

# Public Document Pack



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

**Julie Muscroft**

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

**Tel:** 01484 221000

Please ask for: Richard Dunne

Email: richard.dunne@kirklees.gov.uk

Tuesday 6 December 2022

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Town Hall, Huddersfield, HD1 2TT** at **1.00 pm** on **Wednesday 14 December 2022**.

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

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

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

**Julie Muscroft**

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

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

## **The Strategic Planning Committee members are:-**

### **Member**

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

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

### **Substitutes Panel**

#### **Conservative**

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

#### **Green**

K Allison  
S Lee-Richards

#### **Independent**

C Greaves  
A Lukic

#### **Labour**

A Anwar  
F Perry  
M Kaushik E Firth  
T Hawkins

#### **Liberal Democrat**

A Munro  
PA Davies  
J Lawson  
A Marchington

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

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

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**2: Declaration of Interests and Lobbying**

1 - 2

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

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**3: Admission of the Public**

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

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**4: Public Question Time**

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

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**5: Deputations/Petitions**

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

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

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## **6: Planning Applications**

3 - 4

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 12 December 2022.

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

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

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

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## **7: Planning Application - Application No: 2021/91914**

5 - 44

Demolition of one dwelling and erection of 39 dwellings with access and associated infrastructure (revised plans) rear of, 28, Northorpe Lane, Northorpe, Mirfield.

Contact officer: RichardA Gilbert, Planning Services

Ward(s) affected: Mirfield

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## **8: Planning Application - Application No: 2022/92557**

45 - 62

Installation of a 1mW ground mounted solar array and all associated works Fox View, Dry Hill Lane, Denby Dale, Huddersfield.

Contact officer: Callum Harrison, Planning Services.

Ward(s) affected: Denby Dale.

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### **Planning Update**

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

<b>KIRKLEES COUNCIL</b>			
<b>DECLARATION OF INTERESTS AND LOBBYING</b>			
Strategic Planning Committee			
<b>Name of Councillor</b>			
<b>Item in which you have an interest</b>	<b>Type of interest (eg a disclosable pecuniary interest or an "Other Interest")</b>	<b>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]</b>	<b>Brief description of your interest</b>

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

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

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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



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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 14-Dec-2022

**Subject: Planning Application 2021/91914 Demolition of one dwelling and erection of 44 dwellings with access and associated infrastructure (revised plans) rear of, 28, Northorpe Lane, Northorpe, Mirfield, WF14 0QN**

#### APPLICANT

Newett Homes

#### DATE VALID

07-May-2021

#### TARGET DATE

06-Aug-2021

#### EXTENSION EXPIRY DATE

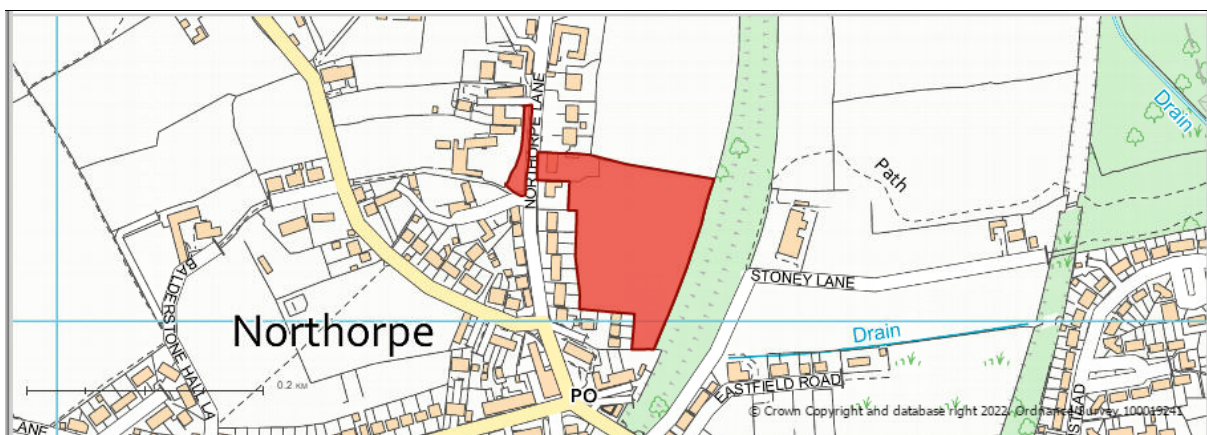
30-Sep-2022

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Mirfield**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development subject to the conditions set out in the Officer Report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – A 20% (20.51%) on-site contribution composed of 9 affordable First Homes with 30% market discount.
- 2) Public Open Space – An off-site financial contribution of £80,318 to address shortfalls in specific open space typologies.
- 4) Biodiversity – A financial contribution of £59,110 towards off-site measures to achieve biodiversity net gain.
- 5) Sustainable Transport – Measures to encourage the use of sustainable modes of transport, including a £25,968.50 financial contribution towards a Sustainable Travel Fund for the purpose of providing Residential MCards for occupants of the development as well as £23,000 for Bus Stop Upgrades in the form of a New Shelter at Stop 16299 and a Real Time Display to be installed at Stop 16300. A further £10,000 towards Travel Plan monitoring is also required.
- 7) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water and foul drainage infrastructure until formally adopted by the statutory undertaker).

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

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission for residential development.
- 1.2 This application is reported to the Strategic Planning Committee due to the number of representations that have been received and the evident level of public interest that the application has generated.
- 1.3 The site is allocated for housing in the Kirklees Local Plan (site allocation ref. HS69). This site designation indicates that a capacity of 48 dwellings is applicable for this site.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located on land at the rear of 28 Northorpe Lane. The land is formed of grassland which topographically decreases in gradient to the south and east. The site is 1.38HA in size and is polygonal in shape.
- 2.2 The site is bound by residential properties across its western and southern boundaries with dwellinghouses on Northorpe Lane and Northorpe Court backing onto the site. An abandoned railway line embankment is located to the east which is characterised by dense woodland. The northern boundary is shared with open agricultural land that, in planning policy terms, is designated as Green Belt.
- 2.3 The access to the site will require the demolition of 28 Northorpe Lane which is a detached dwelling constructed primarily of render located within the north west corner of the allocation.
- 2.4 The majority of the application site is within a Coal Mining High Risk Area as defined by the Coal Authority. The site is also within Flood Zone One.

## **3.0 PROPOSAL:**

- 3.1 Full application for the erection of 44 dwellings with open space, landscaping and associated infrastructure with vehicular access provided from Northorpe Lane. In respect of drainage, outfall of foul and surface water will occur via a sustainable drainage system and a pumped solution to existing sewerage infrastructure serving Northorpe Lane.
- 3.2 The development is to be comprised of a mixture of detached and semi-detached properties, that are to be accessed via a new priority junction from Northorpe Lane. A highway verge opposite the access is to be utilised to widen Northorpe Lane to enable parking bays that do not impede traffic flow along the highway and allow vehicles to manoeuvre into and out of the junction safely.
- 3.3 The house-types are one and two-storey units of 1, 2, 3 and 4 bedroom house sizes varying from 59.4 square metres (sqm) up to 133.2 sqm in internal floorspace. Of the 44 dwellinghouses proposed, 9 of those would be on-site affordable 'First Homes'. In respect of scale, the topography of the site elicits that some rear elevations will be three storeys in height.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 2019/92378 – Outline application for erection of residential development at land east of 28 Northorpe Lane and associated off site layby works opposite the site entrance – Approved (Section 106 Agreement)
- 4.2 2008/93748 – Erection of detached dwelling with integral garage REFUSED (appeal dismissed)
- 4.3 2006/90314 – Outline application for erection of one detached dwelling REFUSED (adj. 32a Northorpe Lane)
- 4.4 2005/90462 – Demolition of existing bungalow and outline for the erection of one dwelling REFUSED (no. 26 Northorpe Lane)

- 4.5 93/00369 – Change of use of land for the rearing and breeding of ornamental fish together with retention of existing earth mound and 5 ponds and excavation of further 10 ponds for same use REFUSED (appeal allowed)

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The case officer has been in negotiations with the agent to secure additional information necessary for the determination of the application. The list of amendments is set out below:

- Overall site yield reduced from 45 to 39 units and then back to 44 units following conclusion of the independent viability review and incorporation of 9 affordable homes.
- Several units removed at the site access to improve the site appearance from Northtorpe Lane.
- Road layout amended to allow the development to face onto the eastern woodland/disused railway embankment.
- Removal of the following house types from the submitted scheme: Buckthorn, Cedar, Elm, Willow and Baildon.
- Introduction of the Whitebeam apartment house-types which include 1 and 2 bedroom units comprising 8 of the affordable homes.
- Plot 25 amended to be dual-aspect.
- House type at Plot 19 altered to increase separation distance to rear of existing properties on Northtorpe Court.
- Various improvements to the appearance and layout of submitted house types, for instance, amendments to the window verticality of the Blackthorn house type, lower ground floor open plan layout applied to the Beeches house type and soil and vent pipes placed internally for the Sessile house type.
- Various boundary treatment amendments/improvements.
- Landscaping improvements through provision of street trees.
- The applicants have provided a viability assessment that has been subject to an independent assessment process. More information relating to this is available within the planning obligations assessment within Section 10 of this report.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).
- 6.2 The site is allocated for housing in the Kirklees Local Plan (*housing allocation reference HS69*). The site allocation box within the gross site area states that the allocation area 1.4HA in size and has an indicative capacity of 48 dwellings.
- 6.3 Kirklees Local Plan (KLP):

The following policies are considered relevant:

- LP1** – Achieving sustainable development
- LP2** – Place Shaping
- LP3** – Location of new development
- LP11** – Affordable housing and housing mix

**LP20** – Sustainable travel  
**LP21** – Highway Safety and Access  
**LP22** – Parking  
**LP23** – Core walking and cycling network  
**LP24** – Design  
**LP27** – Flood Risk  
**LP28** - Drainage  
**LP30** – Trees  
**LP32** - Landscape  
**LP33** – Biodiversity and geodiversity  
**LP35** – Historic environment  
**LP38** – Minerals safeguarding  
**LP47** – Healthy, active and safe lifestyles  
**LP48** – Community facilities and services  
**LP49** – Educational and health care needs  
**LP50** – Sport and physical activity  
**LP51**– Protection and improvement of local air quality  
**LP52**– Protection and improvement of environmental quality  
**LP53** – Contaminated and unstable land  
**LP63** – New open space

#### 6.4 National Planning Policy Framework (NPPF):

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

#### 6.5 Supplementary Planning Guidance & Other Material Considerations

- Highways Design Guide Supplementary Planning Document (2019)
- House Extensions and Alterations SPD (2021)
- Housebuilders Design Guide Supplementary Planning Document (2021)
- Open Space Supplementary Planning Document (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Interim Affordable Housing Policy (2016)
- Kirklees Local Plan allocations and designations (2019)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance
- Kirklees Strategic Housing Market Assessment (2016)
- Mirfield Design Guide (2002)
- Viability Guidance Note (2020)
- Providing for Education Needs Generated by New Housing

- 6.6 The site is within the Mirfield Neighbourhood Area. There is no made Neighbourhood Development Plan (NDP) within the Mirfield Neighbourhood Area at present. Furthermore, there is no emerging NDP to be considered as a material consideration in assessment of this application. Further details on the progress of neighbourhood development plans in the district can be found at:

<https://www.kirklees.gov.uk/beta/planning-policy/neighbourhood-planning.aspx>

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

- 7.1 The application has been advertised in accordance with the Council's adopted Statement of Community Involvement as well as the Development Management Procedure Order 2015 (as amended). Three rounds of publicity have been undertaken for the application in May to June 2021, December 2021 to January 2022 and in August 2022.
- 7.2 Following the end of the publicity periods 241 representations have been received on the application. Representors have highlighted the matters with the application to-date which are summarised below:

### **Transport Objections**

- Northorpe Lane is too narrow for traffic to pass safely due to on-street parking, including the potential for emergency service vehicles to struggle to gain access to the site.
- Unsafe interaction with horse riders who frequent the Lane.
- Vehicle generation issues posed by the development will exacerbate existing issues on the highway network.
- The statistics for traffic generation were taken during a school holiday and are not representative.
- Dispute as to the status of the highway verge opposite the proposed site access and the issue of Northorpe Hall's ownership indicating that the Council is acting 'illegally'.
- Highway capacity and safety issues resulting from the construction period (i.e. size of vehicles, mud on road etc).
- Highway safety issues resulting from congestion at the peak hour at the junction of Northorpe Lane with Shillbank Lane & Crossley Lane due to the interaction with school traffic for Crossley Fields Junior and Infant School.
- The internal site layout, particularly the second turn, has visibility issues.

### **Visual & Residential Amenity Objections**

- Three storey units will impact on existing residents light and will appear oppressive.
- The bin collection point will attract vermin.
- The design and appearance of the proposed houses is not in-keeping with the character or scale of the area and is 'stereotypical' of new development any where in the country.
- Loss of urban greenspace.
- The proposed dwellings are located too close to the existing residential properties and will thereby create overlooking and reduce privacy. Some representors highlight this in particular regard to properties located on Northorpe Court.

- The layout of the proposed houses is 'cramped' in their arrangement.
- The size of the development is too large for the locality and represents over-development of the site.

### **Environmental Objections**

- Adverse impact on air quality from the construction period.
- Adverse impact on air quality vehicular traffic.
- No electric vehicle charging points are shown.
- Impact of noise from new residential properties on existing residents of Northorpe Court.

### **Biodiversity Objections**

- Adverse impact on wildlife habitats, notably bats.
- Lack of detail in respect of the 'green corridor' of the former railway embankment.

### **Flood Risk & Drainage Objections**

- The eastern part of the site is prone to flooding.
- Complaints as to the reliance of a pump station for removal of sewage from the site.
- Drainage capacity of infrastructure on Northorpe Lane insufficient.

