

# Public Document Pack



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

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Wednesday 14 June 2023

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Heavy Woollen Area)**

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 22 June 2023**.

(A coach will depart the Town Hall, at 10.00am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Town Hall)

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

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

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

**Julie Muscroft**

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

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

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

### **Member**

Councillor Gwen Lowe (Chair)  
Councillor Ammar Anwar  
Councillor Timothy Bamford  
Councillor Eric Firth  
Councillor Adam Gregg  
Councillor Steve Hall  
Councillor John Lawson  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Jackie Ramsay  
Councillor Cathy Scott  
Councillor Joshua Sheard  
Labour Group Vacancy

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

### **Substitutes Panel**

#### **Conservative**

B Armer  
D Bellamy  
D Hall  
R Smith  
J Taylor  
M Thompson

#### **Green**

K Allison  
A Cooper  
S Lee-Richards

#### **Labour**

B Addy  
Moore  
M Sokhal  
T Hawkins

#### **Liberal Democrat**

PA Davies  
A Munro  
A Marchington  
A Smith

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Sub-Committee**

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

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**2: Minutes of Previous Meeting**

1 - 6

To approve the Minutes of the meeting of the Sub-Committee held on 16 March 2023.

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**3: Declaration of Interests and Lobbying**

7 - 8

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

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**4: Admission of the Public**

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

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**5: Deputations/Petitions**

The Committee will receive any petitions and/or 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 submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be

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heard at any one meeting.

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## **6: Public Question Time**

To receive any public questions.

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

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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## **7: Site Visit - Application No: 2022/93499**

Outline application for erection of 15 dwellings with new highway access and parking at Healey Lane, Batley.

Ward affected: Batley West

Contact: Callum Harrison, Planning Services

(Estimated time of arrival at site – 10.15am)

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## **8: Site Visit - Application No: 2022/92100**

Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls rear of, 23 to 43, Moor Lane, Gomersal, Cleckheaton.

Ward affected: Birstall and Birkenshaw

Contact: Alice Downham, Planning Services

(Estimated time of arrival at site – 10.50am)

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## **9: Site Visit - Application No: 2022/93344**

Conversion and extension of existing building to form 10 one-bedroom apartments and associated external works at School of Dance and Performing Arts, 61-63, Moor Lane, Gomersal, Cleckheaton.

Ward affected: Birstall and Birkenshaw

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Contact: Callum Harrison, Planning Services

(Estimated time of arrival at site – 11.05am)

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## **Planning Applications**

9 - 10

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 19 June 2023.

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

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

### **10: Planning Application - Application No: 2022/93344**

11 - 26

Conversion and extension of existing building to form 10 one-bedroom apartments and associated external works at School of Dance and Performing Arts, 61-63, Moor Lane, Gomersal, Cleckheaton.

Ward affected: Birstall and Birkenshaw

Contact: Callum Harrison, Planning Services

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### **11: Planning Application - Application No: 2022/92100**

27 - 56

Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls rear of, 23 to 43, Moor Lane, Gomersal, Cleckheaton.

Ward affected: Birstall and Birkenshaw

Contact: Alice Downham, Planning Services

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**12: Planning Application - Application No: 2021/90086** 57 - 88

Erection of 14 apartments in 2 blocks and change of use and alterations to convert existing restaurant to 6 apartments at Grameen Spice, 2, Bristfield Road, Grange Moor, Huddersfield.

Ward affected: Kirkburton

Contact: Nick Hirst, Planning Services

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**13: Planning Application - Application No: 2022/94117** 89 - 100

Change of use and alterations to convert existing building to garage MOT testing station at Crossfield Farm, 17, Woodland Grove, Dewsbury Moor, Dewsbury.

Ward affected: Dewsbury West

Contact: Nina Sayers, Planning Services

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**14: Planning Application - Application No: 2022/93499** 101 - 120

Outline application for erection of 15 dwellings with new highway access and parking at Healey Lane, Batley.

Ward affected: Batley West

Contact: Callum Harrison, Planning Services

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### **Planning Update**

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

Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

**Thursday 16th March 2023**

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

Apologies: Councillor Fazila Loonat  
Councillor Joshua Sheard  
Councillor Melanie Stephen

**1 Membership of the Sub-Committee**

Councillor E Firth substituted for Councillor Anwar.

Apologies for absence were received on behalf of Councillors Loonat, Sheard and Stephen.

**2 Minutes of Previous Meeting**

**RESOLVED** – That the Minutes of the Meeting held on 9 February 2023 be approved as a correct record.

**3 Declaration of Interests and Lobbying**

Councillors Dad, Gregg, Lawson, Lowe, Lukic, Pervaiz, A Pinnock and Ramsay indicated that they had been lobbied on Application 2022/90175.

**4 Admission of the Public**

It was noted that all agenda items would be considered in public session.

**5 Deputations/Petitions**

No deputations or petitions were received.

**6 Public Question Time**

No questions were asked.

**7 Site Visit - Application No: 2022/90175**

Site visit undertaken.

## Planning Sub-Committee (Heavy Woollen Area) - 16 March 2023

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

Site visit undertaken.

### 9 **Planning Application - Application No: 2022/90175**

The Sub-Committee gave consideration to Application 2022/90175 – Erection of 4 stables/tackroom and equestrian use of land at land north of Stocks Moor Road, Stocksmoor.

Under the provision of Council Procedure Rule 36(3) the Sub-Committee received a representation from Councillor Armer (local member).

Under the provision of Council Procedure Rule 37 the Sub-Committee received representations from Elizabeth Turner (local resident) and Maria Ferguson (on behalf of a local resident).

**RESOLVED** – That, contrary to the Officer’s recommendation, the application be refused on the grounds of highway safety concerns, including safe vehicular movement, as the application would be harmful to highway safety and efficiency.

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

To delegate to officers to approve;

For: Councillors Lawson, Lukic and Ramsay (3 votes)

Against: Councillors Dad, E Firth, Gregg, S Hall, Lowe, Pervaiz and A Pinnock (7 votes)

To refuse;

For: Councillors Dad, E Firth, Gregg, S Hall, Lowe, Pervaiz and A Pinnock (7 votes)

Against: Councillors Lawson, Lukic and Ramsay (3 votes)

### 10 **Planning Application - Application No: 2022/90804**

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

Under the provision of Council Procedure Rule 36(3) the Sub-Committee received a representation from Councillor Scott (local member).

