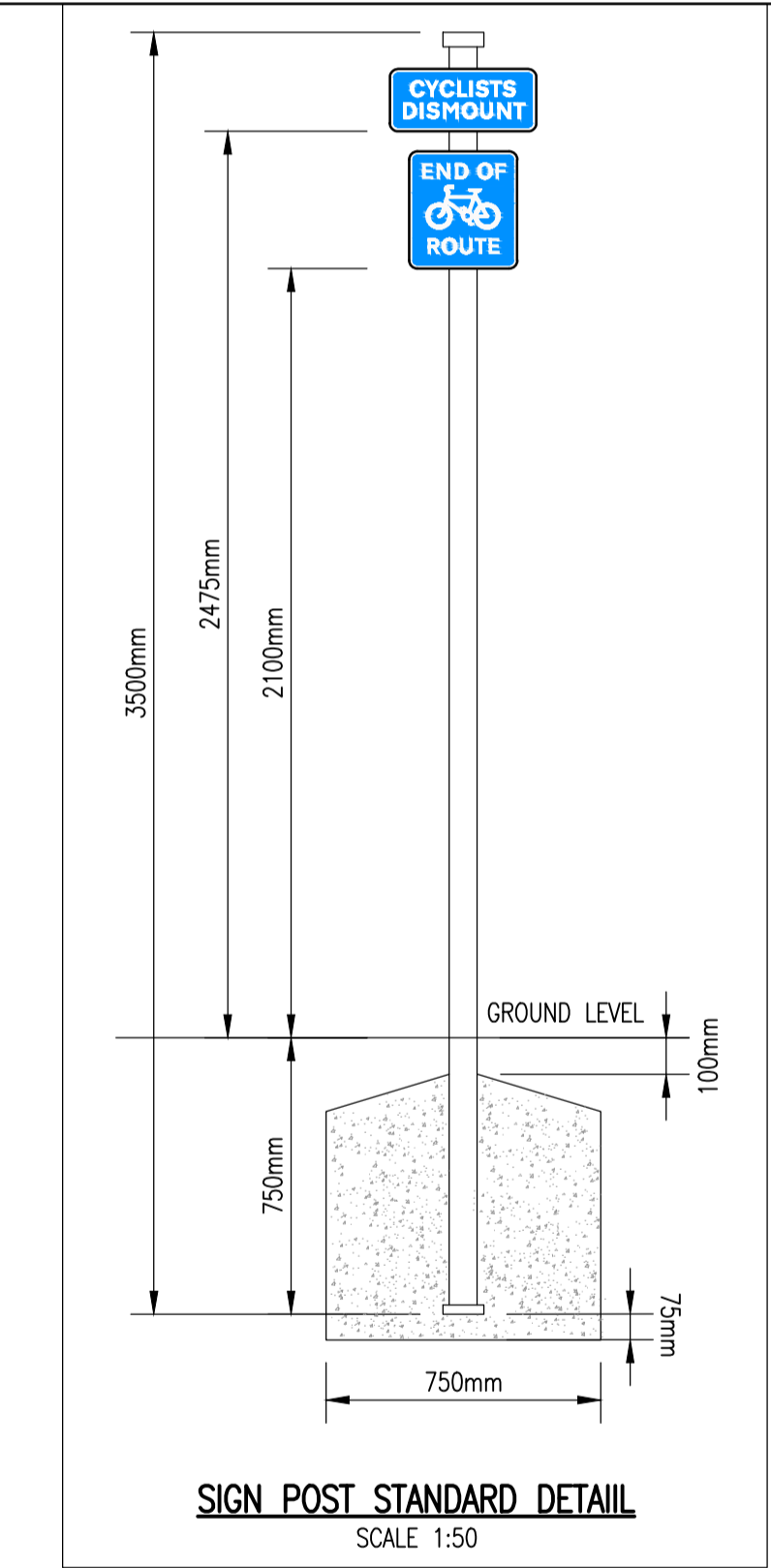
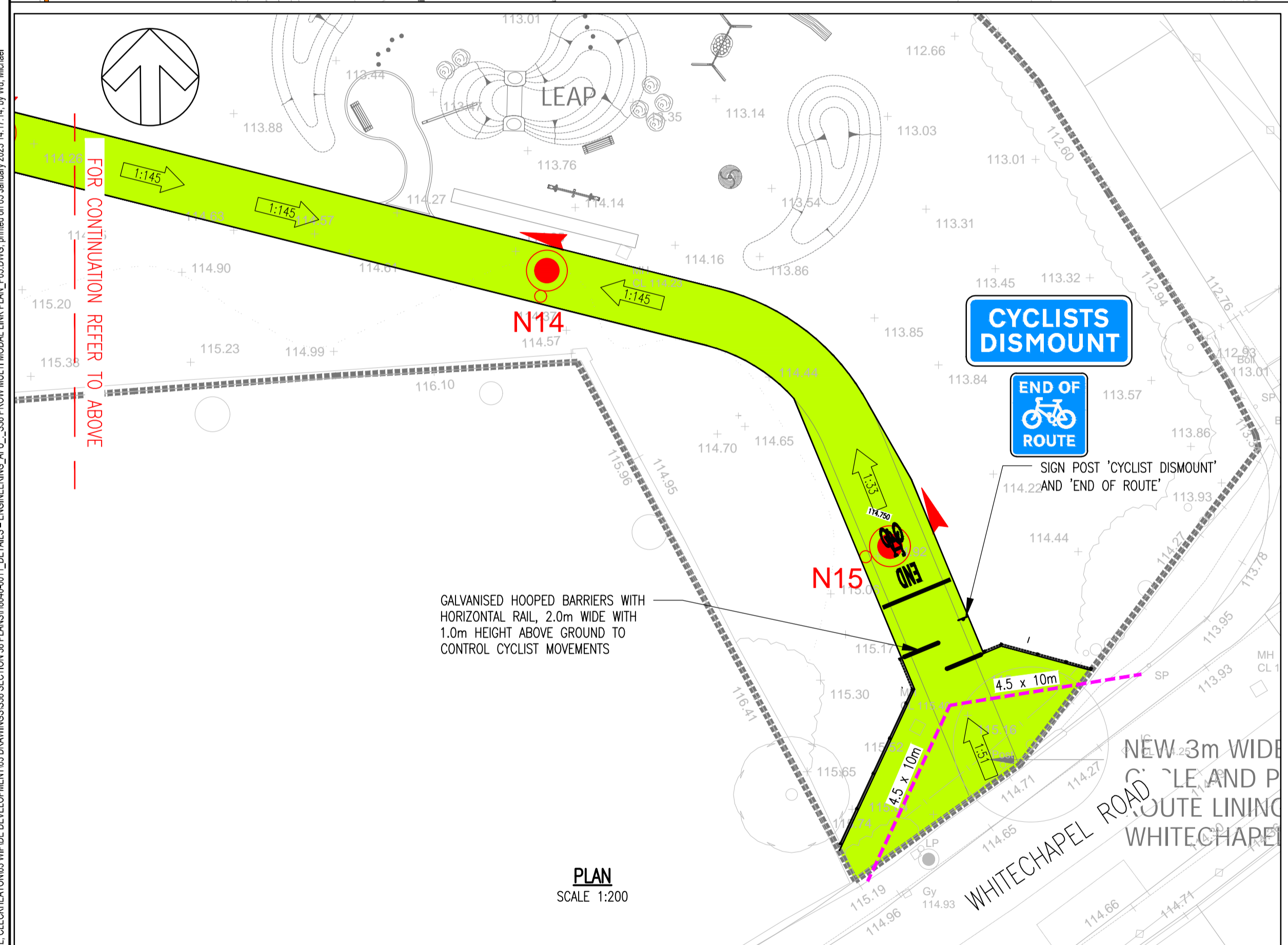


DO NOT SCALE

NOTES:
1. ALL DIMENSION IN MILLIMETERS (mm) AND ALL LEVELS IN m AOD UNLESS SPECIFIED OTHERWISE.

LEGEND:

- ADOPTABLE KMDC RETAINING WALL
- PROPOSED PROW LEVEL
- PROPOSED PROW GRADIENT (ARROW INDICATES DIRECTION OF FALL)
- EXISTING LEVEL
- VISIBILITY SPLAY
- MULTI-MODAL LINK



STRUCTURAL CALCULATION DETAILS

SIGNS:

REFERENCE: SIGN 1
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SHAPE: RECTANGLE
ORIENTATION: FACING FRONT
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MOUNTING HEIGHT: 2475mm, AT POST

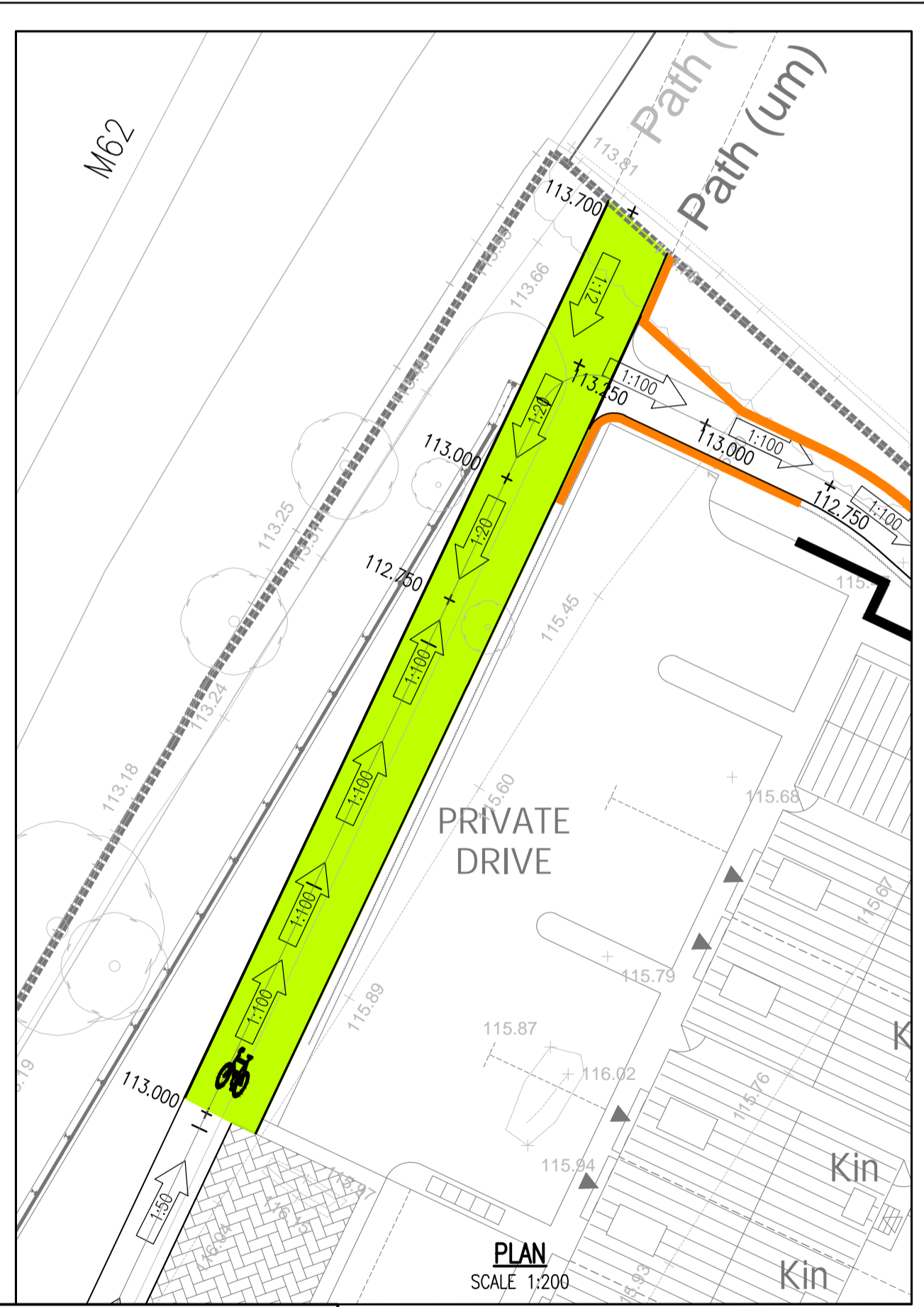
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ORIENTATION: FACING FRONT
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MOUNTING HEIGHT: 2100mm, AT POST