### **Other Objections**

- Infrastructure of Northorpe insufficient to cope with the development.
- Schools unable to handle the increase in the number of schoolchildren.
- The scheme is too dense for this site.
- Lack of design for disabled or elderly due to the reliance on two and three storey units.
- Impact of the development on the setting of Grade II listed Northorpe Hall.
- Lack of social housing.
- Instability from historic mine-workings.
- The green-space owned by Northorpe Lane opposite the proposed site access is of community benefit and the Council would be acting unlawfully to develop it for the purpose of a lay-by.
- Inappropriate housing mix.
- The submitted viability assessment is based on 'false' information.

### **Comments**

- Lack of information available relating to the development of the lay-by so that residents can make an informed decision.

7.3 The following comments were received from Mirfield Town Council:

**1. Environmental.** *The site has a severe slope buttressed by a disused railway embankment, and the threat of serious surface water run-off. Existing residents and those buying the new properties will have to live with the daily reality of flooding and pooling surface water, exacerbating the current semi-marshland conditions when rising global temperatures will lead to more severe and frequent flooding events. MTC would like to see more proof of mitigation of water run-off and this should be tested & proven prior to approval. In addition, nature conservation & the effect on the nearby listed building is a concern with this development.*

**2. Socio-economic.** *The mix of housing types will not add to the design 'look' of Mirfield or the real housing needs of the local population. The houses themselves will not incorporate any governmentally-sanctioned or recommended measures to improve thermal efficiency, reduce carbon consumption during the building phase, and carbon emissions thereafter. Within a few years the properties will require the retro-fitting of boilers and insulation measures which will otherwise render them unaffordable to run and increasingly uninhabitable as the climate warms and more severe weather events occur.*

**3. Highway.** *The area around Northorpe Hall and Lane is important to the history of Mirfield. This project will impact upon the site of Northorpe Hall itself, as the entrance to the new development involves the building of a roundabout directly opposite the Hall's gateway. The access route will also damage one of the oldest footpaths in the district, which dates back at least as far as the 16th century. The main concern is that the highway network is not suitable for the capacity of traffic the development would bring. Also, the impact on the local schools and grave concerns regarding the school pedestrian access. The lack of footpath along the majority of the route is a health & safety concern and the width of the road is not suitable for 2 cars to safely pass by.*

**4. Health, Safety and Demographics.** *The village also hosts a number of vulnerable residents and visitors who gather daily at Northorpe Hall and there are young people with special needs who live in supported accommodation on Northorpe Lane. The proposed project will greatly increase traffic levels and the threat level to their safety will be seriously elevated.*

7.4 The following comments were received from Cllr Martyn Bolt:

Received 23<sup>rd</sup> July 2021

*Please can you assure me that all comments and reports relating to the Northorpe Lane application have or will be placed on the file and website, as I am told some have not been.*

*I wish to place on record my dismay and concern that questions and submission from residents, specialists retained by residents and elected members have not had meaningful responses, indeed information relating to the challenges of the highway situation are a crucial element where legal technical questions have been asked are unanswered.*

*This is not only unhelpful to the community, but I believe in breach of Kirklees policies on dealing with elected members and responding to the public.*

*It would be cumbersome and time wasting to have to submit FOI requests to get what are matters of record, and this directly relates to issues raised in recent council meetings about the reputational risk to the council and the public perception relating to the planning service and process.*

7.5 Following on from the independent viability process, LPA officers negotiated the inclusion of 9no. affordable first homes which incurred submission of a new site layout and house-type (Whitebeam) by the applicant. Given that the revisions do not incur alterations to the amenity of existing residential properties compared to the previous round of publicity, either in respect of separation distances or window locations, a limited 7 day consultation is to be undertaken from 5<sup>th</sup> December as a courtesy to neighbouring residents. There are no statutory regulations dictating re-consultation timescales and the



proposed 7 day timeframe is considered to be reasonable given the scope of alterations to the scheme and their beneficence in housing mix and affordable housing terms. It is anticipated that any subsequent comments that are received through this consultation will be provided through the Committee Update.

## **8.0 CONSULTATION RESPONSES:**

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### **8.1 Statutory:**

- *K.C Highways Development Management*

No objections subject to conditions and the provision of Bus Passes, Bus Stop Upgrades and a Travel Plan Fund to be secured through a Section 106 Agreement.

- *Lead Local Flood Authority*

No objections subject to conditions.

- *The Coal Authority*

No objections to this planning application however further considerations of ground conditions and/or foundation design will be required as part of any subsequent building regulations application.

- *Yorkshire Water*

No objections subject to condition.

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

- *KC Crime Prevention*

No objection

- *K.C Ecology*

No objections subject to conditions, alongside the provision of a financial contribution of £58,450 towards off-site measures to achieve biodiversity net gain.

- *K.C Trees*

No objection

- *K.C Environmental Health*

No objections subject to conditions

- *K.C Landscape*

Advise that an off-site financial contribution of £80,318 is necessary to address shortfalls in specific open space typologies.

- *K.C Education*

Advise that no Education contribution is required of this development in this instance.

- *K.C Strategic Housing*

Advise that the development should provide 9 affordable units of 3 bedroom or larger in size and composed of 4 affordable rent, 2 first homes and 2 other discount market/intermediate units.

- *K.C Public Heath*

No comment

- *K.C Public Right of Way*

No objection

- *K.C Conservation and Design*

Satisfied that the proposed development will not significantly impact upon the setting of the Grade II Northorpe Hall or Grade II Former Barn to Northorpe Hall.

- *KC Waste Strategy*

No objection subject to condition

- *Northern Gas Network*

No objection

- *West Yorkshire Archaeology Service*

No objections subject to condition

- *Yorkshire Wildlife Trust*

No comments

## 9.0 MAIN ISSUES

9.1 The appraisal of the application will review the following topics:

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

## 10.0 APPRAISAL

### Principle of development, land use and sustainability

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum and taking account of windfalls, committed housing figures and losses/demolitions.
- 10.3 The planning application site consists of Local Plan housing allocation HS69. Full weight can be given to this site allocation for housing development in accordance with Local Plan policy LP3 – Location of New Development. Allocation of this and other greenfield sites (including those taken from the Green Belt) was based on a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing, employment and other uses. Full weight can be given to this site allocation subject to the following constraints identified within the housing allocation box within the KLP Allocations and Designations document, which are relevant to the site:
- Third party land required to achieve sufficient visibility splays
  - Part/all of the site is within a high-risk coal referral area
- 10.4 An indicative capacity of 48 dwellings is noted in the supporting text of the site allocation.

- 10.5 When discounting informal open space areas within the site boundary, the site area of allocation HS69 is 1.14HA. This would elicit, under the density of policy LP7 – Efficient and Effective Use of Land and Buildings, that the site would have a capacity of 39.9 dwellinghouses based upon a density of 35 dwellings per HA. A capacity based upon the calculation of the gross site area of 1.38HA against the target density of 35 dwellings per HA is 48.3 dwellings per HA.
- 10.6 Policy LP7 requires a net density to be used when calculating whether a proposal meets the density requirement. Consequently the 1.14HA site area is applicable and the proposal under this application, being 44 dwellings in yield, is 4.1 units above the target of 35 dwellings per HA. This would fall to 3.9 units above the LP7 density target when the loss of the existing dwelling (to form the site access) is included in the calculation. However, given the steep topography of the site, its unorthodox shape and the modest shortfall in density relative to the site allocation target density, the proposed layout and number of units is considered acceptable and reasonably in line with the Policy requirement of LP7. The development therefore initially meets the requirements of Kirklees Local Plan Policies LP1 – Presumption in Favour of Sustainable Development, LP3 – Location of New Development and LP7 – Efficient and Effective Use of Land and Buildings.
- 10.6 Subject to highways, design, residential amenity and other matters being appropriately addressed, it is considered that residential development on this site is acceptable in principle and would make a contribution towards meeting housing need in the Kirklees district.
- 10.7 Furthermore, it is considered that residential development at this site can be regarded as sustainable given the site's location adjacent to an accessible, developed area, its proximity to public transport and other local amenities.
- 10.8 The site is located just over one mile from the centre of Mirfield and just under one mile from the centre of Ravensthorpe, both of which provide a good range of shops and services. There are several schools within the vicinity and the site is easily accessible by public transport, with good bus routes within 200m walking distance of the site. Buses run along Shillbank Lane to the south of the site which provide access to both Dewsbury and Leeds. Considering the above, it is considered that this site is within a sustainable location and would comply with Paragraph 110 of the NPPF which states that *"appropriate opportunities to promote sustainable transport modes can be - or have been – taken up, given the type of development and its location"*.
- 10.9 On the basis of the above analysis, it is Officers' recommendation to accept the principle of residential development on the allocated housing site.

#### Transportation and Access Matters

- 10.10 Chapter 9 of the National Planning Policy Framework states that when assessing sites for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network, or on highway safety can be cost effectively be mitigated to an acceptable degree. Policy LP21 of the Kirklees Local Plan reiterates this.

## *Highway Safety & Capacity*

- 10.11 As part of the assessment in relation to highway safety and efficiency, K.C Highways Development Management has been consulted on the planning application and they have provided several rounds of comments culminating in those received on the 25<sup>th</sup> November 2022.
- 10.12 Access to the site is taken directly off Northorpe Lane via priority junction arrangement. An internal estate road is then formed into a 'highbrid' arrangement of shared surface carriageway with a footway running down one side of the development and into a private driveway. Longitudinal gradient plans for the internal estate road have been provided which confirm that the initial highway entrance served by two footways and the subsequent 'highbrid' design with a single footway ending in two private drives, is acceptable in highway design terms.
- 10.13 The proposed internal arrangements will be adopted up to a point with the exception of the highway serving Plots 23 through to 27. These units will be under a private street arrangement. This is in line with the Council's Supplementary Planning Document – Highway Design Guide whereby no more than 5 dwellinghouses can be served by a private drive.
- 10.14 A revised Transport Statement and Framework Travel Plan has been prepared and submitted by AMA consultants (ref 20983-001) dated June 2022, however the conclusions of this report are now out of date following an increase in units from 39 to 44 dwellings. Consequently, the assumptions provided in the original traffic statement, based upon 45 dwellings, is once again pertinent. The trip generation and distribution is derived from the TRICS database using 'edge of town residential' categorisation for this scheme. For 45 dwellings this metric results in 22 two-way trips in the AM peak and 23 two-way movements in the PM peak respectively. Broadly this reflects a journey entering or egressing from the site every 2 minutes 43 seconds in the AM peak hour and every 2 minutes 36 seconds in the PM peak hour. Given the low impact this level of traffic generation would have on nearby junctions, when viewed holistically with nearby committed permissions, the development is not determined as eliciting a need for mitigation to highway capacity in the local area. Indeed, this proposal is forecast to generate a noticeably lower rate of trip generation onto the network when compared to the outline permission (2019/92378) which used a defunct 0.7 trip rate (following greater work from home habits) and based its assessment on the maximum 48 unit allocation capacity. This approach is corroborated by Highways Development Management in the context of the size and location of the site when compared to similar residential developments nationally.
- 10.15 In respect of the internal estate road design, swept path tracking plans for an 11.85m refuse collection vehicle have been submitted. The tracking plans evidence that the turning head in the vicinity of Plots 17-20 is satisfactory to enable the vehicle to exit the site in a forward gear.
- 10.16 The latest site layout and house-type plans indicate that sufficient levels of off-street parking is provided for most dwelling types in accordance with the Highway Design Guide SPD. It should be noted, however, that the Whitebeam house-types are 2 spaces below the requirements set out in the Highway Design Guide SPD. Due to current plans being out for public consultation, it is

intended that the scheme would be revised post-Committee resolution to ensure that adequate levels of off-street parking are provided on the site. Similarly, sufficient on-street visitor parking is provided, with 4 spaces allocated at the site entrance, 2 adjacent Plot 30 and a final 2 opposite Plots 25 and 26.

- 10.17 Overall the design of the internal highway layout, through liaison with the Highways Development Management Team, has been amended to ensure that the estate roads are capable of being constructed to an adoptable standard (subject to section 38 agreement) and are consequently considered acceptable in highway safety and capacity terms.
- 10.18 It is acknowledged that Northorpe Lane has a number of vehicles parked along its length throughout various times of the day. To ensure that this development does not exacerbate existing on street-parking provision, whilst still enabling safe access and egress from the site for larger vehicles, the applicant proposes to provide a parking layby in the existing highway verge opposite 28 Northorpe Lane (to be demolished). The proposed parking layby on the highway verge will enable safe vehicular access into the site whilst maintaining the on-street parking provision along Northorpe Lane and will be implemented via an appropriate Grampian condition.
- 10.19 Given this proposal is a full application for residential development by a credible housebuilder (Newett Homes) with a track record of delivery and that the construction of the layby does not pose significant complexity, LPA Officers consider that the use of a Grampian condition meets the test of having reasonable prospects of coming forward within the time-limit imposed by the permission.
- 10.20 Members will be aware that the development of the layby within the verge is a contentious issue in the local community. Consequently, the Council has sought counsel opinion on this matter and the opinion provides LPA officers satisfactory comfort that a recommendation of approval to Strategic Committee, inclusive of the proposal to utilise the verge for enabling widening works and dedicated on-street parking facilities, is sound.