Under the provision of Council Procedure Rule 37 the Sub-Committee received a representation from Lucy Buckley (applicant).

**RESOLVED** – That, contrary to the Officer’s recommendation, the application be delegated to officers to approve (i) on the grounds that very special circumstances existed to allow, what would otherwise be inappropriate development in the Green Belt by virtue of the provision of landscaping on the wider application site and subsequent wildlife enhancement and (ii) subject to the resolution of outstanding concerns relating to ecological impact of the development and coal mining legacy,



## Planning Sub-Committee (Heavy Woollen Area) - 16 March 2023

and that, subject to these matters not being resolved, the application be referred back to the Sub-Committee.

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

For: Councillors Dad, E Firth, S Hall, Pervaiz and Ramsay (5 votes)

Against: Councillors Gregg, Lawson, Lukic and A Pinnock (4 votes)

Abstained: Councillor Lowe

### 11 **Planning Application - Application No: 2022/91911**

The Sub-Committee gave consideration to Application 2022/91911 – Erection of residential development consisting of 48 dwellings with associated highways and landscaping at land at Cliff Hill, Denby Dale.

Under the provision of Council Procedure Rule 37 the Sub-Committee received a representation from Nick Gould (applicant).

**RESOLVED** – That the application be refused on the grounds that;

- (i) Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as NPPF Paragraph 183 (clauses a, b and c).
- (ii) It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall the proposal is found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).
- (iii) The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary

to Policy LP7 of the Kirklees Local Plan and Paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan.

- (iv) Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.
- (v) It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f).
- (vi) Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.
- (vii) Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan.

## **Planning Sub-Committee (Heavy Woollen Area) - 16 March 2023**

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

For: Councillors Dad, E Firth, Gregg, S Hall, Lawson, Lukic, Lowe, Pervaiz, A Pinnock and Ramsay (10 votes)  
Against: (no votes)

### **12 Planning Application - Application No: 2023/90203**

The Sub-Committee gave consideration to Application 2023/90203 – Erection of two storey rear extension at Salt Pie Farm, Penistone Road, Birds Edge.

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

- development to commence within three years from the date of permission
- development to be completed in accordance with the approved plans
- facing and roofing materials to match the original building (natural stone facing and stone slate roofing)

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

For: Councillors Dad, E Firth, Gregg, S Hall, Lawson, Lukic, Lowe, Pervaiz, A Pinnock and Ramsay (10 votes)  
Against: (no votes)

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**KIRKLEES COUNCIL**

**DECLARATION OF INTERESTS AND LOBBYING**

Planning Sub-Committee/Strategic Planning Committee

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

The statutory Development Plan for Kirklees is the Local Plan (adopted 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

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

**Subject: Planning Application 2022/93344 Conversion and extension of existing building to form 10 one-bedroom apartments and associated external works School of Dance and Performing Arts, 61-63, Moor Lane, Gomersal, Cleckheaton, BD19 4LF**

#### APPLICANT

C McCue

#### DATE VALID

11-Oct-2022

#### TARGET DATE

10-Jan-2023

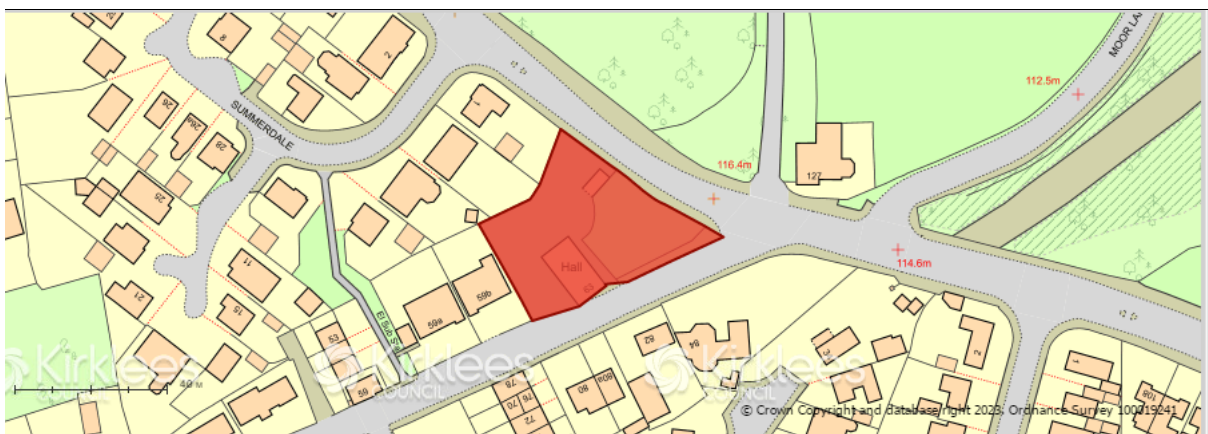
#### EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

#### LOCATION PLAN



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

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**Electoral wards affected: Birstall and Birkenshaw**

**Ward Councillors consulted: 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 those contained within this report.

**1.0 INTRODUCTION:**

- 1.1 The site has been referred to the Heavy Woollen Planning Committee given that 263 representations have been received in relation to the application. Of the 263 representations, 250 were in objection to the proposal, 6 were in support and 7 were deemed as general comments. This is in accordance with the Scheme of Delegation set out in the Constitution.
- 1.2 As well as this, representations were also received from Cllr Mark Thompson and Cllr Elizabeth Smaje. These will be summarised where appropriate in the report below.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site lies at the junction of Dewsbury Road and Moor Lane, and measures 0.15 hectares. The site comprises an existing three-storey, hipped-roof, stone-built building, associated hardstanding/car parking and garden space. The building is currently used by a Dance School. There are or have been a café use and antiques use within the building in recent times, however these uses are unauthorised. Access to the site is from Moor Lane at the southern boundary. Boundaries comprise a stone-built wall (1-1.5m in height), hedgerows and mature trees.
- 2.2 The site lies within a predominately residential area consisting of single-storey and two-storey properties of varying character, with external materials predominantly comprising of stone and render for the walls and a mix of concrete and slate tiles for the roofing.

**3.0 PROPOSAL**

- 3.1 The application is seeking permission for the conversion and extension of the existing building to form 10 one-bedroom apartments and associated external works.
- 3.2 This would result in a change of use from the building's current use as a dance studio, antiques shop and café. The antiques and café use are unauthorised with no permission on digital record for these uses.