POSTS:

QUANTITY: 1
TYPE: 76.1 X 3.2 CHS
SPACING: N/A
POST 1 LENGTH: 3600mm

BASE:

TYPE: PLANTED
DIAMETER: 750mm
EARTH COVER: 100mm



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| REV | DATE | BY | DESCRIPTION | CHK | APP |
|-----|------------|----|---|-----|-----|
| P05 | 05/01/2023 | MW | PROW RAMP UPDATED | NS | DB |
| P04 | 05/12/2022 | MW | MULTI-MODAL LINK IN NW CORNER OF SITE ADDED | NS | DB |
| P03 | 02/12/2022 | MW | PROW STEPS REPLACED WITH RAMP OPTION | NS | DB |
| P02 | 29/11/2022 | MW | SIGNAGE DETAILS UPDATED | NS | DB |
| P01 | 28/11/2022 | MW | FIRST ISSUE | NS | DB |

DRAWING STATUS: S2 - FOR INFORMATION

wsp

3 Wellington Place, Leeds, LS1 4AP, UK
T+ 44 (0) 113 395 6200, F+ 44 (0) 113 395 6201
wsp.com

CLIENT: BDW HOMES WEST YORKSHIRE

ARCHITECT: JRP ARCHITECTURE

SITE/PROJECT: WHITECHAPEL ROAD, CLECKHEATON

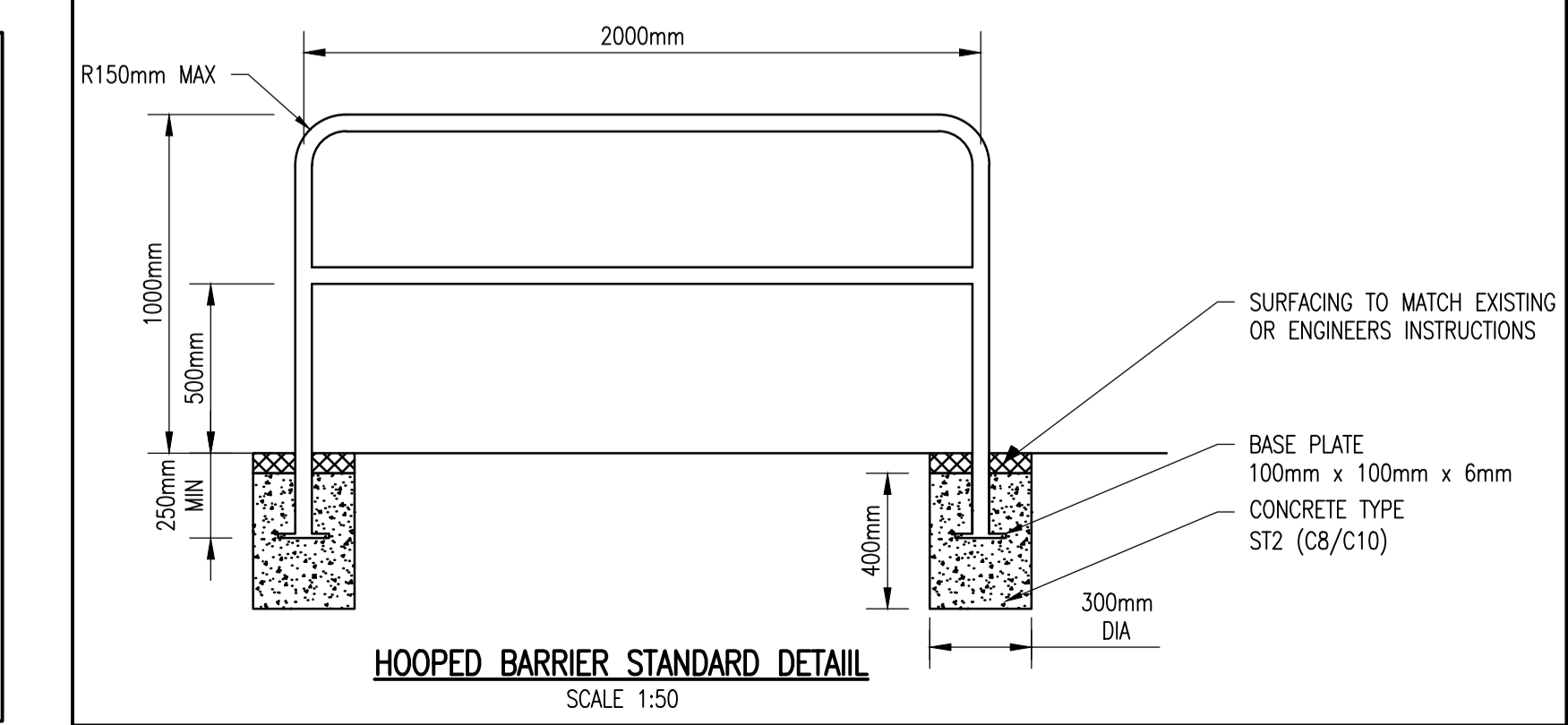
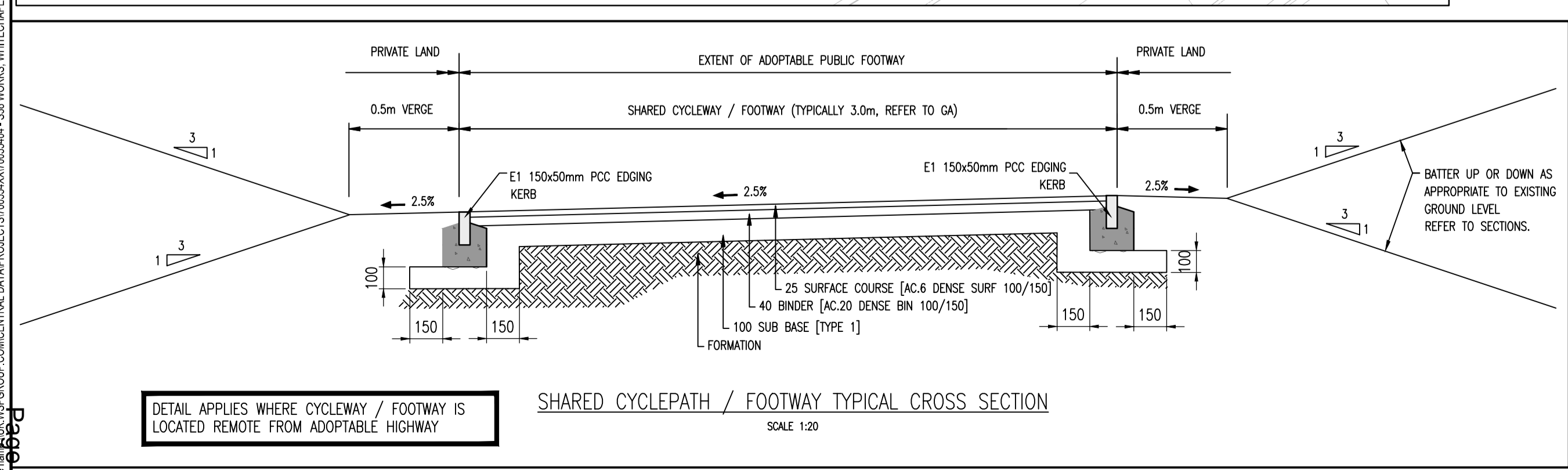
TITLE: S38 PROW MULTI-MODAL LINK PLAN

| SCALE @ AT: | CHECKED: | APPROVED: |
|-------------|----------|-----------|
| AS SHOWN | NS | DB |

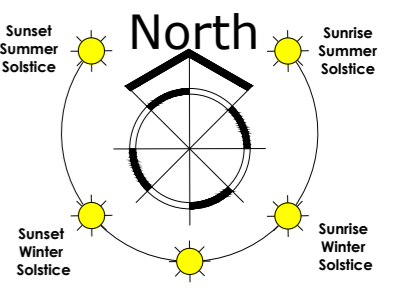
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|-------------|-----------|--------|------------|
| 70055404 | MW | MW | January 23 |