#### *Travel Plan*

- 10.21 The applicant has provided a framework travel plan that sets out the principles to guide a substantive travel plan at a later date. The framework travel plan has been reviewed by Highways Development Management and is considered acceptable. The applicant will be required to submit a full Travel Plan through a suitably worded condition as summarised in Section 12 of this report.
- 10.22 Kirklees Council requires developers to contribute to the cost of monitoring Travel Plan progress. The Council charges an annual fee for five years for this service, with two rates based on the size of the development:

*- Large Scale Major Development defined as 200 or more residential units or 10,000 m<sup>2</sup> GFA or more for other types of development: Cost: £3000 per annum for the first five years after opening*

*- Small Scale Major Development defined as between 50-199 residential units or at or above the thresholds defined in the table at Appendix A up to 9,999 m2 GFA for other types of development Cost: £2000 per annum for the first five years after opening*

- 10.23 It should be noted that, as per the criteria set out above, the Northorpe proposal would require £2,000 per annum for the first five years from the development being brought into use. This fee will cover assistance with the development of the Framework Travel Plan into a Full Travel Plan. Thereafter, the fee which equates into approximately £50/hr x 40hrs = £2,000 (£10,000 in total) for Officer time, which will be used to assist the Travel Plan Co-Ordinator in implementing, maintaining, and monitoring the Full Travel Plan. The financial sum is set out in the Officer recommendation to Committee and is intended to be secured via a Section 106 Agreement.

#### *Sustainable Travel & Connectivity*

- 10.24 Bus services which serve Shill Bank Lane Road include the 202/203 which operates between Huddersfield and Leeds, at a 15 minute frequency. The bus availability for the site is therefore considered to be acceptable. The size of the development is unlikely to change the bus route frequency.
- 10.25 As part of the Sustainable Travel package Kirklees Officers' consulted West Yorkshire Metro on this application. Metro have advised, in order to encourage the use of sustainable transport as a realistic alternative to the car, the developer is required to fund a package of sustainable travel measures. Leeds City Council have recently introduced a sustainable travel fund. The fund can be used to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) for all or part of the site. This model is proposed for use at this site. The payment schedule, mechanism and administration of the fund would have to be agreed with Kirklees Metropolitan District Council and WYCA and detailed in a Section 106 agreement, as advised in the Officer Recommendation.
- 10.26 As an indication of the cost, should the normal RMC scheme be applied based on a bus only ticket, the contribution appropriate for this development would be £25,968.50. This equates to bus only Residential MCards for each dwellinghouse of the 44 dwellinghouses composing the scheme.
- 10.27 Further to the provision of MCard Bus Passes, Metro have also advised that bus stop upgrades should result from the application in the form of a new shelter at Stop 16299 and a Real Time Display to be installed at Stop 16300. Each upgrade costs £13,000 and £10,000 respectively to total £23,000 for Bus Stop provision.
- 10.28 With regard to the criticism of the development sustainable travel connectivity with the surrounding settlement, the scheme's design has evolved based upon the constraints of the site given its steep topography, the location of the disused railway embankment and build pattern of the existing built environment. Indeed the connections southward toward the main urban area of Mirfield are restricted by the layout of properties along Northorpe Lane and Northorpe Court which offer little to no opportunity for providing a dedicated pedestrian access. The Core Walking and Cycling Route upon the embankment is not formalised and largely impassable, with entry onto and off

of this route being steep and difficult. The Case Officer has walked this route while undertaking a site visit and considers that significant investment would be required to return the embankment to a usable state. Given the need for a meaningful link into Mirfield to include provision of a bridge and a significant amount of compulsory purchase of existing residential properties built on the disused railway line on Shillbank Avenue, the level of investment required is beyond the capacity of this development to generate given that the link would also require public funds that are not readily available. It could be argued that a shorter pedestrian route between the site along the embankment to Shillbank View could be created, however the slope of the embankment precludes the ability to create a ramp and the route would therefore be stepped and not capable of meeting Equality Act requirements.

- 10.29 Overall the delivery of a pedestrian walk route along the embankment from the site would have limited utility in respect of convenience and funds identified for sustainable travel are considered to be better spent on other sustainable options such as MCards (Bus Passes) and Bus Stop upgrades. The layout will, however, provide a link to the site boundary, in expectation of a substantive upgrade to the Core route being provided at some point in the future.

#### *Public Right of Way (MIR/12/60)*

- 10.30 Chapter 8 of the National Planning Policy Framework states that planning decisions should protect and enhance public rights of way and access. Policy LP23 of the Kirklees Local Plan states that existing public rights of way should be protected and enhanced.
- 10.31 Public Right of Way MIR/12/60 is located to the west of the site south of Northorpe Hall. This is on the opposite side of the highway to no. 28 Northorpe Lane but is in close proximity to the proposed layby position. Whilst it is acknowledged that the proposed layby would be located close to this footpath, it is not anticipated that MIR/12/60 would be obstructed in the construction of the layby as this forms a vehicular access to Northorpe Hall. Given this situation, LPA Officers are content that MIR/12/60 will be protected. By consequence, the proposed development complies with LP23 of the Kirklees Local Plan which reiterates the aim of Chapter 8 of the National Planning Policy Framework.

#### *Conclusion*

- 10.32 The proposed access to the site and its internal estate road are capable of being designed to a satisfactory standard to allow adoption and the scheme would benefit future residents and the wider community through its supplementary financial contributions in the form of a travel plan, bus passes and a bus stop upgrades. Overall, the proposal is considered acceptable from a highways perspective, subject to conditions and is found to comply with Policies LP21, LP22 and LP23 of the Kirklees Local Plan as well as Chapters 8 and 9 of the National Planning Policy Framework.



## Layout, Scale, Visual Appearance and Landscaping Matters

- 10.33 Policy LP24 – Design of the Local Plan states 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, heritage assets and landscape.
- 10.34 As the site forms a new estate set in a backland location behind properties on Northorpe Lane and the disused railway embankment, it is well-screened from view from existing urban areas. Consequently, the appearance of the development would largely be viewed in isolation and therefore it is better able to set the terms of its own legibility and appearance than a development that would be more obviously contrasted with existing development.
- 10.35 The scheme was initially proposed with 45 units which, through negotiations with the Team Leader for Design & Conservation and the application Case Officer, resulted in a reduction to 39 units to reduce the cramped nature of some plots and the wider streetscene. This yield has since increased to 44 but has retained the less-cramped layout and is therefore acceptable. Similarly, further negotiations between the applicant and the Case Officer resulted in significant alterations to the layout to prevent dwellings backing onto the disused railway embankment which has since overcome the objections from KC Design and Conservation in respect of the scheme's layout being purely focused on density. Consequently, dwellings are now set back from and face out toward the embankment despite the site's challenging levels. Those properties (Units 22 through to 25) also overlook a small greenspace that helps the site merge into the woodland located on the embankment.
- 10.36 LPA Officers appreciate concerns highlighted by residents in respect of the scheme being poorly designed and integrated with the surrounding character of Northorpe, but do not fully share these concerns. There are some opportunities on the site that could be more sensitively exploited, such as the open agricultural land to the north, but such a layout alteration would incur a significant loss of units that would potentially result in a drop in yield further below the site policy requirement and could render the scheme unable to provide the wider planning contributions highlighted in the Officer recommendation. Given the fact that the Council is subject to an Action Plan in respect of the Housing Delivery Test, the retention of units as close as possible to the indicative site policy is always a balance between design quality and density with trade-offs that are necessary to ensure that the Council meets the Housing Delivery Test going forward.
- 10.37 The surrounding area is highly varied in respect of the composition of existing dwellinghouse stock with Northorpe Lane featuring late 19<sup>th</sup>/ early 20<sup>th</sup> century terraced housing, a Manor house turned residential care home in the form of Northorpe Hall, 1930s semi-detached dwellings and bungalows as well as more modern late 20<sup>th</sup> Century detached houses on Northorpe Court. Overall, it is considered that the built form and scale of residential development in the surrounding area is highly diverse with a mixed scale of one, two and three storeys in height – with split level three-storey units evident at 4, 5 and 6 Northorpe Court. By consequence, it is considered the development proposed under this application is reflective of the height and massing of surrounding development and therefore accords with the built form of the local area in respect of scale.

- 10.38 Given that the site has a range of apartment, semi-detached and detached dwellinghouses that match the surrounding composition of Northorpe, it is considered that the proposal is also fairly reflective of the existing development pattern. Though house-types are reflective of those used outside of Kirklees, this does not mean that they are not of a high quality appearance. Indeed LPA Officers would argue that the dwelling types proposed are of a higher quality appearance than a significant proportion of 20<sup>th</sup> Century development that can be viewed across Northorpe and Mirfield. Indeed the applicant has designed the scheme to meet market needs for modern living and though terraced housing is appropriate in dense urban areas, the site is in a semi-rural location and the detached and semi-detached site layout reflects the urban grain of the surrounding settlement – being that the surrounding area is also composed of detached and semi-detached units.
- 10.39 In respect of materials and detailing, the site is proposed to be developed with properties wholly finished with either artificial stone, render or contrasting brick to create a diverse visual appearance with stimulation and interest. The entirety of Northorpe Court has been developed of artificial stone and this sets a precedent for the use of re-constituted stone in this instance. Brick and render are a common feature across Northorpe Lane. The new dwellings are also proposed with decorative cills, lintels, kneelers and corbelling to prevent a bland appearance. Likewise some properties include gables and others are double-fronted so as to ensure that there is a mix of designs. Nevertheless repetition of house-types is retained along longer streets to maintain a rhythm throughout the streetscene whilst double-fronted properties are sited in corner locations to prevent blank elevations in highly visible areas. Importantly all designs retain a gap between the first floor window lintels and the roof fascias to prevent a squat appearance that is typical of modern designs. Similarly window sections have been provided by the applicant which confirm that the glazing is to be set back within the reveal by a minimum of 5cm – this is another important detail that ensures facades have visual depth.
- 10.40 The overall design approach to the dwellings is considered to be aesthetically appropriate and the proposed facing materials are acceptable subject to a condition requiring the approval of samples.
- 10.41 Representors have cited how the loss of the field to development will affect local residents amenity from a visual/communal perspective. LPA Officers appreciate these concerns, however the site was reviewed by an independent Planning Inspector who agreed to allocate the site for residential development under the Examination in Public of the Local Plan. Though some loss of landscape character is inevitable with developing a site such as this, it has to be balanced with the wider benefit of providing homes, including affordable homes, to meet the needs of the local area and wider Borough.
- 10.42 In terms of landscaping, the submitted landscaping details present front of property landscaping, including street-trees and an attractive visual entrance to the site. A detailed hard and soft landscaping design would be required by condition as a part of any approval including details of tree-pits/root barriers, where applicable.

## *Conclusion*

- 10.43 To conclude, the applicant has responded to requests to improve the scheme, which has resulted in a more attractive, less-cramped and appropriate development being brought forward that reflects the character of its surrounding context and thereby meets the requirements of LP24 – Design and LP32 – Landscape of the KLP as well as the advice within the Housebuilder’s SPD and the National Design Guide.

## Housing and Residential Amenity

### *Housing Mix*

- 10.44 Kirklees Local Plan Policy LP11 – Housing Mix and Affordable Housing requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. All proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure.
- 10.45 The development proposes to provide 4 one-bedroom properties, 4 two-bedroom properties, 26 three-bedroom properties and 10 four-bed properties. Table 7.1 in the Kirklees Strategic Housing Market Assessment 2016 (SHMA) sets out the distribution of need in the borough for all types of housing. Table 7.1 indicates that, for open-market need, 30.74% of the annual housing requirement should be composed of three bedroom units while 24.61% of the requirement should be four bedroom properties. Three and four bedroom houses consequently constitute 55.35% of the open-market housing requirement, and this does not include the open-market need for similarly sized bungalow properties. As regards affordable housing, 1 and 2 bedroom apartment units cater for 32% of the affordable housing need of Kirklees. Overall, the proposal provides a housing mix that caters for a broad spectrum of need within Kirklees.
- 10.46 The proposed development meets a significant proportion of Kirklees’ identified market and affordable needs. As such, the development is considered acceptable with regard to Policy LP11.

### *Amenity of Proposed Dwellings*

- 10.47 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council’s other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

10.48 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant. As reflected in the table below, none of the site's residential units are proposed below the indicative standards of the NDSS.

House Type	House Type Description	Number of units	Sqm (GIA)	NDSS Sqm (GIA)
Blackthorn	3 Bed 4 Person Detached	2	90.4	84
Aspen**	3 Bed 4 Person Semi 3 storey	12	94	90
May	3 Bed 5 Person Detached	1	103.4	102
Beeches	3 Bed 4 Person Semi with Garage 3 Storey	10	110.4	90
Sessile	3 Bed 6 Person Detached with Garage 3 Storey	1	133.2	108
Guelder	4 Bed 5 Person Detached	1	113.6	97
Mulberry	4 Bed 7 Person Detached with Integral Garage	3	115.8	115
Hazel +	4 Bed 8 Person Detached with Integral Garage 2.5 storey	2	125.4 (144)*	130
Willow	4 Bed 8 Person Detached	1	128.6	124
Willow Alt	4 Bed 8 Person Detached	2	128.6	124
Birch	4 Bed Detached with Integral Garage	1	131.7	124
Whitebeam Ground Floor**	1 Bed 2 Person Maisonette	4	59.4	50
Whitebeam First Floor**	2 Bed 3 Person Maisonette	4	70.1	61
<b>Total Units</b>		<b>44</b>		
<i>Total Units Below NDSS</i>		<b>0</b>		
<b>Total % Below NDSS</b>		<b>(0%)</b>		

\*The Hazel+ house type exceeds the internal space standard when the integral garage is included within the measurement.

\*\* The Whitebeam house types are all proposed as 'First Homes' and Plot 29, one of the Aspen house-types, will also be a First Home.