- 3.3 The proposed extension is to the eastern side of the original building. It would be two storeys in height and finished with a pyramid hipped roof. The extension would host four of the proposed apartments. Each side of the extension would be set in from the side elevation of the original building by 2.8m, and it would have a finished height 4.5m below the ridge of the original building also. The extension would be faced in stone to match the original building. The connection between the original building and extension would be via a recessed section of rendered walling.
- 3.4 The exterior of the original building will be largely unaltered with the addition of 4 new windows across the side elevations, repositioning of the door and the provision of 5 conservation style roof lights with fitted central bar being the only material changes. The original building would host six of the apartments.
- 3.5 The existing car parking would be utilised and slightly amended to provide 12 vehicle parking spaces, a cycle store and refuse store. The existing access from Moor Lane would be used.
- 3.6 Full details of the development can be seen on the submitted plans.

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

##### *Planning Applications*

- 4.1 There are no planning applications on digital file for this site.

##### *Pre-planning Applications*

- 4.2 2022/20019 - Pre application advice for conversion and extensions to form 10 dwellings.

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

- 5.1 This application follows a pre-planning application enquiry which proposed 6 x 1-bed and 4 x 2-bed apartments in a scheme similar to that proposed now. In the pre-application response, Officers supported the principle of development. Whilst Officers were positive about extending the building on the eastern side, concerns were raised about the size of the extension, which has been addressed in the design submitted under the full application. This has led to all ten apartments being one bedroom as opposed to a mix of one and two bed roomed apartments as set out in the pre-application enquiry. During the course of this application, negotiations have revolved around highways, which has led to revisions to the car park details. Officers have also discussed the principle of development with the agent.

#### **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).

The application site is unallocated on the Kirklees Local Plan (2019).

- 6.2 The site is also located 125m outside the Gomersal Conservation Area and as such, does not affect its setting.

Kirklees Local Plan (2019)

Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development

LP2 – Place shaping

LP21 – Highways and access

LP22 – Parking

LP24 – Design

LP26 – Renewable and low carbon energy

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP33 – Trees

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

LP53 – Contaminated and unstable land

Supplementary Planning Guidance / Documents:

- 6.3 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
- Negotiating Financial Contributions for Transport Improvements (2007)
- Highways Design Guide SPD (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

*Climate change*

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

### National Planning Guidance:

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

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 9 – Promoting sustainable transport

Chapter 11 – Making effective use of land

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

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

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

7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was advertised as neighbour notification letters, in the press and by a site notice.

7.2 As a result of the application's publicity, 263 comments have been received on the application to date. Of the 263 representations, 250 were in objection to the proposal, 6 were in support and 7 were deemed as general comments. These comments have been summarised as follows:

7.3 Objections:

- Loss of the dance school would have effects on community wellbeing and health. The dance school is a valuable asset to the village where people have limited accessibility to alternative venues. Its flexible use offers so many positives to the community which would be lost if the development is permitted.
- Increase in traffic on Moor Lane would be dangerous.
- The proposed use would exacerbate existing drainage and flooding issues.
- The proposed parking is insufficient.
- The development would harm the visual amenity of the historic building.
- The proposed apartments do not reflect the local need.

7.4 General Comments:

- Concerns whether the dwellings are required.
- State that the redevelopment should have publicly accessible facilities.

## 7.5 Supporting Comments

- Shortage in one bedroom flats in the area, which this would address.
- The existing dance school causes detrimental highways and amenity issues. The traffic, parking and noise issues were and still are harmful and impact on the lives of those which live close by. The proposed use would have far more less traffic movements to and from the site causing less harm.

7.6 Whilst officers note this summary of representations seems short given the number of representations received, the vast majority of comments were about the loss of the dance school and some impacts of that which are unfortunately not material planning consideration, such as how long the dance school has been there and the history it would take away. Other non-material considerations raised mentioned the loss of the café, which cannot be considered as its use is unauthorised. There has not been a certificate of lawfulness to regularise the café development.

7.7 Cllr Mark Thompson stated *'request that if the below application isn't to go to planning committee that it does so please. As there have been so many complaints / comments it would be remis of us that they don't have an opportunity to voice their concerns.'*

7.8 Cllr Elizabeth Smaje objects to the proposal and states *'Any changes to this property should reflect the historical context of the existing building which clearly this development does not. The building is not just historic in its fabric but also in its use and is part of the history of the area.'*

*There is already difficulty with the existing entrance and the lack of parking although with the current use the parking is not all day, every day. There needs to be adequate on-site parking as Moor Lane is already busy with parked cars. Sight lines are difficult and there needs to be adequate room for larger vehicles, just as the bin lorry and emergency vehicles, to get in and out without blocking the road. There also needs to be provision so that no bins are left on the road for collection/return as there is no pavement at this side of Moor Lane. Bins on the road cause a hazard already further along Moor Lane.*

*The proposal for 1-bedroom apartments does not fit into the local area nor does it meet the housing need.'*

## 8.0 CONSULTATION RESPONSES:

A summary of the consultation responses received during the course of this application are set out below. Where appropriate, they are expanded on further in the main report.

### **Statutory:-**

KC Highways Development Management – No objections

KC Trees – No objections

KC Lead Local Flood Authority – No objections

KC Education – No objections

**Non statutory:-**

KC Strategic Housing – No objections

KC Designing Out Crime (West Yorkshire Police) – No objections

KC Waste – No objections

KC Environmental Health – No objections

## **9.0 MAIN ISSUES**

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

- Principle of Development for Residential Development and Loss of the Existing Use
- Impact on Residential Amenity
- Impact on Highway Safety
- Other Matters
- Representations

## **10.0 APPRAISAL**

### Principle of Development

#### *Principle of Residential Development*

- 10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”. Policy LP3 of the Local Plan is also of relevance insofar as it requires development to deliver homes in a sustainable way.
- 10.2 Policy LP7 of the Kirklees Local Plan states that proposals should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. In this case, the application for 10 dwellings would result in a net density of 66 dwelling per hectare which would accord with Policy LP7.