| DRAWING NO: | REV: |
|---|------|
| H8040-0011 DETAILS - ENGINEERING_AFU_- S38 PROW MULTI-MODAL LINK PLAN | P05 |

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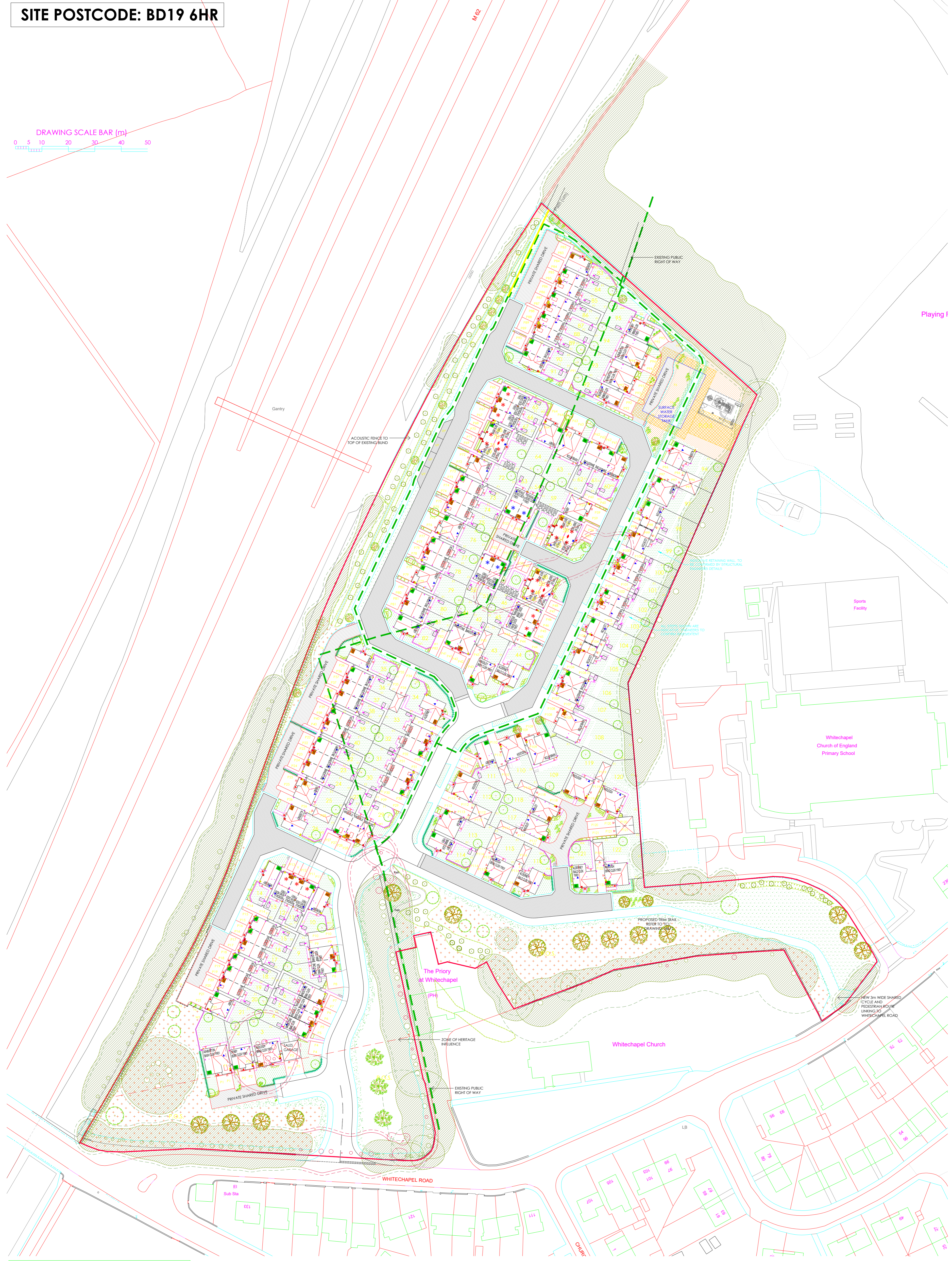


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This plan should be viewed in COLOUR a monochrome copy should not be relied upon.

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- Key Soft Landscaping**
- Grass seeded (short)
 - Grass - General seeded
 - Grass Turf
 - Species Rich (Emorsgate EH1)
 - Proposed ornamental planting
 - Proposed Screen planting including standard trees
 - Proposed Screen planting including standard trees LEAP
 - Proposed hedge Single species
 - Proposed hedge mixed species
 - Proposed trees refer to Ecus Mitigation strategy
 - Avenue Tree
 - Parkland Tree
 - Street Tree
 - Feature Tree
 - Tree within screen planting
 - Proposed feature planting

CONCRET
The landscape architect has been developed to create a strong landscape structure for the residential development...
FOUNDATION
Planting of trees...
SCREENING
Screen planting...
ORNA
Ornamental planting...
NATIVE
Native species...
GRASS
Grass areas...
PUBLIC
Public open spaces...

Barnes Associates Ltd
Landscape Architecture - Horticulture - Recreation - Conservation

| | |
|---------------------|-------------------------------|
| Client | Barrats |
| Project | Whitechapel Road, Cleckheaton |
| Title | Landscape Masterplan |
| Project No. | BA1118 |
| BA Drawing No. | LA_REV_05 |
| Revised Drawing No. | BA1118_Landscape_05 |
| Scale | 1:500 |
| Date | 18/01/2023 |
| Drawn by | SB |
| Checked by | SB |







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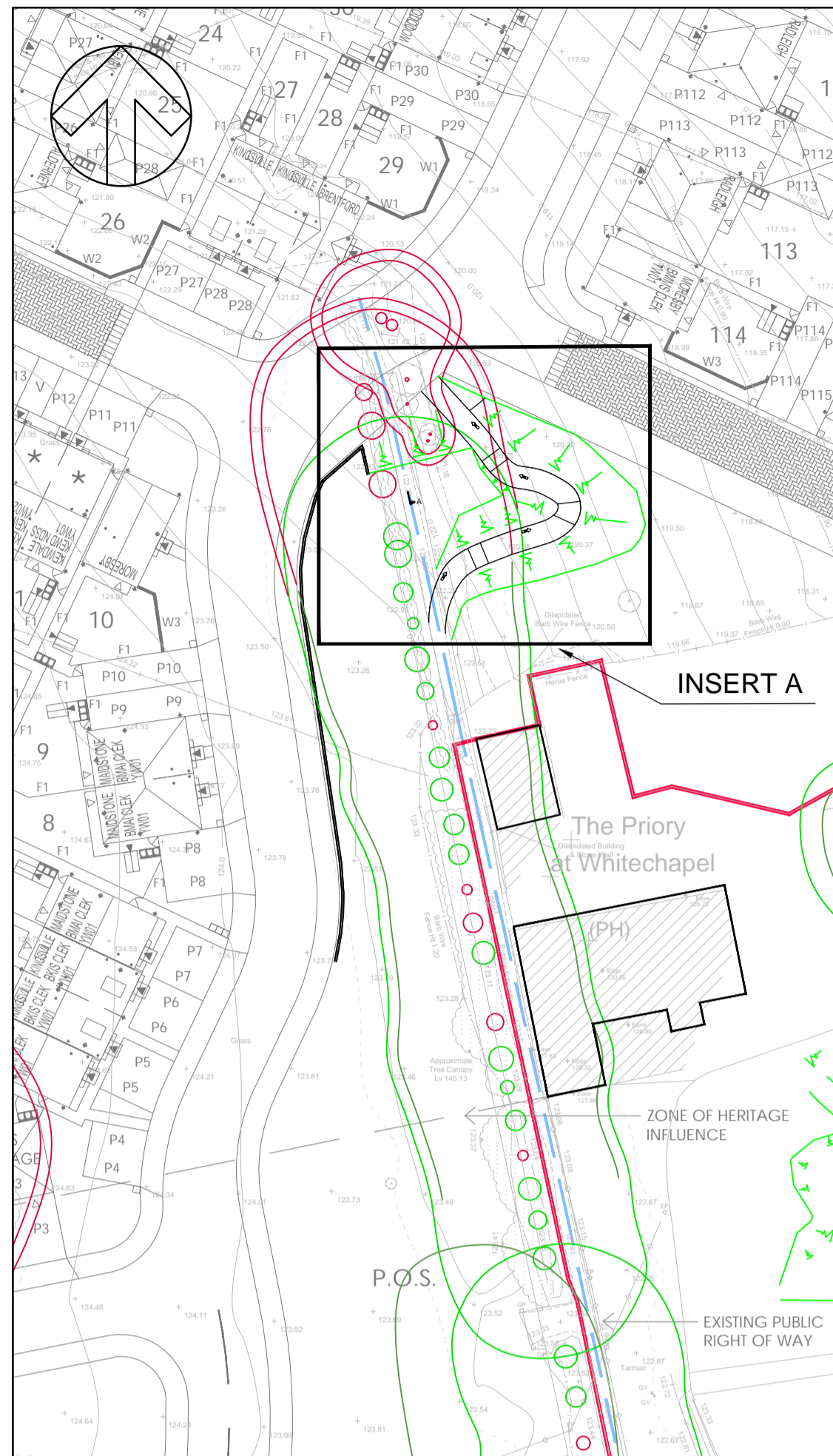
DO NOT SCALE

NOTES:

1. ALL DIMENSIONS IN m AND LEVELS IN m AOD.

LEGEND

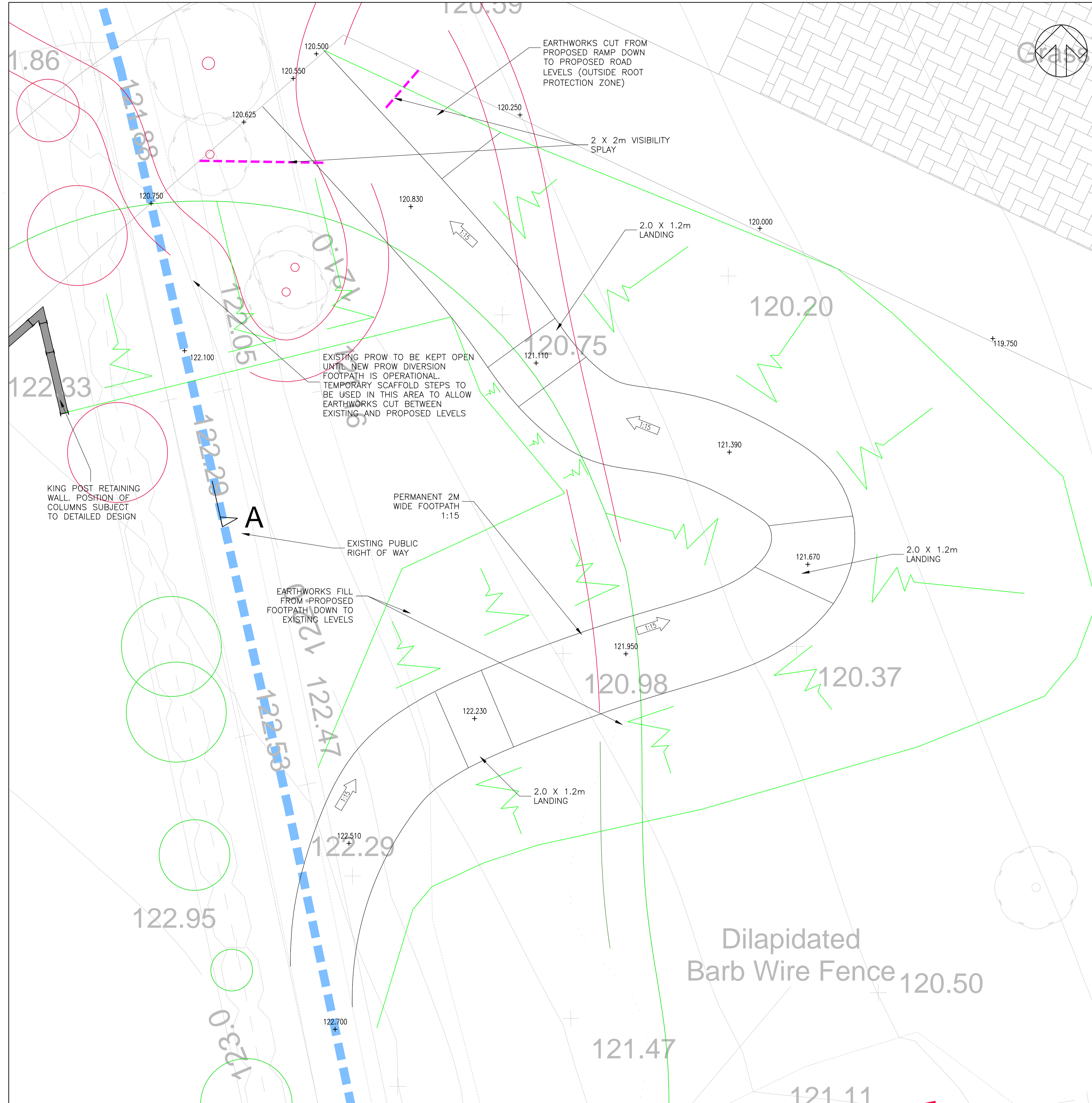
-  TREE TO BE REMOVED
-  TREE TO BE RETAINED
-  EXISTING PROW ROUTE
-  PROPOSED RETAINING WALL
-  120.750 PROPOSED LEVEL
-  SITE BOUNDARY



LOCATION PLAN SCALE 1:500

NOTES

1. THE PROPOSALS ON THIS DRAWING ARE SUBJECT TO DISCUSSION WITH THE PROW OFFICER
2. DESIGN AND CONSTRUCTION MUST BE READ IN ACCORDANCE WITH THE ARB METHODOLOGY AND SUPERVISION WITH THE TREE CONSULTANT ECUS



INSERT A - STEP GENERAL ARRANGEMENT SCALE 1:50

| REV | DATE | BY | DESCRIPTION | CHK | APP |
|-----|----------|----|---------------------------------------|-----|-----|
| P03 | 04/01/22 | MW | UPDATED TO SUIT PROW OFFICER COMMENTS | NS | DB |
| P02 | 02/12/22 | MW | RAMP FOOTPATH RE-ROUTE | NS | DB |
| P01 | 28/11/22 | MW | FIRST ISSUE | NS | DB |

DRAWING STATUS: S1- FOR COORDINATION



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wsp.com

CLIENT: BDW HOMES WEST YORKSHIRE

ARCHITECT:

SITE/PROJECT: WHITECHAPEL ROAD, CLECKHEATON

TITLE: PROW RAMP OPTION PLAN

| SCALE @ AT: | CHECKED: | APPROVED: |
|----------------------|--------------|------------------|
| AS SHOWN | NS | DB |
| PROJECT NO: 70052051 | DESIGNED: MS | DRAWN: MW |
| | | DATE: January 23 |

DRAWING NO: H8040-0014_Details - Engineering_AFU_... PROW Ramp Option Plan_... REV: P03

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From: [PublicRightsofWay](#)
To: [PublicRightsofWay](#)
Subject: Whitechapel Road - DoC applications for 2019/93658
Date: 23 January 2023 17:20:01

App G - Whitechapel Road – Discharge of conditions applications for 2019/93658

2021/93584 - Discharge of conditions 3 (Construction Management Plan), 5 (materials), 7 (boundary treatments), 22 (electric vehicle charging), 23 (cycle parking) and 42 (sales centre) of previous permission 2019/93658

2022/90284 - Discharge of conditions 4 (temporary surface water drainage), 15 (works adjacent to motorway) and 25 (Whitechapel Road parking) of previous permission 2019/93658

2021/93585 - Discharge of condition 16 (retaining walls/structures) of previous permission 2019/93658

2021/93587 - Discharge of condition 17 (acoustic barrier) of previous permission 2019/93658

2021/93588 - Discharge of condition 24 (internal highways) of previous permission 2019/93658

2021/93589 - Discharge of conditions 31 (sewer protection), 32 (drainage scheme), 41 (levels) and 43 (surface water infrastructure) of previous permission 2019/93658

2021/94535 - Discharge conditions 33 (Flood Risk Assessment) and 34 (Surface Water Drainage Capacity) on previous permission 2019/93658

2021/94536 - Discharge conditions 8 (footpath diversion), 9 (footpath retention/connection), 10 (footpath safety) on previous permission 2019/93658

2022/90283 - Discharge of conditions 11 (BEMP), 12 (BNGA) and 13 (CEMP biodiversity) of previous permission 2019/93658

2022/92632 – Discharge of condition 6 (landscaping)

-

Variation application

2021/94498 – Variation of condition 2 (Plans and specifications)

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Feb-2023

Subject: Planning Application 2022/90928 Erection of 2 detached dwellings and detached garage adj, The Willows, Hallas Road, Kirkburton, Huddersfield, HD8 0QG

APPLICANT

S Joyce

DATE VALID

28-Apr-2022

TARGET DATE

23-Jun-2022

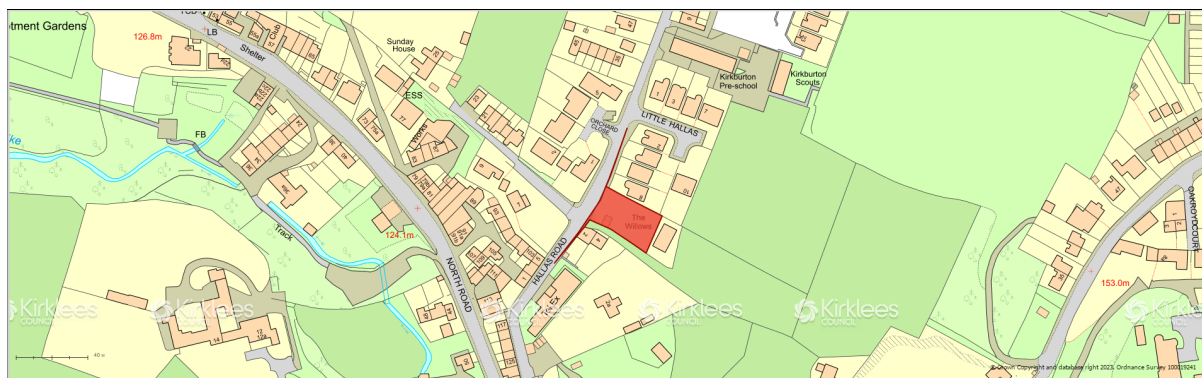
EXTENSION EXPIRY DATE

23-Dec-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (24 representations received). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to an area of land to the front of The Willows, Hallas Road, Kirkburton. The site slopes uphill from Hallas Road to The Willows, which is a detached bungalow. Hallas Road slopes uphill to the northeast. There is currently hardstanding parking and a detached garage to the front of the site, a sloped garden set back from the road, with the dwellinghouse occupying an elevated position to the rear of the site.

2.2 The site is located in a predominantly residential area. The surrounding dwellings are varied in age, style, and size. The predominant material of construction is stone.

2.3 The site is adjacent to the Kirkburton Conservation Area. There are no listed buildings or Public Rights of Way (PROW) within close proximity to the site.

3.0 PROPOSAL:

3.1 The applicant seeks permission for the erection of two detached dwellings and a detached garage. The dwellings would replace the existing parking, garage, and garden at the site.

3.2 Plot 1 would be a two-storey dwelling adjacent to the south-western site boundary. It would have a hipped roof form. It would measure approximately 9.8m deep and 6.6m wide, with an overall height of 7.2m and an eaves height of 5.2m. There would be a two-storey element with a feature gable, which would project beyond the front elevation by approximately 0.3m. There would be a single-storey element which would project beyond the rear elevation by approximately 2.4m.

- 3.3 Plot 2 would be a three-storey dwelling adjacent to the north-eastern site boundary. It would have a hipped roof form. It would measure approximately 9.8m deep and 6.6m wide, with an overall height of 9.9m and an eaves height of 7.8m. There would be a two-storey projecting element with a feature gable, set forward of the front elevation by approximately 0.3m. There would be a single-storey element which would project beyond the rear elevation by approximately 2.4m. This dwelling would benefit from an internal garage.
- 3.4 The dwellings would be faced in stone, with flat-profiled grey concrete tiles for the roof. Each dwelling would have off-street parking to the front, and a garden to the rear.
- 3.5 The detached garage would serve The Willows and would be located to the rear of Plot 1. It would be accessed via a driveway which would run between the two proposed dwellings. It would measure 6.0m x 3.0m internally. It would have a pitched roof with an overall height of 3.6m and an eaves height of 2.5m.
- 3.6 There would be associated engineering operations to facilitate the development. These would consist of the digging out of the site to form a more level base for the proposed dwellings and the formation of a retaining wall between the proposed detached garage and The Willows. Existing retaining walls to the northern and southern boundaries would be retained.

4.0 RELEVANT PLANNING HISTORY:

4.1 At the application site:

2003/92321 – Erection of pitched roof to replace flat roof on garage. Conditional full permission.

2019/20477 – Pre-application for residential development.

4.2 At neighbouring properties:

89/07351 – Outline application for erection of 3 no detached houses with garages. Refused. [Land to rear of The Willows].