- 10.49 All of the proposed dwellinghouses have been reviewed and are found to benefit from adequate outlook, privacy and natural light. Adequate distances would, in most instances, be provided within the proposed development between the new dwellings. In the main, each dwelling house would have adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents as required by the Housebuilders SPD.
- 10.50 The northern retaining wall presented beside Plots 41-44 in Section DD is approximately 4.4m in height adjacent to the field to the north of the site. This is projected to be across a maximum of 22m of the 106m open-field boundary. In reality this height is likely to be a maximum of 4.4m for a shorter length than 22m and is not considered a threat to the amenity of any properties to the north of the site given their distance from the proposed wall. The finishing material of the site's retaining walls is subject to a condition cited in Section 12 of this report. The height of the retaining wall that cuts through the centre of the site beside Plots 23, 25, 26 and 29 decreases significantly from 3m beside Plot 23, to 2m at the rear boundary of Plot 25 and even lower beside Plot 23. Though there will be some impact on overbearance of the rear garden of these properties, prospective purchasers will be fully cognisant of the issue upon inspection of the property.

#### *Amenity of Existing Dwellings*

- 10.51 This section of the report reviews matters pertaining to overshadowing (light loss), overlooking (privacy) and overbearance of existing dwellings surrounding the site.
- 10.52 With regard to privacy, representors highlight that the proposed three storey house types, which includes the Aspen, Beeches, Sessile and Hazel + types, have the potential to significantly overlook existing residential properties on Northorpe Lane and Northorpe Court. These house types are notably located across Plots 2 through 9 and Plots 12 through to 16 which all share mutual rear boundaries with the aforementioned existing properties. The Housebuilders Design Guide SPD highlights that *'for two storey houses typical minimum separation distances are advised as 21 metres between facing windows of habitable rooms at the backs of dwellings'*.
- 10.53 In respect of Plots 2 to 9 relative to the rear of properties on Northorpe Lane, the separation distances between rear elevations with habitable room windows is as follows:
- Plots 2 & 3 are a minimum of 28.8m from the rear elevation of 26 Northorpe Lane
  - Plots 4, 5 & 6 are a minimum of 28.2m from the rear elevation of 26a Northorpe Lane
  - Plots 6 & 7 are a minimum of 24.5m from the rear elevation of 24 Northorpe Lane
  - Plots 8 & 9 are a minimum of 27.5m from the rear elevation of 22 Northorpe Lane
  - Plots 9 & 10 are a minimum of 23.15m from the rear elevation of 20 Northorpe Lane (note that Plot 10 is two-storeys in height and that the attached garage of Northorpe Lane is not included in the distance figure as it does not include a habitable room window).

- 10.54 Plots 2 to 9 are composed of the Aspen and Hazel+ house types that feature the third storey within their roof-space. As a consequence, the rooflights on these properties are set back approximately 2m from their main rear elevation thereby increasing/uplifting the distances set out above by a further 2m. The submitted section plan, with section BB of relevance in this instance, highlights that Plots 2 to 9 are set at a lower level relative to those on Northorpe Lane, thereby further minimising the impact on existing residents' privacy. This level difference would also counteract some residents' concerns as to loss of light and overbearance resulting from the proposed development.
- 10.55 In respect of the 21 metre rule between Plots 11 and 12 relative to 3 Northorpe Court, it is appreciated that 21m would not be achieved to the single storey rear extension of 3 Northorpe Court relative to the main rear elevations of Plots 11 and 12. However the relationship would be mutual given the less than (<)21m relationship from 3 Northorpe Court's main rear elevation relative to that of Plot 11's single storey rear extension. Indeed, the rear extension of 3 Northorpe Court is partially offset relative to the easternmost first floor window of Plot 11 and the entire rear elevation of Plot 12 – this relationship is allowed for within Paragraph 7.20 of the Housebuilder's Design Guide SPD. Overall, given that the main rear elevations incorporating habitable rooms windows exceed 21m in separation, alongside the broadly level topographical relationship between the existing and proposed properties, it is Officers' view that the proposed separation distance in this instance is satisfactory and conforms with guidance outlined in the Housebuilders Design Guide SPD.
- 10.56 As concerns overlooking of the remainder of Northorpe Court, Plot 13 overlooks front garden and driveway space that is visible to the public realm and this situation is within acceptable parameters. Plots 15 and 16 are determined to be a sufficient distance from the rear garden of 4 Northorpe Court's rear garden to ensure that the privacy of that property is maintained at a reasonable level.
- 10.57 The Housebuilders Design Guide SPD recommends a minimum distance of 12m between a habitable room window that faces onto windows of a non-habitable room. This metric relates, in effect, to distances between rear elevations and side elevations. The northern elevation of 4 Northorpe Court does not include any windows, however the elevation is 14.9m distant from the rear wall of Plot 14 and thereby significantly exceeds the minimum requirement.
- 10.58 The same metric of 12m is relevant to the inverse relationship of the proposed dwellinghouses' side elevations relative to the rear elevations of existing residential properties and mainly impacts upon existing residents' potential to experience overbearance and light loss of their rear gardens. This occurs in the following instances: Plot 11 relative to 16 Northorpe Lane and Plot 19 relative to 5 Northorpe Court. In terms of the former, the distance between the relevant elevations is 15.3m whilst it is, for the latter, 14.7m. Both of these distances significantly exceed the minimum required by the Housebuilders Design Guide SPD and the layout is therefore considered acceptable in respect of overbearance and access to light.

- 10.59 A garage is to be located on the boundary between Plot 1 and 26 Northorpe Lane. The location, scale and height of this outbuilding is considered subservient to the main property (Plot 1) and will not harm the amenity of 26 Northorpe Lane on account of its location set to the north east of the existing property's rear garden – being of a considerable size to absorb the potential overbearance experienced from the western gable of the garage.
- 10.60 More broadly, with particular respect to light and overbearance, the proposed development is set at a lower level than properties on Northorpe Lane and is sited to the north and east of both Northorpe Lane and Northorpe Court. Though some impact will be incurred by these properties, the relationship of the development relative to existing dwellinghouses is such that it will be experienced within acceptable parameters of amenity regarding access to light and perceived overbearance.

### *Conclusion*

- 10.61 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protects those of existing occupiers whilst meeting the housing mix and affordable housing provision required in Kirklees. It would therefore comply with the objectives of Local Plan policies LP11 and LP24.

### Biodiversity and Tree Matters

#### *Trees*

- 10.62 The proposal is supported by an Arboricultural Report and Impact Assessment undertaken by AWA Consultants as well as a Landscape Masterplan detailed by FDA Landscape, on behalf of the applicant. The KC Arboricultural Officer has reviewed the content of both the assessment and landscaping plans and has confirmed agreement to the conclusions of the former and the proposals set out within the latter. The Arboricultural Officer has stated that *'there are no protected trees affected by this proposal and those that are planned for removal are all young/semi-mature and in poor condition...The submitted landscaping masterplan includes details of the species, location and size of trees to be planted as well as satisfactory details of tree planting pits. The proposed landscaping scheme is satisfactory from a tree planting perspective and will provide some trees within the highway and an overall improvement to the tree cover for the site....on that basis there are no objections to the proposal.'*

#### *Ecology & Biodiversity Net Gain*

- 10.63 The planning application is supported through the submission of an Ecological Impact Assessment (EclA) and Biodiversity Impact Assessment (BIA) including an updated Biodiversity Metric v3.0 calculation, all of which were published by Futures Ecology in March and April 2022.
- 10.64 Following consultation with KC Ecology, it has been confirmed that the EclA provides a comprehensive assessment of the site and includes up to date habitat surveys along with numerous protected species surveys. The EclA addresses all of the impacts that the proposed development could bring about to protected habitats and species, detailing the level of mitigation required to ensure that the development will bring about minimal impacts on these ecological receptors.

- 10.65 In order to ensure that these species and habitats are safeguarded throughout the development, an appropriate condition in the form of a CEMP for Biodiversity is recommended in Section 12 of this report. The enhancements suggested in the EclA will ensure that opportunities for protected species remain, post development, which can once again be secured through an appropriately worded condition. As such, the proposed development complies with Local Policy LP30.
- 10.66 The submitted BIA highlights that the proposed development will result in a loss of 1.86 habitat units (38.77% net loss) and a net gain of 1.42 hedgerow Units (total net change of 1,423.31%). In addition, the loss of the dry ditch within the site will lead to a total net unit change of -0.2 River Units (a total net change of -100%). Given the above, in order for the proposed development to achieve a 10% net gain, 2.35 habitat units and 0.22 river units will need to be delivered off-site, this can be achieved through a variety of mechanisms, as detailed in section 3.4 of the Kirklees Biodiversity Net Gain Technical Advice Note.
- 10.67 The applicant has chosen to pursue the option of a financial contribution to offset the loss of the habitat and river units, the fee that will be required is based on £20,000 per habitat unit (figure taken from 2019 DEFRA Impact Assessment) + 15% admin fee (figure taken from Kirklees Biodiversity Net Gain Technical Advice Note). Given the combined shortfall of 2.35 habitat units, 0.22 river units and the need to provide a 10% net gain on the site's baseline biodiversity level, a contribution of £54,050 for habitats and £5,060 for river units totalling £59,110 is required. This figure is proposed to be secured through a Section 106 agreement. The habitats that are due to be delivered on site will be secured through the condition in Section 12 of this report relating to an Ecological Design Strategy (EDS).
- 10.68 Representors have highlighted that the development could have an adverse impact on wildlife, such as bats and other protected species. The EclA report categorically sets out how this harm can be offset and further detail is required to be submitted through the CEMP: Biodiversity and EDS. In respect of concerns relating to the impact on the railway embankment as a green corridor, the development is set off from the embankment and does not propose any alterations to this area.
- 10.69 The proposed development complies with the Biodiversity Net Gain: Technical Advice Note, Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

#### Site Drainage and Flood Risk

- 10.70 The National Planning Policy Framework states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that:



- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

This is reiterated in the Kirklees Local Plan Policy LP27 'Flood Risk'.

- 10.71 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the Lead Local Flood Authority;
  - b) have appropriate proposed minimum operational standards;
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
  - d) where possible, provide multifunctional benefits.
- 10.72 Environment Agency mapping indicates that the site is wholly within Flood Zone 1. Given the size of the site (>1HA), the applicant has submitted Flood Risk Assessment (FRA) (Ref: 20983-003, Rev 3 dated 14/12/2021) and Drainage Strategy drawing (Ref: 21111-DR-C-0100 Rev G, revision undated) produced by Andrew Moseley Associates. The Lead Local Flood Authority (LLFA) have reviewed the supporting documents and have advised LPA Officers accordingly.
- 10.73 Flood mapping shows floodwater to a depth greater than 1.2m for the 1 in 100 storm event being retained against the railway embankment approximately 45m south of the north-easterly corner of the site. The latest drainage strategy drawing reflects the revised building layout with the housing that was originally within the potential flood zone on the eastern boundary moved further west. The LLFA welcome this amendment to the layout as it significantly reduces the risk of property flooding, in accordance with the requirements of the Local Plan and NPPF.
- 10.74 The attenuation storage design is being provided in a 2.4m wide box culvert under the access road in place of an off-line "Carlow" type tank that was originally proposed – this is acceptable to the LLFA, however amendments to the highway layout have been incurred due to structures over 900mm in width being prevented from adoption by the Local Highway Authority. Following subsequent advice provided by the Section 38 Highways team, the highway area where the culvert is located shall remain a private drive (between Plots 23-27) and a footway has been provided up to Plot 27 with a turning head adjacent Plots 17-20 to enable an RCV to leave the site in a forward gear. This amended highway layout ensures that the highway is able to be adopted up to the private drive.

- 10.75 The LLFA have confirmed that the culvert remaining under a private drive would not preclude it from adoption by the statutory undertaker (Yorkshire Water). However, it is highly likely that the applicant would be required to provide structural validation testing of the culvert to ensure the culvert's integrity within a highway. In the unlikely event that the culvert is not adopted by the statutory undertaker, the fallback position would not burden the users of the private drive only (Plots 23-27) but would be distributed evenly across all 44 households on the site who would be shareholders in the management company responsible for the drainage infrastructure on the site.
- 10.76 The development's reliance on a culvert to provide surface water storage results from the site being deemed unsuitable for attenuation from infiltration techniques (soakaways etc) due to a significant risk to ground stability. Likewise the closest watercourse is located on the other side of the railway embankment north of the Working Men's Club in Eastfield Road – the topographical issue this incurs prevents a gravity solution for an outfall to the watercourse and results in outfall to the public sewer infrastructure.
- 10.77 The nearest public surface water sewer is located on Northorpe Lane at a higher elevation than the proposed housing and appears to be the only viable discharge point for surface water drainage. Therefore a combined pumping station is proposed to separately pump both foul and surface water up to the sewer on Northorpe Lane subject to YW approval.
- 10.78 The LLFA have previously noted minor issues with the drainage design in respect of an invert level of the flow control chamber being higher than that of the 3.3m diameter inspection chambers at the ends of the culvert alongside a discrepancy in the allowable discharge rate resulting from an insufficiently sized hydrobrake. Both of these matters have been resolved through discussions between the applicant's consultant and the LLFA and shall be clarified via detailed the drainage design required by condition in section 12 of this report. Similarly, full hydraulic calculations (MicroDrainage or similar) are to be provided with the discharge of drainage conditions application to demonstrate that surface water flows will remain within the development during the critical 1 in 100 year (plus 30% CC) rainfall event.
- 10.79 Submission of a temporary drainage strategy outlining the drainage arrangements for different construction phases of the project is to be added as a pre-commencement condition, as set out in Section 12 of this report. The submission shall include a plan showing the location of the attenuation storage and supporting calculations, which shall be based on a 1 in 5-year storm event. Similarly a further condition is required setting out overland flow-routing in the event of a blockage scenario of the drainage system or exceedance event. Again this is set out in Section 12.
- 10.80 As a part of a Section 106 agreement to be entered into by the applicant, a term of the Officer recommendation is for the formation of a management company to oversee the maintenance and management of the site's drainage system until such time as it is adopted by the statutory undertaker.