- 10.3 With regard to the need, the Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.
- 10.4 The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five-year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. The application site is set within a residential area. The existing building is large and benefits from a good-sized curtilage. Paragraph 69 of the NPPF recognises that "small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes". The site is located within a built-up area in Gomersal and is directly adjacent to the A652 which a bus route with a bus stop circa 200m from the application site. As such it is a sustainable location for residential development.
- 10.5 Local Plan Policy LP11 states that 'All proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.' The Strategic Housing Market Assessment (SHMA) for the Batley & Spen Ward, which this falls in to, identifies that new 1-2 bedroom homes are required. As such, KC Strategic Housing support the proposed housing type and officers deem the scheme accords with Local Plan Policy LP11 as it is in line with the latest evidenced of housing need. Whilst officers acknowledge there is no mix to the dwelling type, given the application is for a conversion with extension, the only feasible alternative housing type would be a two bedroom apartment. A mix of one and two bedroom apartments were proposed as part of the pre-application enquiry. To facilitate this mix of one and two bedroom dwellings, either: a much larger extension would be required, which would have harmful visual amenity impact; or, less dwellings would be achievable. As such, given there is a genuine and identified need for 1 bedroom dwellings, Officers consider, that the proposed scheme would make a valuable and significant contribution to meeting this identified need use, thus according with the overall principle of Policy LP11.



- 10.6 The proposal would make an efficient use of land in residential area. The ten dwellings would make a significant contribution to meeting the identified need in the area for the housing proposed. The site is also unallocated. As such, the principle of development for a residential use is considered to meet the requirements of policies of LP1, LP2, LP3, LP7 and LP11 of the Kirklees Local Plan, Chapters 2 and 11 of the NPPF and the key principles of the Housebuilders Design Guide SPD.

#### *Loss of the Dance School*

- 10.7 The Case Officer and KC Planning Policy liaised closely to consider the impact of the loss of the Dance School given local residents' concerns. Consideration was given as to whether the Dance School is a community facility, thus requiring an assessment against Local Plan Policy LP48 and Chapter 8 of the NPPF. Chapter 8 of the NPPF lists community facilities as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. Unfortunately, the Dance School does not fall within any of these uses. Whilst Officers understand from the representations that the site may be informally used as a 'meeting place', by planning record, it is a dance school only. The site is a privately run facility and is not open to the general public and as such, cannot be considered a meeting place as listed by Policy LP48. Nevertheless, Officers have considered as to whether there are any alternative facilities in the area. The Built Leisure and Sports Facility Strategic Framework Assessment Report identifies more than 30 studios in the region, with schools in nearby Cleckheaton and Heckmondwike.

#### *Principle of Development Conclusion*

- 10.8 The proposed residential use is a sustainable development by virtue of being in a built up, residential area. The proposed housing type meets a need identified in the SHMA. The scheme also represents a suitable level of density in order to help meet the Council's housing targets. The loss of the dance school, which officers appreciate is popular and successful, cannot be protected by policy relating to community facilities as it is a privately run, commercial, business who dictate who can and cannot use the site. Therefore, in the planning balance, the principle of development is acceptable and accords with the purposes of the Kirklees Local Plan and the NPPF.

#### Impact on Visual Amenity

- 10.9 The site is not within a conservation area and does not include any listed buildings. The building does however make a positive contribution to the street scene by its early industrial form. The site lies on the corner of Moor Lane and Dewsbury Road (A652) and has an open appearance over its associated gardens from the east, south and north along Moor Lane and Dewsbury Road, respectively. The traditional stone wall boundary, mature hedgerows and tress contribute positively to the character of the street scene junction. Chapter 12 (Achieving well-design places) of the NPPF and Policies LP24 (Design) and LP32 (Landscape) are relevant in this instance.

- 10.10 The existing building would be largely unaltered and as such, the assessment with regard to visual amenity relates to the proposed extension. The proposed two storey extension would be visually subservient to the existing three storey building. Since the pre-application enquiry, the applicant has reduced the scale of the extension to ensure this subservience. The extension is 5.6m narrower than the host building which allows for original openings on each side to remain and appear prominent. It is considered that the two-storey extension, with small link and hipped roof form to match the existing building demonstrates how the extension is a subordinate addition to the existing building. The form, appearance, openings, and materials of the extension follows and matches the traditional form and appearance of the existing building. The positioning at the junction results in visibility from the south, west and east, which the design also addresses well by including openings to in these elevations in both the existing building and proposed extension to ensure active frontages. The existing stone walls around the boundary would also be retained.
- 10.11 Whilst Officers accept that there would be some impact on visual amenity, the extension has been well designed. The development suitably respects the character of the existing building whilst also being subservient. It would utilise the large curtilage well and still provide a good level of surrounding outdoor space which would positively contribute to the setting. As such, subject to a condition for samples/details of the proposed materials to ensure it does match the original building, the design and appearance of the extension is considered to be acceptable.
- 10.12 Officers consider that there would be no material harm visually; as such, the scheme accords with Local Plan Policies LP24 and LP32, The Housebuilders Design Guide SPD and Chapter 12 of the NPPF with regard to visual amenity.

#### Impact on Residential Amenity

- 10.13 Local Plan policies LP11 and LP24 require all proposals for housing to be of a high quality and design, providing a high standard of amenity for future and neighbouring occupants. The need for providing a good standard of amenity for all is reiterated by principles set out in the Housebuilders Design Guide SPD and Chapter 12 of the NPPF. Local Plan policy LP52 is also relevant with regard to noise.

#### *Future Occupants*

- 10.14 Section 9.1 (Internal space standards) of the Housebuilders Design Guide SPD (June 2021) is relevant in supporting Policy LP24 of the KLP and requires that all new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. The Council also recognises the Nationally Described Space Standards (NDSS) as best practice to ensure that new homes are able to meet basic lifestyle needs and provide high standards of amenity for future occupiers.

- 10.15 In this case, the agent has provided the Gross Internal Area (GIA) of the proposed apartments which shows they accord with NDSS. The proposal also retains some outdoor amenity space in the form of a garden area. The site is also within walking distance of the Richmond Grove Play Area & Open Space and has several Public Rights of Way (PROW) close-by which lead through the allocated Green Belt countryside. For these reasons, the development is considered to provide a suitable level of amenity for future occupants.
- 10.16 The Noise Impact Assessment (NIA) also shows that future occupants would not be subjected to any material harm with regard to noise pollution and there would be suitable amenity in this regard also. The implementation of the measures set out in the NIA shall be conditioned to ensure this.