91/00572 – Outline application for the erection of 2 detached dwellings and 1 detached garage. Refused. [Land to rear of The Willows].

98/91728 – Erection of 9 no detached dwellings with integral garages. Conditional full permission. [Little Hallas].

2013/92716 – Erection of 4 detached dwellings and erection of extension to existing dwelling. Conditional full permission. [Orchard Close]

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following the KC Highways Development Management consultation response, an amended site plan was received demonstrating a widened turning head to allow additional space for internal vehicle turning. This was considered acceptable by KC Highways Development Management. Plans and elevations for the proposed garage were requested and received. Minor amendments

were made to the front elevation to be in keeping with the local vernacular. Amendments were requested and received to the internal layout to ensure the nationally describe space standards were met. The description was changed with the agent's permission to reflect the proposed development more accurately.

- 5.2 The proposal as initially submitted included 2 three-storey dwellings. Officers (including the Conservation and Design officer) raised concerns that this would cause harm to the Conservation Area and would be out of character with the local area. Amended plans were submitted showing Plot 1 reduced to two storeys, with Plot 3 remaining at three storeys in order for a progression in height from 2 and 4 Hallas Road to 8 Little Hallas. This was considered acceptable by officers.

6.0 PLANNING POLICY:

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

- 6.2 The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 3 – Location of new development
- LP 20 – Sustainable travel
- LP 21 – Highways and access
- LP 22 – Parking
- LP 24 – Design
- LP 28 – Drainage
- LP 30 – Biodiversity and geodiversity
- LP 33 – Trees
- LP 35 – Historic environment
- LP 51 – Protection and improvement of air quality
- LP 52 – Protection and improvement of environmental quality
- LP 53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council has adopted Supplementary Planning Documents (SPDs) for guidance on house building, house extensions, and open space, to be used alongside existing, previously adopted SPDs. These carry full weight in decision making and are now being considered in the assessment of planning applications for new dwellings. The SPDs indicate how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan and the National Planning Policy Framework, requiring development to be considerate in terms of the character of the street scene and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

6.4 In this case the following SPDs are applicable:

- Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)
- Highways Design Guide (adopted 4th November 2019)
- Housebuilders Design Guide (adopted 29th June 2021)

National Planning Guidance:

- **Chapter 2** – Achieving sustainable development
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 9** – Promoting sustainable transport
- **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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by neighbour letter, site notice, and press advert (due to the site's location adjacent to a Conservation Area), giving until 16th June 2022 to comment on the initial plans. As a result of the above publicity, 11 representations have been received from 10 addresses. These have been published online. The material considerations raised are summarised as follows:

- Three-storey dwelling out of keeping with local character
- Out of keeping with adjacent Conservation Area
- Overlooking/loss of privacy
- Overshadowing
- Overdevelopment
- Highway safety/parking
- Former use of site as quarry

7.2 Amended plans were advertised by neighbour letters giving until 27th September 2022 to comment. 6 further representations were received (5 from the same addresses as the initial publicity and 1 from an additional address). These representations have also been published online. The following additional material consideration was raised:

- Biodiversity

7.3 A final round of amended plans publicity (via neighbour letters) gave until 16th December 2022 for comments. 7 further representations were received (all from the same addresses as the previous rounds of publicity); however, no new material considerations were raised. These representations have also been published online.

7.4 Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

7.5 Kirkburton Parish Council – Confirmed they had no comment.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Coal Authority – no objection.

8.2 Non-statutory:

KC Conservation & Design – requested amendments to height and design. Comments discussed further within the report.

KC Environmental Health – no objection subject to conditions.

KC Highways Development Management (HDM) – no objection subject to conditions.

KC Trees – no objection.

9.0 9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity and the historic environment
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.
- 10.2 The proposal is required to accord with Policy LP3 of the Kirklees Local Plan, which requires new development to be situated in a sustainable location that provides access to a range of transport choices and access to local services. This site is within walking distance of Kirkburton District Centre and bus stops on North Road. Therefore, the site is considered to be in a sustainable location close to public transport and local services. Officers consider the site is in a sustainable location for residential development.
- 10.3 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. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is

5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.

- 10.4 The Housing Delivery Test results are directly linked to part of the five year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five year supply position. Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities 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.
- 10.5 Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 69 of the NPPF recognises that:
- 10.6 *“Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.*
- 10.7 Although the Local Planning Authority can demonstrate a five-year land supply, it is noted that this development would contribute to the housing supply in the district. However, the provision of housing needs to be balanced against other policies and material planning considerations.
- 10.8 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.
- 10.9 In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

Impact on visual amenity and the historic environment

- 10.10 General design considerations are set out in Policy LP24 of the Kirklees Local Plan, the Housebuilders Design Guide SPD, and Chapter 12 of the National Planning Policy Framework, which seek to secure good design in all developments by ensuring that they respect and enhance the character of the townscape and protect amenity.

- 10.11 Officers consider that the proposed dwellings would likely be read in conjunction with 2 Hallas Road to the southwest, The Willows to the rear, and 8 Little Hallas to the north. The proposed dwellings would be faced in stone, with grey flat-profiled tiles for the roof covering, which is in line with the neighbouring dwellings. The materials of construction could be secured by condition, should members be minded to approve. To ensure that the dwellings would sit comfortably within the street scene, it is considered appropriate to impose a condition requiring samples of materials to be submitted.
- 10.12 The detailing includes traditionally styled and proportioned openings to the front elevations, similar to those found on the neighbouring 2 Hallas Road and 1 Orchard Close, and as such would not be out of character with the area. The dwellings would have a hipped roof form, similar to The Willows and other dwellings in the wider area. The detailing is considered to be acceptable.
- 10.13 The application site is of a sufficient size to support two dwellings, as proposed with parking areas to the front and modest amenity spaces to the rear. In terms of footprint and massing, the proposed dwellings would not be out of keeping with the neighbouring dwellings, which are varied in design and size. It is noted that the general character of the local area is two-storey dwellings. Therefore, the three-storey dwelling could be slightly out of character. However, officers consider that a two-storey dwelling on Plot 2 would be “dwarfed” by 8 Little Hallas, which is located at a significantly higher elevation. The proposal as designed allows a progression in height from 2 and 4 Hallas Road to 8 Little Hallas, as shown on the submitted site sections. This allows an acceptable relationship between the proposed and existing properties, including The Willows to the rear, as well as a sympathetic relationship to the gradient of Hallas Road. The scale is considered acceptable. However, whilst two dwellings may be acceptable, it is recommended to include a condition removing permitted development rights for any additions to ensure the site does not become overdeveloped.
- 10.14 The proposed dwellings, by virtue of their design and scale line, are considered to be in keeping with the existing built form and as such, it is considered that the proposed dwellings would sit comfortably within the existing street scene and against the neighbouring properties.
- 10.15 The submitted plans provide little information regarding the proposed boundary treatments. It is recommended to impose a condition requiring details of the proposed boundary treatment before the development commences in the interest of visual amenity (should members be minded to approve).
- 10.16 Although the proposed parking would be to the front of the dwellings, this is considered acceptable in terms of visual amenity as the existing situation on site has parking/hardstanding to the front.
- 10.17 In terms of the proposed detached garage, it is considered that this would be subservient in footprint and scale to the existing dwelling. It would be finished in natural stone with grey flat-profiled tiles for the roof covering, which is in line with the existing neighbouring dwellings and the proposed dwellings. It would be screened by the proposed dwelling at Plot 1 and would be minimally visible from Hallas Road. As such, although the proposed garage would be set forward of the front elevation of the host dwelling, it would have no significant impact on the street scene. The proposed detached garage is therefore considered acceptable from a visual amenity perspective.

- 10.18 The proposal is considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the Kirklees Local Plan, Principles 2, 5, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.
- 10.19 The site is neighbouring the Kirkburton Conservation Area. KC Conservation & Design were consulted and requested amendments to the design to take account of the local vernacular, which were received. They also requested that both dwellings be reduced to two storeys in height to avoid projecting above historic dwellings on Hallas Road. Although only one dwelling has been reduced in height, given that this is the closest to the Conservation Area and that the submitted site sections show a gradual increase in height from 2 and 4 Hallas Road to 8 Little Hallas, Officers consider this acceptable on balance. Therefore, on balance, the proposal would not result in harm to the Kirkburton Conservation Area in line with Policy LP35 of the Kirklees Local Plan.

Impact on residential amenity

- 10.20 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.21 KC Environmental Health were consulted and highlighted that the proposed development is within a residential area where noise from construction activities has the potential to impact the amenity of nearby residents. Therefore, a condition restricting construction working times is recommended, should members be minded to approve.
- 10.22 Principle 6 of the Housebuilders Design Guide SPD states *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”* It continues by setting out typical minimum separation distances. These are as follows:
- 21 metres between facing windows of habitable rooms at the backs of dwellings;
 - 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
 - 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
 - for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.
- 10.23 Impact on The Willows, Hallas Road – this is the existing dwelling to the rear (southeast) of the application site. This is a bungalow with habitable room windows to the front elevation. The submitted site sections show that these windows would look over the proposed two-storey dwelling at Plot 1 and would predominantly look onto the roof of the proposed three-storey dwelling at Plot 2. Although a separation distance of only 17m would not be maintained, taking the above into account, the separation distance is considered acceptable in this instance. It is considered that there would be no detrimental impacts on

the privacy of The Willows as a result of the proposed development. It is considered that there would be no overbearing or overshadowing impacts on this neighbour, given the separation distance that would be maintained and that the proposed dwellings would be significantly set down in relation to The Willows. The proposed garage would be set below the proposed retaining wall and would therefore have no impacts on this neighbour. The Willows would retain an acceptable level of amenity space to the side and rear. Officers are satisfied that there would be no significant impacts on the residential amenity of The Willows, Hallas Road.