### *Conclusion*

- 10.81 In conclusion, considering no objections from the LLFA and the conditions advised by the consultee to make the development acceptable, the proposed development complies with Policies LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

## Heritage and Archaeological Matters

- 10.82 To the west of the site is Northorpe Hall, its attached Barn and Northorpe Croft which are Grade II listed buildings. The designated heritage assets are set on the opposite side of Northorpe Lane relative to the site entrance and are largely screened from view by the curtilage boundaries of the Hall, which include dry stone walling, hedges and mature trees. It should be noted that the listed buildings are not highlighted as a constraint for the site allocation within the Local Plan.
- 10.83 The proposed layby adjacent to Northorpe Hall has the potential to obscure the view of the stone boundary wall which borders the listed building, as well as changing the character of this part of Northorpe Lane. However it could be argued that the demolition of 28 Northorpe Lane to form a tree-lined access into the development site will make the area more open and attractive than the existing 1960s dwellinghouse. In any case, private motor vehicles park on the western side of Northorpe Lane beside the highway verge and the majority of the grassed highway verge will be retained which infers that the setting of the listed buildings will remain largely unaltered albeit with less than substantial harm incurred. On this basis the less than substantial harm incurred to the listed buildings is significantly outweighed by the public benefit of the site bringing forward housing infrastructure and affordable housing that shall serve the needs of the Borough's population. K.C Conservation have been consulted on the impact on the setting of the listed buildings and agree with this position. The development is consequently in accordance with Policy LP35 and Paragraph 202 of the NPPF.
- 10.84 With regard to archaeology, the National Planning Policy Framework states that, where a development has the potential to include heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 10.85 The application site is in an area of known archaeological potential and therefore West Yorkshire Archaeology Advisory Service has been consulted on the application. Following review of the submitted Geophysical Survey, WYAAS have confirmed that the level of archaeological potential on the site is low and therefore a suitably worded post-determination condition to be attached to any grant of planning permission, is appropriate in this instance. The condition is cited in Section 12 of this report.

### *Conclusion*

- 10.86 In all, with the inclusion of the suggested condition, the proposed development is considered acceptable from a heritage perspective and complies with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.

*Contaminated Land*

- 10.87 The applicant has submitted a Geoenvironmental Appraisal by Lithos dated December 2021 (Ref: 3433/2B) in support of their application. The report details the findings of an intrusive investigation undertaken in July 2021. In brief, evidence of shallow coal workings was found, as was the presence of very shallow coal on-site. The very shallow coal was associated with the Wheatley Lime seam and was found to be completely weathered and of poor quality (i.e. clay rather than coal). However, the report continued to recommend that where significant coal is present at very shallow depth in garden areas (uppermost 1m), it should either be removed, or covered with inert subsoil/topsoil so that it lies at greater than 1m depth to avoid potential combustion.
- 10.88 A further key finding was that arsenic was found to be above the Tier 1 screening value (37 mg/kg) in 11 of 12 soil samples taken from the site. However, a further bioaccessibility assessment determined that the bio-accessible fraction of arsenic was below 3%. Therefore, it was concluded that the soil on-site was suitable for re-use in garden areas. No other potential contaminants were found to exceed the screening values (residential with gardens end-use). The report did acknowledge that the results of the ground gas monitoring were to be issued in February 2022, however no steady flows or concentrations of methane had been recorded at the time of writing. Concentrations of carbon dioxide were all below 3%v/v. Additional post-demolition sampling of existing buildings, structures and fishponds is also recommended in the report.
- 10.89 KC Environmental Health's Contaminated Land Officer has reviewed the submitted information and accepts the Geoenvironmental Appraisal by Lithos dated December. However, additional information is necessary confirming the ground gas regime on-site as detailed in the accepted report. Furthermore, additional site investigations are proposed. Overall, the Contaminated Land Officer is unable to recommend the removal of the previously recommend Phase II condition (CLC2) until additional information is submitted and approved. Conditions relating to Phase II site investigations, as well as site remediation and validation, where necessary, are cited in Section 12 of this report.
- 10.90 The recommended conditions enable the development to be found acceptable in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph 183 of the NPPF.

*Noise*

- 10.91 The applicant has submitted a Noise Impact Assessment authored by Environmental Noise Solutions limited dated 26 March 2021 ref NIA/9654/21/9697/v1/Northorpe Lane. The objectives of the noise impact assessment were to:

- Determine external noise levels at the application site
- Assess the potential impact of the external noise climate (particularly neighbouring commercial uses) on the proposed residential development, with reference to relevant guidelines
- Provide recommendations for a scheme of sound attenuation works, as necessary, to protect future occupants of the proposed residential development from a loss of amenity due to noise

- 10.92 The report states that Humac Associates Supplies Ltd. is set back at least 60 metres from the application site and provides storage and distribution of janitorial supplies (B8 Use Class only with no manufacturing). The operating hours are also restricted by Condition 3 of Planning Permission ref: 2014/62/94029/E, as follows - *'The use hereby permitted shall not be open outside the hours of 06:00 to 20:00 Monday to Friday and 08:00 to 13:00 Saturdays with no opening on Sundays or Bank Holidays.'*
- 10.93 The topography of the surrounding area is such that the land slopes up to form the circa 3-metre-high railway embankment, and then drops away by circa 6 metres at Humac Associates Supplies Ltd. As a consequence, the business is significantly screened from the application site by the embankment.
- 10.94 Northorpe Working Men's Club was not operating at the time of the survey due to Covid-19 restrictions. However, it is noted that the club is set back at least 70 metres from the application site and significantly screened by the aforementioned embankment, and that there are numerous existing residential dwellings in the immediate vicinity.
- 10.95 A noise survey was undertaken on Wednesday 17th March 2021 through to Thursday 18th March 2021 with measurement position 1 (MP1) located along the eastern boundary of the application site and measurement position 2 (MP2) located along the Western boundary of the application site. Table 3.1 of the NIA summarises the measurement data. Based on the measured noise levels and taking into account the distances to noise sources, the report considers that noise from both Humac Associates Supplies Ltd. and Northorpe Working Men's Club is wholly negligible at the application site.
- 10.96 Table 5.1 summarises the external levels and noise mitigation measures and shows that Ambient noise levels throughout the application site are relatively low. The measured levels are within the BS8233 parameters both internally and externally and as such mitigation measures, other than standard double-glazing with trickle vents, are not required. The implementation of the glazing standard is recommended by condition.
- 10.97 Based on the above analysis by KC Environmental Health, the findings of the report are accepted and the development is considered to be in line with Policy LP52 of the Kirklees Local Plan as well as Paragraph 185 of the NPPF.

#### *Air Quality*

- 10.98 Whilst the site is not adjacent to an Air Quality Management Area (AQMA), KC Environmental Health have noted an AQMA at Ravensthorpe, c. 950m southeast of the development. This raises the concern that increased vehicle movements down North Road onto Huddersfield Road and into the AQMA may exacerbate air quality issues in this area given the level of traffic generation identified within the Transport Statement.

- 10.99 For these reasons, KC Environmental Health consider that the development should be classed as a “Medium” development in line with the West Yorkshire Low Emissions Strategy (WYLES). The LPA therefore require evidence which would determines the impact the development would have on local air quality. A condition requiring submission of an air quality impact assessment is cited in Section 12 of this report. This approach is deemed satisfactory in respect of Policy LP51 of the Kirklees Local Plan and Paragraph 186 of the NPPF.

#### *Construction Management*

- 10.100 With regard to impacts on residential amenity arising during the construction period, such effects are considered temporary, however a condition has been recommended by Environmental Health which will require submission of a Construction Environmental Management Plan (CEMP) with information setting out how the developer will seek to control the emission of dust, noise or vibration resulting from the development’s construction as well as debris on the public highway and the level of artificial lighting on the site. The CEMP shall also require management of any residential amenity issues through a complaint handling system to include provision of site manager contact details to be disseminated to adjoining properties.
- 10.101 A separate condition recommended by Highways Development Management shall set out a schedule to include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site and location of sufficient on-site parking facilities for site operatives.
- 10.102 Both of the advised conditions are cited in Section 12 of this report and the details, once approved, shall be required to be implemented throughout the construction period.

#### Climate Change

- 10.103 Chapter 12 of the KLP relates to climate change and states that “Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is central to economic, social and environmental dimensions of sustainable development.
- 10.104 This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore, the inclusion of electric vehicle charging point(s) to serve the development, which is recommended to be secured via condition, would contribute positively to the aims of climate change. It is likely the homes will come forward under the interim Future Homes standard required by the Building Regulations.

## Planning Obligations

- 10.105 The PPG clarifies that to define land value for any viability assessment, a benchmark land value (BLV) should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. This uplift is often referred to as 'existing use value plus' (EUV+). The independent assessor has used the residual appraisal methodology, as is established practice for viability assessments. In simple terms the residual appraisal formula is as follows:

**Gross Development Value less Total Development Cost (inclusive of S106 obligations, abnormal development costs and finance) less/minus Profit, equals the Residual Land Value.**

- 10.106 The Residual Land Value is then compared to the Benchmark Land Value (BLV) as defined in the Planning Policy Guidance on Viability. Where the Residual Land Value produced from an appraisal of a policy compliant scheme is in excess of the Benchmark Land Value the scheme is financially viable, and vice versa:

**Residual Land Value > Benchmark Land Value = Viable**

**Residual Land Value < Benchmark Land Value = Not Viable**

- 10.107 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.108 The applicant's viability assessment evidenced that their BLV was £680,000. Align, as the independent assessor, provided the following comments on the submitted BLV:

*The viability report provided by the developer arrives at a Land Value between £150,000 and £450,000 per acre for land with planning consent for residential development and they have chosen a rate of £200,000 per acre, resulting in a proposed site value of £680,000.*

*They also consider that in this case the value of land with the benefit of planning consent is the same as existing use value plus a premium - a point which in this case we agree with. However, we consider that a lower land value should be applied within the assessment to more closely reflect the difficulties in developing the site, as illustrated by the extensive cost of abnormals. Specifically, we consider that the demolition of the existing dwellinghouse and construction of parking bays should be factored into the land value, as they are needed to access the main site for any form of further development. **We have therefore chosen the lower given limit of £150,000 per acre.***

*The significant abnormal costs that relate to the site, as identified by the developer, will reduce the land value whatever scheme is undertaken and whatever statutory requirements are placed on the land. As set out above, these costs were originally identified by the developer in the total sum of £2,883,747 (as subsequently reduced by our own quantity surveyor's analysis of these costs), which equates to £845,674 per acre for the 3.41 acre site. If these costs were all set against land value, then the applicant's quoted land value rate of £200,000 per acre would in effect be £1,045,674 per acre. We consider that this sum significantly exceeds residential land values in the area, which illustrates the fact that either the abnormal costs need to be lower, or the amount the developer pays for the site needs to be reduced.*

*Based on the applicant's definition of EUV, they have taken EUV+ to equal £200,000 per acre, giving a land value of £680,000. However, based on the applicant's development appraisal and the arguments they have put forward, this makes the scheme unviable even if no affordable housing is provided.*

10.109 In respect of an identified profit scenario, the independent assessor has the following observations:

*There is always a discussion as to the appropriate profit margin to apply. Little firm evidence exists and individual appeal decisions can be taken to point in either direction. We agree that a 15.0% rate is utilised in many viability discussions, whilst the Council's own guidance quotes a 15% - 20% range. In cases such as this where issues such as abnormal costs are affecting the viability of the scheme, the benefits deriving to all involved parties will potentially be reduced – not just in terms of affordable housing provision but also in terms of profit margin and capital receipt to the landowner as well. In addition to this, the 15.0% rate in this case is teamed up with a small percentage contingency allowance which will cushion the developer from much of the risk that a higher profit margin would allow for.*

10.110 The independent review of the scheme's viability is provided below which establishes an acceptable level of return for the applicant while the scheme is still able to incorporate on-site affordable housing and all other financial contributions:

<b>Item</b>	<b>Applicant's Submitted Values</b>	<b>Independent Assessor's Values</b>
Gross Development Value Inclusive of 20% affordable housing on-site (House Sales Rate per sq.ft)	£10,206,688 (£232-304)	£11,113,823 (£280)
Build Cost (BCIS rates per sq.ft)	£107.25	£107.25
External Costs (Roads etc)	15.00%	10.00%
Abnormal Costs	£2,883,747	£2,019,794
Contingency	5.00%	Incorporated into Profit
Professional Fees	8.00%	8.00%
Section 106 Contributions excl. affordable housing	£261,755	£194,786



Finance Rate	6.00%	5.00%
Land Value Rate for 3.41 Acres (/acre)	£680,000 (£200,000)	£510,000 (£150,000)
Agent Fee	1.00%	1.00%
Legal Fee	0.50%	0.50%
Disposals	1.75%	1.75%
Profit on Gross Development Value (£ value) *As reported in the Independent Assessment	Including Contributions = -0.33%*  No Contributions = 12.07%*	<b>18.1% (£2,010,364)</b>

10.111 The main alterations to the applicant's submission by the independent assessor is summarised below:

*- Applying a standard rate of £280.00 psf to the sales prices based on available sales information. The applicant's agent has previously criticised the adopted approach but has not offered the reasoning for their alternative approach.*

*- Reducing construction costs to reflect an uplift for external works of 10% above the lower quartile rate of Estate Housing / Generally, which is as stated above £1,154 per square metre.*

*- Limiting the potential for double-counting within the abnormal figures following analysis of abnormal by a Quantity Surveyor. This means the purported figure of £2,883,747 is reduced to £2,029,794, or from £64,083 per plot to £52,046.*

*- Applying a land value using a rate of £150,000 per acre giving a land cost of £510,000, as described above.*

*- Reducing completed sales costs to 1.5% of sales revenue which still results in a figure of £166,707.*

*- Applying the Council's rates for the acquisition of the affordable housing units, as described above (this serves to reduce the return to the developer).*

10.112 On account of the 18.1% profit able to be generated by the scheme inclusive of a 3.1% contingency for unexpected/abnormal costs above the minimum 15% profit margin, [the independent assessor](#) concludes that a fully planning policy compliant scheme is viable.