#### *Neighbouring Properties*

- 10.17 The nearest neighbouring occupiers subject to potential effects are those to the north, south and west. Given the existing use, and surrounding land uses, the proposed conversion to residential flats would be in keeping with the surrounding land uses. However, it is important the privacy of the existing dwellings nearby is retained. In this case, the windows facing west would face towards the black side elevation and driveway of the dwellings to the west and would not overlook the gardens. To the south, the windows would be at an obscured angle to the dwellings on Moor Lane, with the highway in between. To the east there are no properties close by. To the north, again, the windows would be at an obscured angle to the dwellings and set over 30m away. As such, the scheme would not result in any material loss of privacy for any existing occupants.
- 10.18 For the same reasons as to why there would be no loss of privacy to neighbours, the development would also not appear overbearing. It is anticipated that noise generated from 10 one-bedroom dwellings would be less than a dance studio with other commercial activity. As such, it is not considered there would be any harm to neighbouring properties with regard to noise either.

#### *Impact on Residential Amenity Conclusion*

- 10.19 The proposed development accords with Local Plan Policies LP11, LP24 and LP52 with regard to ensuring a good level of amenity for future and neighbouring occupiers. The scheme also accords with NPPF Chapter 12 and the Housebuilders Design Guide SPD with regard to this matter.

#### Impact on Highway Safety

- 10.20 Policy LP23 of the Kirklees Local Plan relates to cycling / walking network and sets out that proposals that may prejudice the function, continuity or implementation of the core walking and cycling network will not be permitted. Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the NPPF relate to access and highway safety and are considered to be relevant to the consideration of this application. The Council's adopted Highway Design Guide and Principles 12 and 19 of the Housebuilders Design Guide which seek to ensure acceptable levels of off street parking, adequate waste storage facilities are provided, are also considered to be of relevance. KC Highways Development Management were consulted as a part of this application.

- 10.21 The proposed development would utilise the existing 6.5m wide vehicular access point with a separate, adjacent pedestrian access gate. There are 12 parking spaces proposed in the redeveloped hard standing area. It should be noted that Dewsbury Road to the east of the site comprises a core walking/cycling route.
- 10.22 The proposed quantum of parking spaces is in accordance with local guidance which recommends 1 space per apartment and 1 visitor space for every four dwellings. As such, 12 spaces are considered sufficient. Each space is accessible with the applicant demonstrating this via vehicle tracking data. The cycle and bin stores are also accessible located, again as proven by vehicle tracking data. The 6.5m access provides enough space for two cars to pass as they enter and exit the site also. The proposal also sees a new cycle store created which is desirable given the link to the core cycling route. As such, subject to a condition for appropriate surfacing, KC Highways Development Management consider the scheme to be acceptable and in accordance with the forementioned policy.
- 10.23 Officers wish to acknowledge that alongside the loss of the dance school, highway safety concerns made up the majority of the objections. However, a 10-dwelling housing development would only bring a very small increase in trip generation. In the absence of a technical calculation, as a very rough rule of thumb, 0.5 trips are generated per hour, per dwelling at peak times. This would be even less in this instance as the dwellings would be one bedroomed and not family homes. As such, from a comparison perspective, the proposed use of the site at present generates several times more vehicle trips per day than the proposed apartments. As such, Officers consider the proposed use safer in terms of highway safety than the existing arrangement.

### Trees

- 10.24 Local Plan Policy LP33 seeks to ensure trees are retained. There are two trees subject to Tree Preservation Orders (TPO) on the site. As such, KC Trees have been consulted.
- 10.25 The proposal for would not directly impact on the trees of value, or the protected trees, at the site. The TPO is in need of an update to ensure it reflects the tree cover that is present. Furthermore, the parking area is not being expanded to any significant degree beneath the protected trees and this does not give KC Trees cause for concern.
- 10.26 However, it is likely that the surface is to be repaired/re-laid. There is a risk this work could harm the two significant and protected Sycamore trees. Any resurfacing of the car park should be contained to the surface 50mm of the existing to avoid impacting upon the roots of these two trees. This shall be addressed by condition.
- 10.27 Notwithstanding the above, the applicant has submitted a Tree Protection Plan (TPP). The TPP submitted provides sufficient information and details to ensure the trees are protected. As such, subject to a condition of compliance with the TPP, the scheme is considered to accord with Local Plan Policy LP33 and Chapter 15 of the NPPF.

### Contaminated Land

- 10.28 With regard to land quality, paragraphs 174, 183 and 184 of the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan which seeks to ensure land quality is maintained as part of new development and that it is safe for end users. KC Environmental Health have been consulted as part of this application.
- 10.29 The proposed development site is not shown as being potentially contaminated from its former use and is not located close to a historic landfill site that may have an adverse impact on the proposed development. However, contamination may be encountered during the construction phase and there may be imported soils for use on the site. Therefore, a condition is required relating to unexpected contamination and the use of imported soils. Subject to this, the scheme is considered acceptable with regard to contaminated land.

### Carbon Budget

- 10.30 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. Principle 18 of the Housebuilders Design Guide sets out that new proposals should contribute to the Council's ambition to have net zero carbon emissions by 2038, with high levels of environmental sustainability by ensuring the fabric and siting of homes, and their energy sources reduce their reliance on sources of non-renewable energy.
- 10.31 It shall be conditioned that one electric vehicle recharging point shall be installed for at least 10% of the spaces. Cable and circuit ratings shall be of adequate size to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. The submitted detail in relation to the specific charging point sets out the type, design and operation of the charging point. The Council's Environmental Health Team support this condition.

### Biodiversity

- 10.32 Paragraphs 174, 180, 181 and 182 of Chapter 15 of the National Planning Policy Framework are relevant, together with The Conservation of Habitats and Species Regulations 2017 which protect, by law, the habitat and animals of certain species including newts, bats and badgers. Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Principle 7 of the Housebuilders Design Guide Supplementary Planning Document is also of relevance. Which seeks to ensure existing features such as trees, habitats and landscape features are retained. Principle 9 requires that net gains in biodiversity are provided. An Ecological Impact Assessment (EclA) has been submitted with the application.

- 10.33 In terms of the existing ecological value, the site boundaries are marked by a native hedgerow and a line of broadleaved trees whilst there is also a lawn. As such, the site only hosts 0.2430 Biodiversity Habitat Units (BHU), which is a very low figure. There are also 0.5040 Hedgerow Units (HU), another very low figure.
- 10.34 The proposal would see the hedgerow and line of trees currently present on-site to be retained. The loss of habitat solely relates to the loss of some of the lawn, representing a total net unit change of -0.0532 BHU. Whilst this is a very, very small figure, a net gain must still be achieved to accord with Chapter 15 of the NPPF, Policy LP30 of the Local Plan and the relevant SPDs. The proposal does not see any ecological enhancements proposed. The EclA states a conclusion of providing off-site net gain and/or contributions rather than exploring the options of providing a net gain on site.
- 10.35 Officers consider that an on-site net gain can be realistically achieved given the impact on biodiversity is very limited in the first instance. It is likely that some relatively small-scale planting in the proposed communal garden would be sufficient to provide this on-site net gain, given only an additional 0.0776 BHU would need to be provided to achieve an onsite 10% net gain. As such, it shall be conditioned that an Ecological Design Strategy to achieve the on-site net gain be submitted, with the works implemented prior to the occupation of the development. Subject to this condition, the proposed development accords with Chapter 15 of the NPPF, Policy LP30 of the Local Plan, and the Biodiversity Net Gain and Housebuilders Design Guide SPDs.