- 10.24 Impact on 8 Little Hallas – this is the neighbouring dwelling to the north of the application site. The proposed two-storey dwelling at Plot 1 and the proposed detached garage would be located on the opposite side of the application site and would therefore have no impacts on this neighbour. The side elevation of this dwelling faces towards the application site and has no windows. Therefore, there would be no overlooking impact as a result of the proposal. The proposed three-storey dwelling at Plot 2 would be set down in relation to 8 Little Hallas by approximately 2.1m. Therefore, it is considered that there would be no overbearing or overshadowing impacts on this neighbour as a result of the proposal. Officers are satisfied that there would be no significant impacts on the residential amenity of 8 Little Hallas.
- 10.25 Impact on 2 & 4 Hallas Road – these are the neighbouring dwellings to the southeast of the application site. These dwellings occupy a lower elevation relative to the application site. The proposed three-storey dwelling at Plot 1 would be located on the opposite side of the application site and would therefore have no impacts on this neighbour. Only one window in these neighbouring dwellings faces the application site, which appears to be a small, secondary window. There would be two windows in the south-western side elevation of the two-storey dwelling at Plot 1; these would both serve the staircase, which is a non-habitable space. Therefore, there would be no significant overlooking impact on these neighbours as a result of the proposal. A separation distance of approximately 8.0m would be maintained. Although the proposed two-storey dwelling would have an overall height approximately 3.6m greater than 4 Hallas Road, given the separation distance, the lack of habitable room windows to the rear, and that the principal amenity space for these dwellings is to the southwest (opposite side to the application site), it is considered that there would be no significantly detrimental overbearing impact. The proposed two-storey dwelling would be located to the north of these neighbours; therefore, there would be no significant overshadowing impact. A separation distance of approximately 20m would be maintained to the proposed garage; therefore, this would have no significant impacts on these neighbours. Officers are satisfied that there would be no significant impacts on the residential amenity of 2 & 4 Hallas Road.
- 10.26 Impact on 1 Orchard Close – this is the neighbouring dwelling to the front (northwest) of the application site, on the opposite side of Hallas Road. This is an L-shaped dwelling with three storeys to the rear (southwest). The garden of this dwelling is directly in front of the application site. On the dwelling, there is a blank gable closest to the application site, with windows on the elevation further northwards. From reviewing the planning history (2013/92713), these windows serve a WC, en-suite, and bedroom (furthest north away from the application site). A separation distance of 22.4m is maintained from the three-storey dwelling at Plot 2 to the dwelling at 1 Orchard Close, and 24.2m from

the two-storey dwelling at Plot 1. This exceeds the minimum distances set out in the Housebuilders Design Guide SPD. A distance of approximately 20.3m would be maintained from both proposed dwellings to the garden at 1 Orchard Close. Given that a garden is not a primary habitable space, an acceptable separation distance would be maintained. Therefore, it is considered that there would be no significant overlooking impact on 1 Orchard Close as a result of the proposed dwellings. Given the separation distance that would be maintained, it is considered that there would be no significantly detrimental overshadowing or overbearing impacts on this neighbour as a result of the proposed dwellings. The proposed garage would be located to the opposite side of the proposed dwellings, approximately 44m away, and would therefore have no detrimental impact on the amenities of this neighbour. Officers are satisfied that there would be no significant impacts on the residential amenity of 1 Orchard Close.

- 10.27 Impact on future occupiers of the dwellings - The application has been considered against the Government's Technical housing standards – nationally described space standard for new dwellings. The Council recognises the nationally described space standards as best practice to ensure that new homes can meet basic lifestyle needs and provide high standards of amenity for future occupiers.
- 10.28 The two-storey dwelling at Plot 1 would have a gross internal area of approximately 119 sqm, thereby exceeding the minimum gross internal area and built-in storage standards for a 2-storey, 3-bedroom, 4-person dwelling (84sqm). Bedroom 1 exceeds the floor area for a double bedroom, whilst Bedrooms 2 and 3 exceeds the floor area for a single bedroom.
- 10.29 The three-storey dwelling at Plot 2 would have a gross internal area of approximately 177.6sqm, thereby exceeding the minimum gross internal area and built-in storage standards for a 3-storey, 4-bedroom, 5-person dwelling (103sqm). Bedroom 1 exceeds the floor area for a double bedroom, whilst Bedrooms 2, 3 and 4 exceed the floor area for a single bedroom.
- 10.30 Principle 17 of the Housebuilders Design Guide SPD sets out how all new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. However, no size criteria for amenity space are set out in the Housebuilders Design Guide SPD or Policy LP24 of the Kirklees Local Plan.
- 10.31 The proposed dwellings would benefit from external amenity space to the rear. The amenity space at Plot 1 would be approximately 69sqm, and the amenity space at Plot 2 would be approximately 57sqm. The amenity space at both dwellings would be east-facing. As discussed above, it is considered appropriate to remove permitted development rights for any additions, so extensions/buildings reducing the area of amenity space would need to be approved by the LPA. Therefore, the proposal is considered to provide a sufficient level of external amenity space for future occupiers of the property.
- 10.32 Having considered the above factors, it is considered that this proposal would not result in any significant adverse impact upon the residential amenity of neighbouring occupants and would provide a high standard of amenity for future occupiers, thereby complying with Policy LP24 of the Kirklees Local Plan, Principle 6, 16, and 17 in the Council's Housebuilders Design Guide SPD, and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety

- 10.33 KC Highways Development Management (HDM) were consulted. Their response notes that the application site is the existing garden to the frontage of an existing detached house, The Willows, located on the eastern side of Hallas Road approximately 140m from the junction with B6116 North Road. The proposal is for two dwellings, plots 1 and 2, consisting of detached houses, one four-bedroomed and one three-bedroomed. The proposed four-bedroom dwelling would have a single integral garage with further space for parking for two vehicles on a driveway to the front. The proposed three-bedroom dwelling would have parking for two vehicles on a driveway to the front. 2.4 x 43m sight lines are shown from the proposed access onto Hallas Road. These are created by removing an existing wall and extending a footway across the site. A bin collection point is shown at the site access. A replacement detached garage with additional parking opposite is shown for the existing dwelling. The applicants have provided revised site layout plan showing a widened turning head to allow space for internal vehicle turning, which is considered acceptable.
- 10.34 For a development of this scale, visitor parking would not be required. As per the Council's Highways Design Guide SPD, in most circumstances, one visitor space for every four new dwellings is considered appropriate.
- 10.35 Given that sufficient off-street parking is proposed for both the new and existing dwellings and that sightlines of 2.4 x 43m are shown at the site access, the proposal is considered acceptable to Highways Development Management. Conditions are recommended relating to footway to be provided (pre-commencement) and turning facilities to be provided, should members be minded to approve.

Other Matters

- 10.36 Contaminated land - This site has been identified on the Council's mapping system as potentially contaminated land due to its previous use as a quarry (Site 90/16). KC Environmental Health were consulted and have no objection to the application. However, the dwellings are permanent structures that may involve significant groundworks. As such, they recommend contaminated land conditions, should members be minded to approve. These would include submission and approval of a Phase 1 Preliminary Risk Assessment Report (pre-commencement); submission and approval of a Phase 2 Intrusive Site Investigation Report (pre-commencement); submission and approval of a Remediation Strategy (pre-commencement); implementation of the Remediation Strategy; and submission and approval of a Validation Report. It is also noted that paragraph 184 of the National Planning Policy Framework states that, where a site is affected by contamination or land stability issues, the responsibility for securing a safe development rests with the developer and/or landowner. Officers consider that the proposal would accord with the aims of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

- 10.37 Coal mining legacy - The Coal Authority were formally consulted. Their response highlights that the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that the site is likely to have been subject to unrecorded underground coal mining at shallow depth. The Coal Authority response notes that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site; including information from BGS geological mapping and borehole data. This information has been used to inform the Coal Mining Risk Assessment which accompanies the planning application. The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment are sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.
- 10.38 Trees – KC Trees were consulted. They consider that, given the engineering works that have previously taken place on site and the existing retaining structures, any level difference as a result of the proposal would be highly unlikely to impact on the roots of the trees within the Conservation Area to the south of the application site. It is noted that at least some of the trees are located at a lower elevation relative to the application site. Furthermore, the proposed dwellings are set further forward and would be unlikely to impact the trees due to their location. Moreover, the location of the proposed garage would help avoid conflict resulting from overshadowing of garden areas or habitable room windows. Therefore, officers are satisfied that there would be no detrimental impact on the trees in the Conservation Area as a result of the proposal, in accordance with Policies LP33 and LP35 of the Kirklees Local Plan.
- 10.39 Carbon budget - the proposal is a minor development for the erection of two dwellings and a detached garage. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of electric car charging points is recommended, should members be minded to approve. The proposal therefore complies with Policies LP20, LP21, LP24, LP51, and LP52 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.
- 10.40 There are no other matters considered relevant to the determination of this application.

Representations

- 10.41 Following the initial round of publicity, 11 representations were received from 10 addresses. The material considerations raised are summarised as follows:
- Three-storey dwelling out of keeping with local character
 - Out of keeping with adjacent Conservation Area
 - Overlooking/loss of privacy
 - Overshadowing
 - Overdevelopment
 - Highway safety/parking
 - Former use of site as quarry

10.42 **Officer comment:** The above material considerations have been addressed within the report.

10.43 Following the first round of amended plans publicity, 6 further representations were received. The following additional material consideration was raised:

- Biodiversity

10.44 **Officer comment:** The above material consideration has been addressed within the report.

10.45 Following the final round of amended plans publicity, 7 further representations were received; however, no new material considerations were raised.

11.0 CONCLUSION

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

11.2 The proposed erection of two detached dwellings and a detached garage is considered to constitute an acceptable form of development which would have no adverse impact on residential or visual amenity, or highway safety.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and 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. Time to implement
2. In accordance with plans
3. Construction materials to be natural coursed stone and stone slates
4. Samples of materials to be submitted
5. Removal of permitted development rights for Classes A-E
6. Details of proposed boundary treatments, including retaining features (pre-commencement)
7. Construction site working times
8. Footway to be provided (pre-commencement)
9. Turning facilities to be provided
10. Submission of a Phase 1 Preliminary Risk Assessment Report (pre-commencement)
11. Submission of a Phase 2 Intrusive Site Investigation Report (pre-commencement)
12. Submission of a Remediation Strategy (pre-commencement)
13. Implementation of the Remediation Strategy
14. Submission of a Validation Report
15. Electric vehicle charging points
16. Plan providing full details of existing and proposed land levels relating to identifiable datum (pre-commencement)

Background Papers:

The application can be found online here:

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f90928>

Certificate of Ownership – Certificate A signed

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Feb-2023

Subject: Planning Application 2022/92368 Change of use of building and land from equestrian to dog care centre Land off, Liley Lane, Grange Moor, Huddersfield, WF4 4EN

APPLICANT

L Vickerman, Happy

Hounds HQ

DATE VALID

13-Jul-2022

TARGET DATE

07-Sep-2022

EXTENSION EXPIRY DATE

02-Dec-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION: REFUSE

1. The proposed change of use to dog day care centre, by reason of the proposed sub-standard visibility at the junction with Liley Lane, and the lack of control over the number of vehicles travelling to and from the site, would cause harm in terms of highway safety. To permit the proposed development would be contrary to Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

2. It has not been demonstrated that adequate mitigation measures would be provided that would safeguard nearby sensitive receptors (neighbouring residential properties) from noise associated with the proposed change of use. To permit the proposed development would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and paragraphs 174 and 185 of the NPPF.