10.113 Following on from the outcome of the viability process, the applicant has agreed in principle to the following Section 106 terms:

#### *Affordable housing*

10.114 A policy compliant 20% (20.51%) on-site contribution of 9 affordable homes with the following tenure split: 9 First Homes.

#### *Public Open Space*

10.115 An off-site financial contribution of £80,318 to address shortfalls in specific open space typologies as required by the Open Space SPD. It is intended that this money be spent on improving provision within the nearby Crossley Lane Recreation Ground.

### *Biodiversity*

- 10.116 A financial contribution of £59,110 towards off-site measures to achieve a 10% biodiversity net gain in accordance with the Biodiversity Net Gain Technical Advice Note.

### *Sustainable Transport*

- 10.117 Measures to encourage the use of sustainable modes of transport, including a £25,968.50 financial contribution towards a Sustainable Travel Fund for the purpose of providing Residential MCards for occupants of the development as well as £23,000 for Bus Stop Upgrades in the form of a New Shelter at Stop 16299 and a Real Time Display to be installed at Stop 16300. A further £10,000 towards Travel Plan monitoring is also required. These measures accord with the requirements set out under the Highways Design Guide SPD.

### *Site Management*

- 10.117 The LPA requires the applicant to establish, on behalf of the site's future residents, a management company for the purpose of managing and maintaining any land not within private curtilages as well as the surface water and foul drainage infrastructure on the site until such time as it is formally adopted by the statutory undertaker.

### *Conclusion*

- 10.118 Overall the proposed development secures a compliant set of on-site and off-site contributions that enable the development to be found sound in planning policy

### Representations

- 10.119 To date, a total of 241 representations have been received in response to the council's consultation and subsequent re-consultations. The material considerations raised in comments following publicity of the application have been fully addressed in this report as follows:

### *Transport Objections*

- Northorpe Lane is too narrow for traffic to pass safely due to on-street parking, including the potential for emergency service vehicles to struggle to gain access to the site.
- Unsafe interaction with horse riders who frequent the Lane.
- Vehicle generation issues posed by the development will exacerbate existing issues on the highway network.
- The statistics for traffic generation were taken during a school holiday and are not representative.
- Dispute as to the status of the highway verge opposite the proposed site access and the issue of Northorpe Hall's ownership indicating that the Council is acting 'illegally'.
- Highway capacity and safety issues resulting from the construction period (i.e. size of vehicles, mud on road etc).

- Highway safety issues resulting from congestion at the peak hour at the junction of Northorpe Lane with Shillbank Lane & Crossley Lane due to the interaction with school traffic for Crossley Fields Junior and Infant School.
- The internal site layout, particularly the second turn, has visibility issues.

**Officer Response:** The concerns raised in respect of objections on transport related matters have been addressed in paragraphs 10.10 to 10.32 of this report.

#### *Visual & Residential Amenity Objections*

- Three storey units will impact on existing residents light and will appear oppressive.
- The bin collection point will attract vermin.
- The design and appearance of the proposed houses is not in-keeping with the character or scale of the area and is 'stereotypical' of new development any where in the country.
- Loss of urban greenspace.
- The proposed dwellings are located too close to the existing residential properties and will thereby create overlooking and reduce privacy. Some representors highlight this in particular regard to properties located on Northorpe Court.
- The layout of the proposed houses is 'cramped' in their arrangement.
- The size of the development is too large for the locality and represents over-development of the site.

**Officer Response:** The concerns raised in respect of visual and residential amenity related matters have been addressed in paragraphs 10.33 to 10.43 and 10.47 to 10.61 of this report respectively.

#### *Environmental Objections*

- Adverse impact on air quality from the construction period.

**Officer Response:** The concerns raised in respect of construction related matters have been addressed in paragraphs 10.100 to 10.102 of this report.

- Adverse impact on air quality vehicular traffic.

**Officer Response:** The concerns raised in respect of air quality related matters have been addressed in paragraphs 10.98 to 10.100 of this report.

- No electric vehicle charging points are shown.

**Officer Response:** A condition is advised in Section 12 requiring submission of details for installation of electric vehicle charging points.

- Impact of noise from new residential properties on existing residents of Northorpe Court.

**Officer Response:** The concerns raised in respect of noise related matters have been addressed in paragraphs 10.91 to 10.97 of this report.

### *Biodiversity Objections*

- Adverse impact on wildlife habitats, notably bats.
- Lack of detail in respect of the 'green corridor' of the former railway embankment.

**Officer Response:** The concerns raised in respect of biodiversity related matters have been addressed in paragraphs 10.62 to 10.69 of this report.

### *Flood Risk & Drainage Objections*

- The eastern part of the site is prone to flooding.
- Complaints as to the reliance of a pump station for removal of sewage from the site.
- Drainage capacity of infrastructure on Northorpe Lane insufficient.

**Officer Response:** The concerns raised in respect of flood risk and drainage related matters have been addressed in paragraphs 10.70 to 10.81 of this report.

### *Other Objections*

- Infrastructure of Northorpe insufficient to cope with the development.

**Officer response:** Relevant consultees including Yorkshire Water, the Local Highway Authority and Northern Gas Network have not objected to the proposed development. Educational and health facility planning is subject to separate planning by relevant bodies who base infrastructure requirements on population trends.

- Schools unable to handle the increase in the number of schoolchildren.

**Officer response:** KC Education has been consulted on the application and have confirmed that no financial contribution is required as the anticipated population in the area is likely to give rise to excess school places in Mirfield.

- The scheme is too dense for this site.

**Officer response:** The concerns raised in respect of housing density related matters have been addressed in paragraphs 10.5 to 10.6 of this report.

- Lack of design for disabled or elderly due to the reliance on two and three storey units.

**Officer Response:** The scheme is not directed or intended for this particular market segment.

- Impact of the development on the setting of Grade II listed Northorpe Hall.

**Officer Response:** The concerns raised in respect of heritage related matters have been addressed in paragraphs 10.82 to 10.86 of this report.

- Lack of social housing.

**Officer Response:** The applicant has agreed to provide 20% on site affordable housing.

- Instability from historic mine-workings.

**Officer Response:** The Coal Authority have been consulted on this application and have confirmed that they have no objections to this planning application and that further considerations of ground conditions and/or foundation design will be required as part of any subsequent building regulations application.

- The green-space owned by Northorpe Lane opposite the proposed site access is of community benefit and the Council would be acting unlawfully to develop it for the purpose of a lay-by.

**Officer Response:** The concerns raised in respect of objections on transport related matters have been addressed in paragraphs 10.18 to 10.20 of this report.

- Inappropriate housing mix.

**Officer Response:** The concerns raised in respect of objections on housing mix related matters have been addressed in paragraphs 10.44 to 10.46 of this report.

- The submitted viability assessment is based on 'false' information.

**Officer Response:** The concerns raised in respect of viability matters have been addressed in paragraphs 10.105 to 10.118 of this report.

#### Other Matters

10.120 There are no other matters.

## **11.0 CONCLUSION**

11.1 The site has constraints in the form of its access location, the adjacent residential dwellings (and the amenities of these properties), topography and highways gradients, drainage and flood risk considerations, heritage, ecology and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant or can be addressed at conditions stage.

11.2 Though the quantum of development is below the indicative yield in the site policy of the Local Plan, the figure reflects a more attractive scheme with a less cramped appearance and this offsets the shortfall in anticipated housing yield. Furthermore, the proposal has responded appropriately to the character and appearance of the surrounding area, and the quality of residential accommodation is considered acceptable.

- 11.3 The provision of 44 residential units at this site (including the provision of 9 affordable housing units) would contribute towards meeting the housing delivery targets of the Local Plan and are welcomed. Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.4 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

**12.0 CONDITIONS** - (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)

- 1/. TCPA Section 91 – Standard 3 Year Commencement Deadline
- 2/. Development in accordance with Approved Document Schedule
- 3/. Submission of retaining wall facing materials
- 4/. Highway Retaining Wall Structural Details (Pre-commencement)
- 5/. Non-highway Retaining Wall Structural Details (Pre-commencement)
- 6/. In highway structures' details (manholes etc) (Pre-commencement)
- 7/. Internal estate highway construction details to meet adoptable standards (Pre-commencement)
- 8/. Provision of off-site parking lay-by/widening works (Pre-commencement)
- 9/. Surfacing of parking areas
- 10/. Access junction layout (Pre-commencement)
- 11/. Submission of detailed Travel Plan
- 12/. Bin presentation points.
- 13/. Temporary waste management during development and occupation of dwellinghouses
- 14/. Pre & Post Highway Condition Surveys and remedial works (Pre-commencement)
- 15/. External materials specifications and samples.
- 16/. Soil & Vent Pipes to remain within external envelope.
- 17/. Submission of detailed hard and soft landscaping including street trees and management practices (Pre-commencement)
- 18/. 5 Year Landscape Replacement
- 19/. Construction Environmental Management Plan for Biodiversity (Pre-commencement)
- 20/. Ecological Design Strategy
- 21/. Detailed drainage design (Pre-commencement)
- 22/. Exceedance event/overland flow routing (Pre-commencement)
- 23/. Temporary drainage arrangements (Pre-commencement)
- 24/. Implementation of agreed noise attenuation (Pre-commencement)
- 25/. Submission of Phase II Contaminated Land Survey (Pre-commencement)
- 26/. Submission of Remediation Strategy for Contaminated Land (Pre-commencement)
- 27/. Implementation of Remediation Strategy (Pre-commencement)
- 28/. Validation of Site Remediation (Pre-commencement)
- 29/. Submission of Air Quality Impact Assessment
- 30/. Electric Vehicle Charging Point Installation

- 31/. Construction Environmental Management Plan (Noise, Dust, Artificial Lighting, Complaint Handling) (Pre-commencement)
- 32/. Construction traffic and operative parking management (Pre-commencement)

**Background Papers:**

Application and history files.

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate B Signed for 3 Landowners confirming that the standard notice period has been provided.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 14-Dec-2022

**Subject: Planning Application 2022/92557 Installation of a 1mW ground mounted solar array and all associated works Fox View, Dry Hill Lane, Denby Dale, Huddersfield, HD8 8YN**

#### APPLICANT

Buckley Dairy

#### DATE VALID

19-Aug-2022

#### TARGET DATE

18-Nov-2022

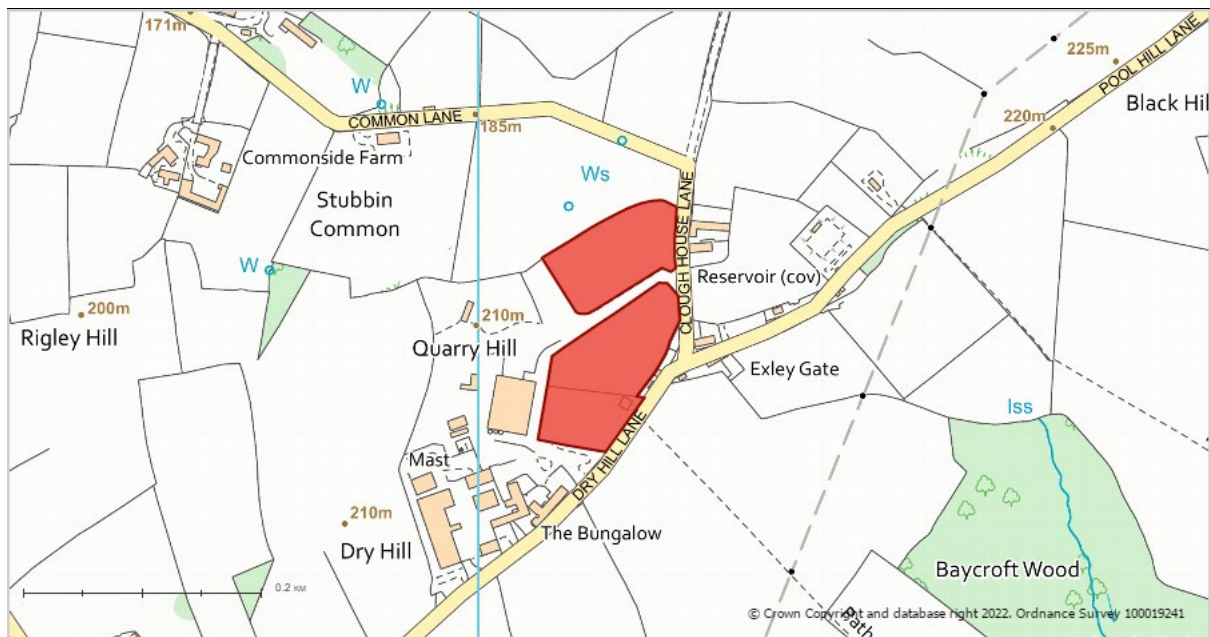
#### EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION: Approve**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including, but not limited to, those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 The application has been bought before the Strategic Planning Committee given the size of the site exceeds 0.5ha.

**2.0 SITE AND SURROUNDING**

- 2.1 The application relates to land in association with Buckley Dairy, Fox View, Denby Dale. Buckley Dairy is a large scale dairy and beef farm. The farming operation has been in operation on this site for over 60 years. It is understood that the farm hold dozen of acres of farmland. This site relates to two fields to the east of Buckley Dairy, which include approx. 1.55ha of land. The fields are set to the north and south of a vehicular access from Clough House Lane. The fields are relatively flat with protected trees sited to the south-eastern boundary of the southern field. The rest of the boundaries are fencing, walling and some hedgerows. The fields are currently undeveloped, agricultural land. Notwithstanding this, the agricultural value of the land is grade 4 which states means the land has a low/poor agricultural value.
- 2.2 The site is rural and set within the allocated Green Belt. The site is set approximately one mile to the east of Denby Dale in the south-eastern part of Kirklees. The fields themselves are relatively flat, however the surrounding landscape in undulating. There are no Public Rights of Way through the site.