#### Drainage / Flood Risk

- 10.36 The site is located in Flood Zone 1 and as such there are no flooding risks. The development would also be able to utilise the existing surface, foul and water drainage systems with little increase in hardstanding, meaning the existing network is sufficient. KC Lead Local Flood Authority were consulted on this application and raised no objections. No conditions are required in order to accord with Local Plan Policies LP27 and LP28 and Chapter 15 of the NPPF with regard to drainage and flood risk.

#### Representations

- 10.37 As a result of the application's publicity, 263 comments have been received on the application to date. Of the 263 representations, 250 were in objection to the proposal, 6 were in support and 7 were deemed as general comments. These comments have been summarised as follows and responded to underneath each section:
- 10.38 *Objections:*
- Loss of the dance school would have effects on community wellbeing and health. The dance school is a valuable asset to the village where people have limited accessibility to alternative venues. Its flexible use offers so many positives to the community which would be lost if the development is permitted.
  - Increase in traffic on Moor Lane would be dangerous.
  - The proposed use would exacerbate existing drainage and flooding issues.
  - The proposed parking is insufficient.

- The development would harm the visual amenity of the historic building.
- The proposed apartments do not reflect the local need.

**Response:** All of these matters have been assessed in the relevant parts of the appraisal above.

#### 10.39 General Comments:

- Concerns whether the dwellings are required.
- State that the redevelopment should have publicly accessible facilities.

**Response:** The requirement for the dwellings has been assessed in the appraisal above, as has the loss of public accessibility.

#### 10.40 Supporting Comments

- Shortage in one bedroom flats in the area, which this would address.
- The existing dance school causes detrimental highways and amenity issues. The traffic, parking and noise issues were and still are harmful and impact on the lives of those which live close by. The proposed use would have far more less traffic movements to and from the site causing less harm.

**Response:** The comments have been noted and the matters raised has been assessed in the appraisal above.

10.41 Whilst Officers note this summary of representations seems short given the number of representations received, the majority of comments related to the loss of the dance school and some impacts of that which are not material planning consideration, such as how long the dance school has been there and the history it would take away. Other non-material consideration raised referred to the loss of the café, which cannot be considered as its use is unauthorised. There has not been a certificate of lawfulness to regularise the café development.

## 11.0 CONCLUSION

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

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. The principle of development is considered acceptable as the site is set in a residential area. The existing cannot be protected as a community use as it is a privately run, commercial business, thus, not meeting the definition of a community use or asset. Officers have considered the impact on residential properties nearby, whereby there would be no material harm. There is only a minor impact with regard to ecology, which has been appropriately offset by conditions set out in the appraisal. The proposed development would also respect the character of the host building and have a positive impact in terms of highway safety and parking by providing sufficient off-street parking and reducing the number of vehicle trips to and from the site. Overall, the proposal would see the redevelopment of a brownfield site and make a significant contribution to addressing an identified local housing need. The scheme would also not prejudice any drainage/flood risk impacts. As such, the scheme accords with the purposes of The Kirklees Local Plan, The National Planning Policy Framework and the applicable supplementary planning documents.

11.3 It is therefore considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

## 12.0 CONDITIONS

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

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Approval of samples of facing materials
4. Appropriate surfacing
5. Submission of an Ecological Design Strategy to provide Biodiversity Net Gain
6. Works in accordance with Tree Protection Plan
7. Implement agreed Noise Mitigation Measures
8. Reporting of unexpected contaminated land
9. Provision of electric vehicle charging points
10. Verification of imported materials
11. Details of any external artificial lighting
12. Details of the management and maintenance of communal refuse storage areas

### Background Papers:

Application and history files. Website link:

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/93344)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/93344>

Certificate of Ownership: Certificate A signed and dated 07/10/2022



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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

**Subject: Planning Application 2022/92100 Outline application for erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls rear of, 23 to 43, Moor Lane, Gomersal, Cleckheaton, BD19 4LF**

#### APPLICANT

Helen Davies, Binks  
Executive Homes Ltd

#### DATE VALID

23-Jun-2022

#### TARGET DATE

22-Sep-2022

#### EXTENSION EXPIRY DATE

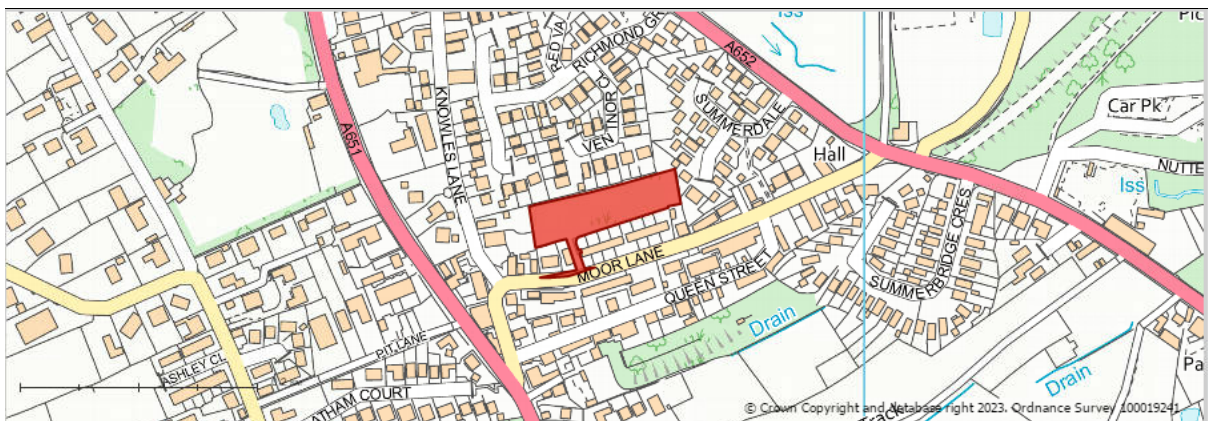
30-Jun-2023

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Birstall and Birkenshaw**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 Agreement to cover the following matters:

1. Off-site Biodiversity Net Gain contribution (£35,190)
2. Incorporation of a Drainage Management Company
3. Incorporation of a Highways Management Company
4. Incorporation of a Public Open Space Management Company

In the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION**

- 1.1 The application has been brought before the Heavy Woollen Planning Sub-Committee due to the significant volume of local opinion as 111 public representations have been received over the lifetime of the application. This is in accordance with the Council's Scheme of Delegation.
- 1.2 Cllr Smaje has also called the application to Sub-Committee citing concerns over highway safety, housing density, reduction of open space, and change of the character of area arising from the proposal. A site visit has also been requested.
- 1.3 The Chair of the Heavy Woollen Planning Sub-Committee has confirmed that Cllr Smaje's reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees and in conjunction with the number of representations received in relation to the application.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is formed from an area of vacant, vegetated land to the north of Moor Lane which is bounded on all sides by existing residential dwellings. The site access would be taken from a small, voided area between Nos. 25 and 27 Moor Lane which currently provides a means of access to the area.

2.2 The site has not previously been developed and hosts a number of large boundary trees which screen some of the existing dwellings at the northeast and northwest of the site, as well as a Listed heritage asset to the west.

2.3 The application site red line boundary measures approximately 0.42 hectares.

### **3.0 THE PROPOSAL**

3.1 The applicant is seeking outline planning permission for the '*erection of residential development of 10 dwellings, demolition of existing extension at 27 Moor Lane, widening of existing access and realignment of boundary walls*'.

3.2 The matters for consideration under this application relate to the principle of development and access. Matters relating to appearance, landscaping, layout, and scale have been reserved.

3.3 A revised proposal was submitted by the applicant on 03/03/2023 following receipt of further consultee and public comments and advice. These amendments principally concerned the proposed layout of the site and sought to clarify matters of access to the site following feedback from KC Highways.

#### *Supporting Information*

3.4 In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
- Landscape Character Assessment
- Biodiversity Net Gain Assessment
- Preliminary Ecological Appraisal
- Planning Statement
- Coal Mining Risk Assessment
- Drainage Strategy
- Phase 1 Geo-Environmental Report
- Tree Survey
- Arboricultural Impact Assessment
- Design and Access Statement
- Highways Access Note

### **4.0 RELEVANT PLANNING HISTORY**

*Application:* 2012/92903

*Description:* Outline application for erection of detached dwelling

*Decision:* Withdrawn 10/01/2013

*Application:* 2009/93447

*Description:* Outline application for erection of 5 dwellings

*Decision:* Withdrawn 28/01/2010

## 5.0 HISTORY OF NEGOTIATIONS

5.1 Officers negotiated with the applicant to:

- Consider highway safety and site access issues
- Address on-site drainage issues and the SuDS hierarchy
- Assess the quantum of proposed development
- Submit a landscape/area character assessment
- Submit amended plans in response to consultee and public comments

## 6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

### Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP11 – Housing Mix and Affordable Housing
- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP33 – Trees
- Policy LP35 – Historic environment
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

### Supplementary Planning Documents

- Affordable housing and housing mix SPD (March 2023)
- Housebuilders Design Guide SPD (June 2021)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- Open Space SPD (June 2021)

- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)

### National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

### National Planning Policy Framework (NPPF) (July 2019)

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

### Climate Change

- 6.4 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.
- 6.5 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 REPRESENTATIONS (PUBLIC)**

- 7.1 This application has been advertised as a major development.

- 7.2 Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).
- 7.3 The statutory public consultation period took place between 23/06/2022 to 25/08/2022.
- 7.4 During the initial round of public consultation, a total of 72 representations were made. Of these, 1 was made in support, 66 were received as objections, and 5 as general comments.
- 7.5 13 comments were made after the close of the public consultation period following the receipt of additional information. Of these, all were received as objections.
- 7.6 Under Paragraph 034 of the National Planning Policy Guidance (NPPG) on Consultation and Pre-Decision Matters, dated 23/07/2019 (Reference ID: 15-026-20190722), the Council has – at its discretion – accepted public comments made after the close of the consultation period for due consideration.
- 7.7 The agent submitted information on 19/10/2022 setting out the applicant's responses to some of the public comments. This is not included in the synopsis of public representations below.

7.8 The key points raised in SUPPORT are as follows:

- Proposal would improve the site.

7.9 The key points raised in OBJECTION are as follows:

*Highways/Car Parking/Accessibility*

- Proposal would exacerbate existing highways safety concerns due to the volume of traffic using and on-street parking on Moor Lane.
- Larger and emergency services vehicles would not be able to access the site easily.
- Footpath provision in the area is insufficient.
- Site access is unsafe for vehicles and pedestrians.
- Construction traffic would cause disturbance in the area.
- Demolition of existing house extension to provide access would lose an off-street parking space.
- Moor Lane is no longer accessed by public transport.
- Level of on-site car parking would not be sufficient.

*Ecology/Biodiversity*

- Proposal would detrimentally impact local wildlife.
- Proposal would result in a loss of mature and TPO trees.
- Proposal would remove green space from the area.
- Proposal would lead to a significant reduction in biodiversity.

### *Drainage*

- Proposal would increase surface water run-off/flooding risk to neighbouring dwellings.
- Additional drainage requirements would put pressure on the existing system.
- A lack of drainage details have been submitted.

### *Landscape Character/Heritage*

- Character of the area would be impacted.
- Character of the Conservation Area would be impacted.
- Proposal would impact on the setting of a Grade II\* Listed Building.

### *Residential Amenity*

- Proposal would lead to overlooking and privacy issues on adjacent dwellings.
- Proposed dwellings would overshadow existing dwellings.
- Proposal would lead to a loss of outlook for neighbouring dwellings.
- Additional light pollution from car headlights leaving the site would impact residential amenity.

### *Other*

- Previous site history shows the site not being acceptable for new dwellings.
- New dwellings should be encouraged on Brownfield sites.
- Local facilities and infrastructure are already stretched.
- Noise levels would be increased in the area.
- Proposal would lead to an increase in pollutant and non-renewable energy usage.
- Site is not suitable for development due to previous coal mining activity in the area and the presence of ground gas.
- No affordable housing has been proposed.
- Proposal would constitute overdevelopment of the site.
- Public consultation process has been questioned.
- Proposal is not sustainable development.
- Proposed housing mix doesn't reflect local need.
- Air quality in the area would be detrimentally impacted by the proposal.