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to the significant volume of local opinion (36 representations). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application relates to an area of land off Liley Lane in Grange Moor. It is accessed via a private driveway which slopes downhill from Liley Lane. The site contains a stable building and horse manège (outdoor riding arena), as well as a parking area for two vehicles.

2.2 The site is located in a semi-rural area, although there are neighbouring dwellings. From the northwest through to the northeast are grassed fields also owned by the applicant. The site is within the designated Green Belt on the Kirklees Local Plan. There are no listed buildings or Public Rights of Way (PROW) within close proximity to the site.

3.0 PROPOSAL:

3.1 The applicant is seeking planning permission for the change of use of building and land from equestrian to dog care centre. For clarity, this application is retrospective.

3.2 There would be no change in the visual appearance of the site, as the applicant does not propose any physical additions or changes under this application.

- 3.3 The applicant has stated that the dog day care centre would accommodate up to 20 dogs at a time.
- 3.4 The applicant has stated that the opening hours would be 9.30 – 14.30, Monday – Friday. It has also been stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

91/02427 – Erection of stable block and formation of all weather surface manege. Conditional full permission.

2013/91282 – Erection of stables and hay store. Conditional full permission.

COMP/22/0028 – Alleged unauthorised business use (dog day care).

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Officers requested additional information regarding the proposed business operation, which was received. The applicant was also asked to confirm that no external changes would be made to the site as part of the application.
- 5.2 Following the KC HDM response, further details/additional plans were requested, including an amended red line boundary, visibility splays, and parking spaces. These were received. However, KC HDM consider the visibility splay unacceptable and have objected on these grounds.
- 5.3 Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under consideration. No information was submitted regarding noise management/mitigation, despite negotiations between the applicant and agent during the course of the application.

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 LP1 – Presumption in favour of sustainable development
LP10 – Supporting the rural economy
LP21 – Highway safety and access
LP22 – Parking
LP24 – Design
LP30 – Biodiversity and geodiversity
LP52 – Protection and improvement of environmental quality
LP56 – Facilities for outdoor sport and recreation in the Green Belt
LP60 – The re-use and conversion of buildings in the Green Belt

Supplementary Planning Guidance / Documents:

- 6.3 Biodiversity Net Gain Technical Advice Note (adopted 29th June 2021)
Highways Design Guide (adopted 4th November 2019)

National Planning Guidance:

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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour letters, giving until 29th August 2022 to comment on the initial plans. As a result of the above publicity, 7 representations were received, 5 in objection (3 from the same address) and 2 in support. These have been published online. The material considerations raised are summarised as follows:

- Retrospective application
- Impact on the Green Belt
- Not in keeping with local area
- Noise
- Odour
- Number of dogs on site
- Highway safety
- Waste
- Overnight boarding of dogs

- 7.2 Amended plans were advertised by neighbour letters giving until 1st November 2022 to comment. 29 further representations were received, 9 in objection and 20 in support. These representations have also been published online. The following additional material considerations were raised:

- Erection of fencing
- Biodiversity
- Opening hours
- Enclosure of separate field

- 7.3 Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

- 7.4 Kirkburton Parish Council confirmed that had no comment.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None.

8.2 Non-statutory:

KC Animal Health – confirmed applicant holds license for up to 24 dogs at day care, expires September 2023.

KC Environmental Health – recommended conditions relating to hours of use and noise mitigation scheme.

KC Highways Development Management – object due to visibility issues.

KC Waste Planning – provided comments relating to waste storage and collection which are addressed within this report.

9.0 MAIN ISSUES

- Principle of development in the Green Belt and Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Planning obligations
- Other matters
- Representations

10.0 APPRAISAL

Principle of development in the Green Belt and Impact on visual amenity

Sustainable development

- 10.1 Policy LP1 of the Kirklees Local Plan and paragraph 11 of the National Planning Policy Framework outline a presumption in favour of sustainable development. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This will be explored.
- 10.2 Paragraph 8 of the National Planning Policy Framework identifies the objectives of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout.

Impact on the Green Belt

- 10.3 The site is within the designated Green Belt on the Kirklees Local Plan. Therefore, the impact of the development on the Green Belt needs to be assessed.
- 10.4 The National Planning Policy Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework also identifies five purposes of the Green Belt. Paragraph 147 of the National Planning Policy Framework states that inappropriate development should not be approved except in “very special circumstances”.

- 10.5 Paragraphs 149 and 150 of the National Planning Policy Framework set out that certain forms of development are exceptions to “inappropriate development”.
- 10.6 The proposal would also involve the re-use of a building of permanent and substantial construction (stables). Therefore, Policy LP60 of the Kirklees Local Plan is relevant, which states that: *“Proposals for the conversion or re-use of buildings in the Green Belt will normally be acceptable where;*
- a. the building to be re-used or converted is of a permanent and substantial construction;*
 - b. the resultant scheme does not introduce incongruous domestic or urban characteristics into the landscape, including through the treatment of outside areas such as means of access and car parking, curtilages and other enclosures and ancillary or curtilage buildings;*
 - c. the design and materials to be used, including boundary and surface treatments are of a high quality and appropriate to their setting and the activity can be accommodated without detriment to landscape quality, residential amenity or highway safety.”*
- 10.7 The associated manège would be subject to a change of use as set out in paragraph 150 (e) of the National Planning Policy Framework. This could be considered not inappropriate provided it preserves openness and does not conflict with the purposes of including land in the Green Belt.

Whether the proposal is inappropriate development in the Green Belt

- 10.8 In terms of LP60 (a), the building to be re-used is a stable block which was approved under 91/02427. This is constructed from breeze block with corrugated metal cladding to the upper part and a corrugated metal roof. This is considered to be “permanent and substantial construction”.
- 10.9 In terms of LP60 (b) and (c), there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. Parking would be provided for two vehicles; however, this would be on existing hardstanding. It is noted that the applicant has stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site. On this basis, there would be no need for further parking facilities. Therefore, LP60 (b) and (c) are satisfied.
- 10.10 In terms of paragraph 150 (e), there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. The manège itself has previously been granted permission under 91/02427. Therefore, there would be no harm to openness or conflict with the purposes of including land in the Green Belt.
- 10.11 In terms of the change of use, it is considered that the principle of exercising dogs is not dissimilar to the principle of exercising horses. Therefore, it is only the number of animals which would increase, along with a change to commercial use (the stables and manège were conditioned for private use only). These matters will be explored in the report below.

- 10.12 Therefore, it is considered that the proposed use is considered appropriate in the Green Belt as set out in Chapter 13 of the National Planning Policy Framework and Policy LP60 of the Kirklees Local Plan. The lack of physical alterations means the development would not be out of character with the rural setting, thus according with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
- 10.13 Furthermore, the economic benefits of the development are supported by local and national policy. Paragraph 84 of the National Planning Policy Framework states that planning policies and decisions should enable *“the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings”*. The proposed dog day care centre would provide a boost to the rural economy without any harm to the Green Belt (as discussed previously), as per the aims of LP10 of the Kirklees Local Plan.
- 10.14 The proposal shall now be assessed against all other material planning considerations, which will be addressed below.

Impact on residential amenity

- 10.15 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.16 There are two neighbouring residential properties, Paper Hall Farm to the northwest (approximately 40m away) and Raikes Farm to the south (approximately 15m away).
- 10.17 As there are no physical additions or changes proposed to the building or manège, it is considered that there would be no detrimental impacts on neighbouring properties by way of overshadowing, overlooking, or overbearing.
- 10.18 KC Environmental Health were consulted. They recommend an hours of use condition for between 9.30 – 14.30 Monday to Friday, in line with information provided by the applicant, should members be minded to approve. This would, to some degree, mitigate harm to residential amenity.
- 10.19 KC Environmental Health note that no detailed information has been submitted in regard to how the dogs will be managed on the site (including barking dogs and the maximum number of dogs outside at any one time), which have the potential to create noise, which could result in a loss of amenity to nearby sensitive receptors. Whilst KC Environmental Health do not object to the proposed development, they require detailed information in the form of a noise mitigation scheme and therefore recommend a condition. However, this condition requires the information to be submitted “before the development is brought into use”. Given that this application is retrospective, this could be amended to be time-limited post-decision (for example, information to be submitted within six weeks), should members be minded to approve. However, Officers have significant concerns about recommending the application for

approval in the absence of this information, given that the application is retrospective, the number of dogs that would be on site (up to 20 proposed but they hold a license for up to 24 dogs), the proximity to neighbouring dwellings and objections received in relation to noise disturbance which is currently being experienced. Notwithstanding the KC Environmental Health response, Officers consider that it has not been demonstrated that adequate mitigation measures would be put in place to protect the amenity of nearby sensitive receptors (neighbouring residential properties) from noise associated with the proposed change of use. On balance, it is considered that to approve the application without this information would be contrary to Policies LP24 and LP52 of the Kirklees Local Plan and paragraphs 174 and 185 of the NPPF.

Impact on highway safety

- 10.20 KC Waste Planning were consulted. Their response highlights that there are no details relating to waste management on the application form or on the submitted site plan. Therefore, they recommend a condition for details of waste storage and disposal to be submitted (should members be minded to approve).
- 10.21 The dimensions of the access driveway have been demonstrated. The applicant has stated that the opening hours would be 9.30 – 14.30, Monday – Friday. It has also been stated that a “pick up and drop off” service would operate, so that customers would not bring their dogs to the site. The submitted site plan demonstrates parking and turning for two vehicles, which would be used for this “pick up and drop off” service.
- 10.22 KC HDM have been consulted. A plan showing visibility splays tying into the nearside carriageway edge of Liley Lane has been submitted. KC HDM note that the visibility splays shown are 2.4m x 65m, which is not in accordance with “Design Manual for Roads and Bridges” recommendations for a 40-mph speed limit - 90m is the recommended distance. In any case, the sight lines should be based on speed surveys, as the speeds along Liley Lane may be more than the speed limit at this location. Furthermore, the sight line to the north is shown to run over land that is not within the red line boundary and therefore not within the applicant’s control. KC HDM officers object to the proposal on highway safety grounds due to the proposed sub-standard visibility at the junction with Liley Lane.
- 10.23 Moreover, KC HDM consider that the proposed arrangement would only be acceptable if it were conditioned that no dogs should be dropped off or picked up from the site. However, Planning Practice Guidance sets out that planning conditions should be used only where they satisfy the “six tests”; that is, that the condition is:
1. necessary;
 2. relevant to planning;
 3. relevant to the development to be permitted;
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects.