**3.0 PROPOSAL**

- 3.1 The application is seeking permission for the erection of solar farm. The proposal would see a 1mW ground mounted solar array installed along with associated works to facilitate the development. The solar array would produce 996,868kWh (rounded to 1mW) of renewable energy per annum which would be used to reduce the business electricity requirement and export surplus to the national grid.

- 3.2 The solar panels would be fixed on metal frames attached to the ground by concrete pads. The frames would be orientated to face south in rows approximately 5 meters apart with a tilt related to the latitude of the site and therefore its angle according to the sun. The panels would be 1m above ground level and the finished height of the PV modules would be about 3 meters above ground level.
- 3.3 Inverters would be mounted directly on the framework and positioned at the end of each run of panels. External transformer positioned on a concrete base housed in a small wooden fenced enclosure. Adjacent to this will be an enclosure to house the switchgear and ancillary items. Dimensions are shown on the accompanying plans. Underground cable installed parallel to the existing access track would connect to the existing export connection. The site would utilise the existing vehicular access points. The proposed solar farm does not have a proposed cease date and permanent permission is applied for.

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

- 4.1 2019/91516 - Certificate of lawfulness for the proposed installation of a 998kw ground source heat pump.  
Granted
- 2001/92858 – Erection of dairy  
Granted

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

- 5.1 Officers have raised no objections to the scheme. Additional information has been sought to reduce the amount of conditions, however the information has not been forthcoming, as such, an extensive list of conditions is proposed.

#### **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 set within the Green Belt as allocated in the Kirklees Local Plan (2019). The site has no other allocations.

##### Kirklees Local Plan (2019):

- 6.3 Relevant Local Plan policies are:
- LP1 – Presumption in favour of sustainable development
  - LP2 – Place shaping
  - LP3 – Location of new development
  - LP7 – Efficient and effective use of land and buildings
  - LP10 – Supporting the rural economy
  - LP21 – Highway safety and access
  - LP22 – Parking
  - LP24 – Design
  - LP26 – Renewable and low carbon energy
  - LP27 – Flood risk

- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP32 – Landscape
- LP33 – Trees
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

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

*Supplementary Planning Documents*

- N/A

*Guidance documents*

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)

*National Planning Guidance*

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

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 11 – Making effective use of land
- 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
- Chapter 16 – Conserving and enhancing the historic environment

6.7 Other relevant national planning guidance and documents:

- MHCLG: National Design Guide (2021)
- A Green Future: Our 25 Year Plan to Improve the Environment Climate change

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

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

## **7.0 PUBLIC/LOCAL RESPONSE**

7.1 The application was advertised by a site notice, in the press and via neighbour notification letters. The date for publicity opened on 6<sup>th</sup> September following the posting of neighbour notification letter and the press advertisement. 1 comment only was received during these notification procedures. Due to procedural issues with the site notice, the publicity period reopened on 24<sup>th</sup> November and will close on 15<sup>th</sup> November. No representations have been received during the re-opening of the publicity period.

7.2 The comment received was general comment, which raised some minor concerns but was not an objection to the scheme in principle. The comment has been summarised as follows:

- Concerns regarding the publicity of the application.
- The proposal seeks to remove and replant a hedgerow outside of the applicant's ownership.
- Concerns about the lack of information with regard to the transformer equipment which could cause noise impacts depending whether it is located.

## **8.0 CONSULTATION RESPONSES:**

Below is a summary of the consultation responses received:-

8.1 Statutory:

The Coal Authority – No objections.

Yorkshire Water – No objections.

Highways DM- No Objections

8.2 Non statutory:

KC Trees – No objections in principle, however there are concerns given the lack of information submitted. KC Trees sought additional details be secured to ensure a buffer is to be incorporated in the layout of solar panel units to ensure that overhang and shade will not result in a significant pressure to prune or fell the protected trees or loss of energy production which the scheme proposes. This was achieved. Also, KC Trees seek the securing of details of tree protection measures.

KC Crime Prevention (West Yorkshire Police) – No objections.

KC Environmental Health – No objections.

KC Landscape – No objections in principle, conditions required to ensure hard and soft landscaping is appropriate visually and with regard to ecology.

8.3 No comments were received from: The Environment Agency, Natural England, KC Public Right of Way, KC Lead Local Flood Authority and KC Ecology.

## 9.0 MAIN ISSUES

9.1 The appraisal of the application will review the following topics: -

- Principle of Development in the Green Belt
- Environmental sustainability and climate change
- Siting of the Development
- Residential Amenity
- Highway Safety
- Drainage
- Site Contamination
- Trees
- Ecology
- Representations

## 10.0 APPRAISAL

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

### Principle of development, including the Green Belt designation and renewable energy development

10.2 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 145 or 146 of the NPPF.

### **Whether the proposal is inappropriate development in the Green Belt**

10.3 Paragraph 145 of the NPPF and Policy LP59 of the Kirklees Local Plan state that other than for limited exceptions, the construction of new buildings in the Green Belt is inappropriate. Paragraph 146 of the NPPF advises that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purpose of including land within it. The proposed development does not fall within any of the

exceptions listed in Paragraphs 145 or 146. It therefore represents inappropriate development in the Green Belt that, in accordance with Paragraph 143 of the Framework, should not be approved except in 'very special circumstances'.

- 10.4 In this regard, Paragraph 144 of the NPPF confirms that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

### **Considering the harm to the Green Belt, including its purpose and openness**

- 10.5 Openness is an essential characteristic of the Green Belt. It can be considered to be the absence of building and development. The concept of "openness" in paragraph 137 of the NPPF is naturally read as referring back to the underlying aim of Green Belt policy that is "*to prevent urban sprawl by keeping land permanently open...*". The application site comprises of open agricultural fields. While there are many buildings located to the west of the site on the harm holding, the fields themselves are currently devoid of any buildings or structures and are considered to be highly open.
- 10.6 The area of the application site that would have solar panels installed on would total circa 1.55ha hectares, a small amount of the wider site. A substation would be sited to the very south east corner of the site, close to adjacent buildings. The proposed ancillary works are very limited as the site already benefits from screening through protected trees and have good vehicular access. As such as the ancillary would not have a material impact upon the openness of the Green Belt, due to be low-level in nature and of a type typical within the Greenbelt environment. However, the erection of solar panels would introduce a substantial man-made feature across several adjoining parcels of land within the otherwise open environment. This has the potential to have a significant impact upon the openness of the Green Belt, if not appropriately managed and dependant on site specific circumstances.
- 10.7 While the potential exists, consideration must be given to the landscape and mitigatory factors which may reduce the harm to openness. The land is mostly flat which is mostly flat which limits the capacity for the panels to be seen both from close and afar. The finished height of the PV Panel would be 3m, as such, suitable screen along the boundaries could prevent them from being prominent. There are already protected trees and a very tall leylandii hedge which bound the bottom field and demonstrate how landscaping and planting could reduce the harm caused. As such, a landscaping scheme would be conditioned to ensure that the harm from the proposed development is greatly reduced with regard to visual amenity and the character of the Green Belt. Officers deem that subject to appropriate landscaping and planting, the solar development could be appropriately integrated into the surrounding landscape. The effectiveness of the mitigation would further increase as the proposed vegetation matures, and in the medium-to-long-term, the proposed planting would improve the integration of the proposed development into the landscape and further reduce the impact on views.

- 10.8 Officers note the application states that inverters would be mounted directly on the framework and positioned at the end of each run of panels. The details of these have not been submitted, however as they are attached to the array themselves, alone, they would have very little impact given the landscaping condition set out above.
- 10.9 The applicant also states that external transformer would be positioned on a concrete base housed in a small wooden fenced enclosure. Adjacent to this will be an enclosure to house the switchgear and ancillary items. Details of neither have been shown, however, if these were to be sited close to the substantial farm buildings to the west of the site, there would be very little impact to the Green Belt. As such, details of their siting and appearance can be addressed via a conditions. No lighting or CCTV is proposed which again lessens the impact on the Green Belt.
- 10.10 It is acknowledged that when close to the site, mitigation through appropriate native planting could be sufficient at both long and close ranges due to the flat nature of the site. There are no Public Rights of Way (PROW) however one PROW abuts the site where the protected trees are set, which limits the impact on passers-by on foot. There are also dwellings and large scale farm buildings near the site will have their perception of openness reduced. Officers therefore consider that subject to appropriate landscaping through native planting, any views of the development will become 'part of the landscape', as opposed to the development being an oppressive or unduly prominent feature. Also, to prevent any unnecessary harm, officers would impose a condition for a decommissioning strategy if the use was to cease. That strategy would detail how the site would be remediated and returned to its current form.
- 10.11 Regarding the period of construction, this would introduce a level of activity into the Green Belt that must be considered. Nonetheless, anticipated at circa 6 weeks and the arrays would be arranged off site and dropped in to place on site. This level of activity associated with the construction is not anticipated to have an unreasonable impact upon openness, in the context of the proposal.
- 10.12 Paragraph 138 of the NPPF states that the Green Belt serves five purposes. These are:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 10.13 **to check the unrestricted sprawl of large built-up areas:** as the site is not part of a 'large built-up area', the development is not considered to contribute to such sprawl.
- 10.14 **to prevent neighbouring towns merging into one another:** While near to Denby Dale to the west, there is a notable distance between the site and other settlements.
- 10.15 **to assist in safeguarding the countryside from encroachment:** The proposal would encroach into the Green Belt, and the proposal does conflict with this purpose of the Green Belt.



- 10.16 **to preserve the setting and special character of historic towns:** There is no 'historic towns' within the immediate setting.
- 10.17 **to assist in urban regeneration, by encouraging the recycling of derelict and other urban land:** A solar farm development of this scale is highly unlikely to be feasible within derelict and other urban land.
- 10.18 Overall, inevitably a proposal of this scale and nature within the Green Belt and open landscape will have an impact. In addition to the harm arising from the fact that the development would be inappropriate, there is a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt. Quantifying this harm is difficult, and is largely down to the professional judgement of the decision maker.
- 10.19 Officers have considered and weighed the impact carefully. Considering the beneficial topography of the land, the existing screening, and the extent of new planting proposed (to be secured via planting), officers conclude that the level of harm caused to the Green Belt in the short term (construction period and first few years, while the planting establishes) would be moderate. Following the end of construction, and the screening becoming mature, the impact is expected to be reduced to low harm.
- 10.20 To conclude this section on Green Belt impacts and landscape impacts, paragraph 144 of the NPPF stated:  
*'Very special circumstances' would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*
- 10.21 Paragraph 151 of the NPPF does however identify that:  
*When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.*

#### Environmental sustainability and climate change

- 10.22 The National Planning Policy Framework (2021) states in paragraph 152 that:  
*'The planning system should support the transition to a low carbon future in a changing climate... and support renewable and low carbon energy and infrastructure'*
- 10.23 To contextualise the proposed development, 1mW of energy equates to powering approximately 300 family homes. The solar array would produce enough renewable energy to counter 232,219kg of CO<sub>2</sub> emissions per annum.
- 10.24 Paragraph 158 states that the need for renewable energy developments should be regarded as a given and *'not require applicants to demonstrate the overall need for renewable or low carbon energy'*. It continues that LPAs should *'approve the application if its impacts are (or can be made) acceptable'*.

- 10.25 Notwithstanding the provision of paragraph 158, it is deemed reasonable to outline the policy context, to establish and ensure understanding of the weight in favour of renewable proposals. The following statement outlines the UK Government's action on climate change:

*The UK played a key role in securing the 2015 Paris Agreement, where for the first time, 195 countries adopted the first-ever universal, legally binding global climate deal.*

*The Agreement sets out a global action plan to put the world on track to avoid dangerous climate change. Governments agreed to a long-term goal of keeping the increase in global average temperature to well below 2°C above pre-industrial levels and to aim to limit the increase to 1.5°C. To achieve this, they also agreed to reaching a global balance of sources and sinks of greenhouse gases in the second half of the century. This would significantly reduce risks and the impacts of climate change.*

*The Climate Change Act 2008 introduced the UK's first legally binding target for 2050 to reduce greenhouse gas emissions by at least 80% compared to 1990 levels. We have made strong progress – between 1990 and 2017, the UK reduced its emissions by 42% while growing the economy by more than two thirds. However, we have recognised the need to go further. On 27 June 2019 the UK government amended the Climate Change Act and set a legally binding target to achieve net zero greenhouse gas emissions from across the UK economy by 2050. This world-leading target will bring to an end the UK's contribution to climate change.*

*The UK government is:*

- working to secure global emissions reductions*
- reducing UK emissions*
- adapting to climate change in the UK*

- 10.26 Numerous national and international policy documents, planning related or otherwise, cover the matter of climate change. It is not considered practical to detail these in this report, and it is reiterated that Paragraph 158 of the NPPF states that the need for renewable energy developments should be regarded as a given and '*not require applicants to demonstrate the overall need for renewable or low carbon energy*'. Nonetheless, the applicant's planning statement document includes substantial information on these documents.
- 10.27 At the local level members of the Planning Committee will be aware that Kirklees Council declared a Climate Emergency in 2019. Within this, the Council outlined the '*vision is for a Net Zero and Climate Ready Kirklees by 2038*'. This includes, '*For mitigation, carbon emissions from human activities within Kirklees will need to be dramatically reduced to zero, with any remaining emissions safely removed from the atmosphere*'. This is an ambitious target, which the proposed development would assist with.
- 10.28 Turning to the Local Plan, the NPPF requires Local Plans to plan positively to deliver renewable and low carbon technology developments. This is to help tackle climate change and address the environmental role of planning as set out in the NPPF. This helps to meet the UK's legally binding target to reduce carbon emissions by 80% on 1990 levels by 2050. Policy LP26 (Renewable and low carbon energy) states that '*renewable and low carbon energy proposals (excluding wind) will be supported and planning permission granted where the following criteria are met:*

- a. the proposal would not have an unacceptable impact on landscape character and visual appearance of the local area, including the urban environment;*
- b. the proposal would not have either individually or cumulatively an unacceptable impact on protected species, designated sites of importance for biodiversity or heritage assets;*
- c. the statutory protection of any area would not be compromised by the development;*
- d. any noise, odour, traffic or other impact of development is mitigated so as not to cause unacceptable detriment to local amenity;*
- e. any significant adverse effects of the proposal are mitigated by wider environmental, social and economic benefits*

These criteria are considered where relevant throughout this report.