- 10.24 It is considered that this condition would not be sufficiently enforceable, as it would be onerous to monitor. As such, this condition could not be applied. It is also noted from representations submitted in support of the application that customers do visit the site, even if only to initially view the site and facilities. However, this means that the proposed business operation would not be acceptable from a highway safety perspective, as there would be no control over the number of vehicles travelling to and from the proposed dog day care centre.
- 10.25 Therefore, Officers consider that the scheme would cause harm in terms of highway safety, and as such fails to comply with Policies LP21 and LP22 of the Kirklees Local Plan, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

Other matters

- 10.26 Ecology - The site is located within a bat alert layer on the Council's mapping system. In this instance, as there are no works proposed, it is considered unlikely to have a detrimental impact on the bat population. Should members be minded to approve, it is recommended that a footnote be added to the decision notice to provide the applicant with advice should bats or evidence of bats be found during construction. This would accord with the aims of Policy LP30 of the Kirklees Local Plan, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the National Planning Policy Framework.
- 10.27 Carbon Budget – In this case, due to the nature of the proposal it is considered reasonable not to require the applicant to put forward any specific resilience measures.
- 10.28 There are no other matters considered relevant to the determination of this application.

Representations

- 10.29 Following the initial round of publicity, 7 representations were received, 5 in objection (3 from the same address) and 2 in support. The material considerations raised are summarised as follows:
- Retrospective application
 - Impact on the Green Belt
 - Not in keeping with local area
 - Noise
 - Odour
 - Number of dogs on site
 - Highway safety
 - Waste
- 10.30 **Officer comment:** The above concerns have been addressed within this report.
- Overnight boarding of dogs

- 10.31 **Officer comment:** The application is for change of use to dog day care centre. It has been assessed on this basis. The applicant has been informed that overnight boarding of dogs may require separate planning permission.
- 10.32 Following the amended plans publicity, 29 further representations were received, 9 in objection and 20 in support. The following additional material considerations were raised:
- Biodiversity
 - Opening hours
- 10.33 **Officer comment:** The above concerns have been addressed within this report.
- Enclosure of separate field
- 10.34 **Officer comment:** The application has been assessed on the basis of the submitted information, which states that there would be no change in the visual appearance of the site as the applicant does not propose any physical additions or changes under this application. The applicant has been informed that other alterations may require separate planning permission.

11.0 CONCLUSION

- 11.1 The application for change of use of building and land from equestrian to dog care centre at Land off, Liley Lane, Grange Moor, Huddersfield, WF4 4EN, has been assessed against relevant policies in the development plan, as listed in the policy section of the report, the NPPF, and other material considerations.
- 11.2 Officers consider that the proposed change of use would cause harm to highway safety due to the proposed sub-standard visibility at the junction with Liley Lane and control over the number of vehicles travelling to and from the proposed dog day care centre.
- 11.3 Officers also consider that it has not been demonstrated that adequate mitigation would be provided to safeguard the amenity of nearby sensitive receptors (neighbouring residential properties) from noise generated by the proposed use (in regard to dogs barking whilst being exercised etc).
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92368>

Certificate of Ownership – Certificate B signed (notice served on owner of Paper Hall Farm).

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Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 09-Feb-2023

Subject: Planning Application 2022/92911 Change of use of vacant land to domestic garden 39, Carr Side Crescent, Batley, WF17 7JN

APPLICANT

K Daji

DATE VALID

02-Sep-2022

TARGET DATE

28-Oct-2022

EXTENSION EXPIRY DATE

06-Dec-2022

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Batley East

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (total of 26 representations received). This is in accordance with the Council's Scheme of Delegation.

2.0 SITE AND SURROUNDINGS:

2.1 The application site is a triangular parcel of land approximately 290sqm in area. It is grassed and bounded by a brick wall to the north and mature vegetation to the west. To the southeast is a footway linking Carr Side Crescent and Public Right of Way (PROW) footpath BAT/32/10, which is adjacent to the eastern corner of the site. The site is located directly to the east of 39 Carr Side Crescent, Batley, a semi-detached dwelling faced in brick which benefits from gardens to the front, side, and rear.

2.2 The site is surrounded by residential development to three sides, with Hyrstmount Junior School to the east (designated as Urban Greenspace UG274 in the Kirklees Local Plan). The site is not within a conservation area, nor are there any listed buildings within close proximity to the site.

3.0 PROPOSAL:

3.1 The applicant is seeking permission for the change of use of vacant land to domestic garden associated with 39 Carr Side Crescent.

4.0 RELEVANT PLANNING HISTORY

4.1 No record of any similar applications found at the site or its immediate surroundings.

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

5.1 During the course of the application, it was discovered that an administrative error during validation had led to the red line boundary being extended to the highway, thereby including land which would not be subject to the change of use. Specifically, it included part of the footway linking Carr Side Crescent and PROW footpath BAT/32/10. This was amended and the correct red line boundary re-advertised.

6.0 PLANNING POLICY:

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

6.2 The site is unallocated on the Kirklees Local Plan.

Kirklees Local Plan (2019):

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highways and access
- LP 22 – Parking
- LP 23 – Core walking and cycling network
- LP 24 – Design

National Planning Guidance:

- Chapter 2 – Achieving sustainable development
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by neighbour letter, site notice, and press advert (due to the site's location adjacent to a PROW), giving until 17th October 2022 to comment on the initial plans. As a result of the above publicity, 22 representations have been received: 6 in support, 15 in objection, and 1 general comment. These have been published online. The material considerations raised as concerns are summarised as follows:

- Loss of footway linking Carr Side Crescent and PROW footpath BAT/32/10
- Loss of open space
- Loss of privacy
- Overshadowing
- Ecology
- Future development on site

7.2 Amended plans were advertised by neighbour letters giving until 15th November 2022 to comment. 4 further representations were received: 1 in supports and 3 in objection. However, no new material considerations were raised. These representations have also been published online.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

None.

8.2 Non-statutory:

KC Disposals and Acquisitions – comments addressed within the report.

9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.
- 10.2 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24 suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.
- 10.3 In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

Impact on visual amenity

- 10.4 Consideration in relation to the impact on the visual amenity of the host dwelling and street scene shall now be set out, taking into account Policy LP24 (a), which sets out that proposals should promote good design by ensuring *“the form, scale, layout and details of all development respects and enhances the character of the townscape”*.
- 10.5 In terms of visual amenity, the vacant land does not currently have a designated purpose of use. As such, it is considered that any harm caused by changing the use would be neutral. It is noted that, as a result of the change of use to domestic garden the plot of no.39 would be somewhat larger than the neighbouring properties. However, there is some variation in plot size and shape in the surrounding area and as such this is considered acceptable on

balance. Furthermore, the local area is predominantly residential and as such, the change of use to domestic curtilage is not considered to cause harm to the character of the area.

- 10.6 The change of use to garden does not necessarily result in a loss of green space. The site is unallocated in the Kirklees Local Plan. It is further noted that designated Urban Greenspace UG274 (Hyrstmount Junior School) is directly to the east of this site, with a smaller amenity greenspace at Beaumont Street to the northwest. Therefore, it is considered that there would be no detrimental loss of greenspace as a result of the proposed development.
- 10.7 Having taken the above into account, the proposed development would not cause any significant harm to visual amenity, complying with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework.

Impact on residential amenity

- 10.8 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.
- 10.9 Given the nature and location of the proposal, it is not likely to cause any significant additional impact on the amenities of the neighbouring properties. Therefore, the proposal would comply with Policy LP24 of the Kirklees Local Plan and Paragraph 130 (f) of the National Planning Policy Framework.

Impact on highway safety

- 10.10 The applicant is seeking permission for the change of use of vacant land to domestic garden associated with 39 Carr Side Crescent. The development would not increase the amount of liveable space in the property. The proposed development is therefore unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at the site.
- 10.11 Therefore, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the Kirklees Local Plan, and Chapter 9 of the National Planning Policy Framework.

Other matters

- 10.12 Ownership issues – The application was accompanied by ownership certificate B, in which the applicant certified that notification had been served on the current/previous owner of the land, Kirklees Council. Therefore, KC Disposals and Acquisitions were informally consulted. It has been confirmed that the applicant is currently in negotiations to purchase the land from Kirklees Council, subject to receiving planning permission for change of use to garden land. Accordingly, KC Disposals and Acquisitions have no objections to this proposal.

- 10.13 Public Right of Way – PROW footpath BAT/32/10 runs adjacent to the eastern corner of the application site. Given the nature of the proposed development, and the small area of site which would abut the PROW, it is considered that the proposal would not have a significant impact on the amenity of its user in this instance, according with Policy LP23 of the Kirklees Local Plan.
- 10.14 Ecology – Officers note that there are no records of any ecological constraints on this site.
- 10.15 Future development – Concerns have been raised regarding future development on the site. Any future development would likely require a separate planning application and would be considered on its own merits against the relevant policy considerations.
- 10.16 Carbon budget – in this case, due to the nature of the proposal, it is considered reasonable not to require the applicant to put forward any specific resilience measures.
- 10.17 There are no other matters considered relevant to the determination of this application.

Representations

- 10.18 Following the initial round of publicity, 22 representations were received: 6 in support, 15 in objection, and 1 general comment. The material considerations raised as concerns are summarised as follows:
- Loss of footway linking Carr Side Crescent and PROW footpath BAT/32/10
 - Loss of open space
 - Loss of privacy
 - Overshadowing
 - Ecology
 - Future development on site
- 10.19 **Officer comment:** The above material considerations have been addressed within the report.
- 10.20 Following the amended plans publicity, 4 further representations were received: 1 in support and 3 in objection. However, no new material considerations were raised.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposed change of use of vacant land to domestic garden is considered to constitute an acceptable form of development and would have no adverse impact on residential or visual amenity, or highway safety.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

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

1. Commencement of development within 3 years.
2. Development to be in accordance with the approved plans

Background Papers:

The application can be found online here:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92911)
<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f92911>

Certificate of Ownership – Ownership Certificate B has been signed, with notice served on Kirklees Council.

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