- 10.29 To conclude this section on environmental sustainability and climate change, in view of the above, it is considered that this proposal, would make a substantial contribution towards meeting local, national and international objectives and policies, and this must be given great weight in the Planning balance. Notwithstanding this, officers have attached conditions to require other means of securing the panels to the ground, to further mitigate harm to the Green Belt.
- 10.30 To reiterate, paragraph 158 of the National Planning Policy Framework is clear that Local Planning Authorities must 'approve the application if its impacts are (or can be made) acceptable.' The question of what the impacts are and whether they are (or can be made) acceptable – for instance as regards potential impact impacts on the openness of the Green Belt – are considered throughout this report.

#### Siting of the proposed development

- 10.31 The Planning Practise Guidance encourages the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value.
- 10.32 In this case, the land proposed, whilst agricultural is deemed as Grade 4. This means the land offers a poor agricultural value. Furthermore, the site is not set within the allocated Wildlife Habitat Network. Finally, the applicant, which has been bought forward by the farmer as opposite to it being development led by a solar company, has already made steps into the renewal energy industry by having a large scale ground source heat pump set within the application site, and a substantial amount of solar panels on the roof of the largest agricultural building. As such, within this holding, the applicant has, without a doubt, proposed the development in the most suitable location, available to them. Furthermore, due to the previous investment in to renewables at the site, there is existing infrastructure in place which means the site would utilise an existing import/export grid connection again making the proposed site beneficial as it needs less ancillary development.

#### Glint and Glare

- 10.33 Glint is defined as a momentary flash of bright light while glare is a continuous source of bright light. Glint and glare are essentially the unwanted reflection of sunlight from reflective surfaces.

- 10.34 Solar photovoltaic panels are not particularly reflective; they are designed to absorb light and to minimise reflection because any light that is reflected would be wasted as far as their purpose of energy generation is concerned. Modern PV panels are even designed to absorb light on their undersides, so as to make use of any solar energy that is reflected up from the ground. Nevertheless, there is the potential for some glint and glare, and this should be taken into consideration.
- 10.35 The proposed panels are to be fixed in place and will not rotate to follow the sun. The panels will face south. There are 12 dwellings set due south of the proposed development within 100m of the site. There are several others within 600m. There are also several roads within the area.
- 10.36 The application is not supported by a Glint and Glare Assessment, which we would expect to be received. However, given the relatively small scale in comparison to other solar farm, the flat topography and subject to the planting secured by conditions, it is unlikely glint and glare would material harm the amenity of these receptors. However, it must still be considered, so a Glint and Glare assessment shall be conditioned.

#### Residential Amenity

- 10.37 There are neighbouring residential dwellings interspaced around the site. It is acknowledged that the solar farms will be visible from several of the neighbouring properties. It is established in the planning system that there is no fundamental right to a view. However, due consideration must be given as to whether the outlook caused would cause material harm to resident's amenity.
- 10.38 Give the separation distance, low height of the panels (3m max) and proposed boundary treatment / screening, officers are satisfied that the development would not be considered overbearing. The low height and separation likewise prevent overshadowing being a concern. In terms of overlooking, no permanently occupied facilities are proposed. Maintenances / repair work will be transient and not result in materially harmful overlooking. Glint and Glare has been considered previously.
- 10.39 Potential noise sources for the development are the transformer / inverter units and the substation as they will create a low noise. The applicant has not submitted a Noise Impact Assessment. This is deemed required given there are nearby sensitive receptors (residential properties). The submission of a Noise Impact Assessment shall be conditioned which demonstrates that the level of noise will not exceed the British Standard thresholds for either internal or external amenity. It is anticipated that subject to the transformers being appropriately sited furthest away from noise sensitive receptors, there would be no material harm through noise, however this will be evidenced by the Noise Impact Assessment to be secured by condition.
- 10.40 No lighting on the site is proposed. Given this, light pollution is not anticipated to be a cause for concern.

10.41 To summarise, the proposed development is considered not to result in undue detriment to the amenity of neighbouring residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

### Highways

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

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

10.44 The applicant has submitted limited highway information. However, the site is already served by vehicular access from the farmyard and private driveways within Buckley Dairy itself, rather than from the public highway. As such, vehicular access on to the surrounding, public highway network is through existing junctions which serve the intense dairy use. It is not considered that the use of these junctions, to access the farmstead would become dangerous through this use. For context, the erection of the development would only require 10 two-way lorry movements will be generated delivering materials. During the operational phase it is anticipated that one two-way car or light van movements will be generated every month for inspection and general maintenance. Therefore, minimal vehicle movements will be generated during the construction phase and negligible traffic generated during the operational phase.

10.45 After commissioning, there will be around three visits to the site per year for maintenance and these would be made by van or 4x4 type vehicles. In addition there will be a need for 4-6 visits per year for ground maintenance, which again is minimal.

10.46 No dedicated parking is proposed on site, however given the scale of the site and nature of the development, informal site parking of an impromptu nature would not be unacceptable (i.e., maintenance worker parking informally near to the area to be repaired).

10.47 The impact of potential glint and glare on drivers has been considered previously.

- 10.48 Considering that access to the fields is through the existing farm, and not directly from the highway network, the scheme is not considered to have any material concerns with regard to highway safety.
- 10.49 In summary, officers are satisfied that, subject to the referenced conditions, the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan and the aims and objectives of Chapter 9 of the National Planning Policy Framework, along with the guidance contained within the Highways Design Guide SPD.

#### Drainage

- 10.50 Policy LP27 of the Kirklees Local Plan and Chapter 14 of the NPPF outline the required approach to considering flood risk. Policy LP28 of the Local Plan and Chapter 14 of the NPPF form the relevant policy context and require an adequate drainage strategy to be in place.
- 10.51 The proposed development is entirely within Flood Zone 1, leading to no concerns of fluvial flooding. Considering pluvial flooding, the proposal is for the installation of solar panels located over grassland. Rainfall intercepted by the panels will run off the lower edge of each panel and discharge onto the surface below. It is not anticipated that the solar panel will increase flood risk as natural flow patterns will be maintained and no re-profiling of the existing topography is planned.
- 10.52 The structures within the fields, hosting the transformers and maintenance, would be small scale and spread out from one another and would not materially affect natural drainage either.
- 10.53 Accordingly, there are no surface water drainage concerns and a dedicated drainage strategy for the solar farm is not considered necessary.
- 10.54 The Lead Local Flood Authority and the Environment Agency did not make comment whilst Yorkshire Water had no objections.
- 10.55 Considering the above, subject to the proposed condition, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the KLP and Chapter 14 of the NPPF.

#### Contamination and Coal Legacy

- 10.56 The site has been identified as potentially contaminated, due to its proximity to historic landfill. However as the site has limited groundworks, KC Environmental Health recommend a condition for the reporting of unexpected contaminated land only. As the application has not been submitted with any contaminated land reports, the finding of any contamination whatsoever would lead to the development ceasing temporarily whilst a remediation strategy is agreed with the LPA. Subject to this condition, the scheme accords with Local Plan Policy LP53 and Chapter 15 of the NPPF with regard to contaminated land.

## Trees

- 10.57 Policy LP33 establishes a principle against the loss of trees of significant amenity value. The proposed site does contain a large number of trees in groups along field boundaries. The application does not include any tree information or assessment of the impacts on trees on and adjacent to the site.
- 10.58 The groups of trees around the site, in particular the south eastern boundary provide significant public amenity value, being visible from the adjacent road and from across the fields and valley to the south as they are positioned on the skyline. A new TPO, ref 16/22, has been served to protect these trees and the public amenity they provide. The planning statement supporting acknowledges the screening benefit of the trees showing that they seek for them for retention.
- 10.59 It is noted that no plans have been submitted to demonstrate how the trees would be protected during construction, as such, a protection plan for the construction period will be conditioned. The panels are however shown with a buffer from the eastern boundary of the site, which does omit any pressure to prune or remove these trees in the future.
- 10.60 The agent has submitted amended plans to create a buffer in the layout of solar panel units with the protected trees, as to ensure that overhang and shade will not result in a significant pressure to prune or fell the protected trees or loss of energy production which the scheme proposes. The retention of trees within any scheme is important and the proposed use for renewable energy would not outweigh the benefits provided by retaining the trees. Officers expect an amended plan to be submitted to show a suitable buffer between the panels and the protected trees. Subject to said details being secured by condition, the scheme accords with Local Plan Policy 33 with regard to trees.

## Ecology

- 10.61 Policy LP30 of the KLP and Chapter 15 of the NPPF, with guidance set out within Principle 9 of the HDG SPD, require that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.62 The field is currently open, and aside from the obvious ecological benefits of an open field, it does not have any specific ecological habitat within it. The site will still be farmed as wildflower/pollinator/bird food mixes will be sown and sheep will graze the area at appropriate times of the year.
- 10.63 However, the applicant has not submitted any ecological information as part of the application. As such a condition is required for the submission biodiversity information, notable an ecological design strategy to ensure a 10% biodiversity net gain, which is holly achievable, particularly with the planting which is to be secured by condition. Subject to the condition it is considered that this scheme would provide an increase in the current biodiversity of the site and the local area. The proposal is therefore considered to comply with the aims and objectives of Policy LP30, subject to the proposed conditions.

## Representations

- 10.64 The comment received was general comment, which raised some minor concerns but was not an objection to the scheme in principle. The comment has been summarised as follows along with a response from the officer:
- Concerns regarding the publicity of the application.  
**Response:** *As per records on the council's information/ recording system, all dwellings which directly share a boundary the site red line boundary were notified by letters. A press advertisement and site notice were also posted.*
  
  - The proposal seeks to remove and replant a hedgerow outside of the applicant's ownership.  
**Responses:** *Noted however land ownership /part wall matters are not a material planning consideration. Granting of planning permission would not override any other legal rights to protecting the hedge.*
  
  - Concerns about the lack of information with regard to the transformer equipment which could cause noise impacts depending whether it is located.  
**Response:** *Noted and addressed above.*

## **11.0 CONCLUSION**

- 11.1 The proposal is for a substantial level of renewable energy generation. Paragraph 158 of the National Planning Policy Framework is clear that we must *'approve the application if its impacts are (or can be made) acceptable.'* Conversely the proposal is within the Green Belt and is, by definition, inappropriate development within the Green Belt. Further to this, a level of harm to openness and the landscape have been identified. Therefore, in accordance with Green Belt policy, Very Special Circumstances must be demonstrated which clearly outweigh the harm, and any other harm, identified. Paragraph 144 of the NPPF states:

*'Very special circumstances' would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.*

- 11.2 Paragraph 151 of the NPPF does however identify that:

*When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.*

- 11.3 The harm of the proposal can be considered:
- The proposal would be inappropriate development within the Green Belt, that would harm openness, albeit this harm is concluded to be low in the medium to long term (moderate harm in the short term while construction takes place and screening establishes). Furthermore, through encroaching into the countryside the development would contradict one of the five core purposes of the Green Belt.



11.4 The benefits of the development can be surmised as follows:

- Firstly, the proposed solar farm would generate 1mW of renewable electricity. This would be a significant contribution towards addressing the Climate Emergency that the Council has declared, and towards meeting local and national policy on reducing carbon emissions, addressing climate change, and meeting the UK's obligations under the Paris Agreement of 2016.
- The scheme would go hand in hand with existing renewable energy sources on the site, namely existing solar panels and a large ground source heat pump. The proposed array would utilise existing infrastructure thus meaning less ancillary development is required.
- The development is set on Grade 4 agricultural land meaning it is of a low agricultural standard and is also the wettest part of the holding. As such, the development would utilise this poor standard of land to meet a contribute to meeting the renewable energy need within the region.

11.5 In closing, this application necessitates a consideration of the planning balance. It is concluded by officers the harms identified throughout this assessment would be outweighed by the public benefits of the development for renewable energy provision. The benefits would amount to very special circumstances that would justify the granting of planning permission despite the Green Belt location (and the other harm identified). Therefore, the recommendation of this report is approval (subject to conditions) however, it ultimately will be for the Planning Committee to decide which way the planning balance is tilted as regards the harms versus the public benefits.

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

1. In accordance with the approved plans.
2. Development with 3 years.
3. Submission of details regarding the transformer details / locations
4. Submission of a landscaping / planting scheme
5. Submission of noise impact assessment
6. Submission of a 'Glint and Glare' assessment
7. Reporting of unexpected contaminated land
8. No development within an appropriate buffer of the protected trees, as agreed with KC Trees
9. Submission of a biodiversity plan for a 10% biodiversity net gain
10. Notwithstanding approved plans, applicant to agree on method to fix panels to the ground with the LPA.
11. Submitted of an arboricultural method statement / tree protection plan
12. Submission of a landscape and ecological design (LEDS). The scheme shall provide the means of providing biodiversity enhancement, given the location, managed and maintained in perpetuity.

### **Background Papers:**

Application and history files.

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Certificate of Ownership – Notice served on/ or Certificate A signed:

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