7.10 The key points raised as COMMENT are as follows:

- Number of dwellings should be reduced.
- Moor Lane is already used as a rat run.

7.11 Comments (*all objections*) received under Paragraph 034 of the National Planning Policy Guidance (NPPG) on Consultation and Pre-Decision Matters:

- Revised surface and foul water drainage schemes remain unfit for purpose and would increase local flood risk.

- Revised site access is still not sufficient for vehicles and pedestrians.
- Submitted Landscape Assessment is not accurate.
- Revised proposal does not comply with adoptable highways and drainage standards.
- Cars parked within the site not in designated spaces would cause issues for larger and refuse vehicles.
- Figure used in the road survey are flawed.

7.12 A revised proposal was submitted by the applicant on 03/03/2023 following receipt of further consultee and public comments and advice. In light of this, the Local Planning Authority ran a full public re-consultation on the amended application. This ran from 10/03/2023 to 31/03/2023. During the re-consultation, a total of 26 representations were made. Of these, 0 were made in support, 25 were received as objections, and 1 as a general comment.

7.13 The key points raised in OBJECTION are as follows:

- Application uses 3<sup>rd</sup> Party land which the owner does not permit.
- Proposal would exacerbate highways safety concerns.
- New dwellings would put strain on existing drainage infrastructure.
- Previous application for fewer dwellings already refused.
- Car parking layout is inadequate and would impact on residential amenity of neighbours.
- Proposed dwellings would overlook neighbours.
- Proposal would damage the site's ecology,
- Proposed access footpaths are inadequate.
- Hardstanding areas would increase flood risk.
- Visibility splays not adequate.
- Details of foul drainage arrangements not shown.
- Refuse Collection Vehicle access is very tight.
- Site is unsuitable for residential development.
- Site access would be unsafe.
- Biodiversity Net Gain Assessment is inaccurate.
- Kirklees Council has an interest in the site.

7.14 The key points raised in COMMENT are as follows:

- Boundary treatment details required.
- A footpath should be considered between the rear of dwellings on Ventnor Close and Knowles Lane.

## 8.0 CONSULTATION RESPONSES

8.1 Invitations to comment on this application were sent to the following consultees:

### **Statutory:**

KC Highways – No objections subject to conditions.

KC Lead Local Flood Authority – Supports the proposal subject to conditions.

Coal Authority – No objections subject to conditions.



## **Non-Statutory**

KC Accessible Homes – No comments received.

KC Building Control – Comments received.

KC Business, Economy & Regeneration – No comments received.

KC Conservation & Design – No in principle objection subject to conditions.

KC Crime Prevention – No objections subject to conditions.

KC Ecology – No objections subject to conditions and a Section 106 obligation.

KC Environmental Health – No objections subject to conditions.

KC Landscape – No objections subject to conditions.

KC Minerals – No comments received.

KC Policy – Advice received.

KC Public Health – No comments to make.

KC Strategic Housing – No comments received.

KC Strategic Waste – Advice received.

KC Trees – No objections subject to conditions.

KC Waste Strategy – Advice received.

Health & Safety Executive – No comments received.

Historic England – Has no comments to make.

West Yorkshire Fire Authority – No comments received.

Yorkshire Water – No objections subject to conditions.

## **Local Members:**

Cllr Joshua Sheard (Birstall and Birkenshaw) – No comments received.

Cllr Mark Thompson (Birstall and Birkenshaw) – No comments received.

Cllr Elizabeth Smaje (Birstall and Birkenshaw) – Objects to the proposal.

*“I am writing with objections to the application and would ask that it is referred to planning sub committee with a site visit. [...] My objections are therefore in respect of highways, density, reduction of open space, change of character of area.” (18/08/2022)*

## 9.0 MAIN ISSUES

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Design, Layout & Landscape Character
- Amenity
- Highways Safety & Parking
- Heritage
- Ecology, Biodiversity & Trees
- Flood Risk & Drainage
- Other Material Considerations

## 10.0 OFFICER ASSESSMENT

### Principle of Development

#### Spatial Strategy

- 10.1 Policy LP1 sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in NPPF (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that 'when considering development proposals, the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework'.
- 10.2 Policy LP2 requires that 'proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places'. The policy's supporting text identifies Gomersal as having a strong housing market, but that the area is at risk traffic congestion which can detrimentally affect local public transport routes.
- 10.3 To achieve sustainable growth, a housing need of c. 270 new residential dwellings has been identified within Policy LP2 for Gomersal, through a combination of housing and mixed use site allocations, over the lifetime of the adopted Kirklees Local Plan. As this site is unallocated, it represents a windfall site (as defined within the NPPF) which would provide over and above that need which has been identified within the KLP.
- 10.4 Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes and jobs.
- 10.5 Officers note the unallocated nature of this site for both residential [or other type of] development or environmental designation/protection. However, it is further considered that a new residential development of c. 10 dwellings on this site would not be out of keeping with the housing need for Gomersal and would retain the predominantly residential function of the surrounding area. As such, Officers consider that the principle of development for the proposal to be in accordance with Policies LP1, LP2, and LP3 of the adopted Kirklees Local Plan.

### Affordable Housing

- 10.6 Under Policy LP11, affordable housing contributions are only sought from proposals for over 10 new residential dwellings (i.e., 11+ dwellings). As this application proposes 10 new dwellings, no affordable housing contribution is being sought in line with adopted policy requirements.

### **Design, Layout & Landscape Character**

#### Housing Density

- 10.7 Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Lower densities could be acceptable if it can be demonstrated that this is necessary to ensure the development is compatible with its surroundings (and other criteria considered not to be relevant in this instance). It also identifies that proposals should encourage the use of previously developed land in sustainable locations and give priority to despoiled, degraded, derelict and contaminated land that is not of high environmental value.
- 10.8 NPPF (Chapter 11) Paragraph 119 states that proposals should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Additionally, Paragraph 124 requires that proposals should support development that makes efficient use of land. This includes consideration of the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places.
- 10.9 The site is formed of an area of unused green space which currently separates 4 distinct existing residential developments; those on Moor Lane, Knowles Lane, Summerdale, and Richmond Grove/Ventnor Close. The applicant has submitted an Area Character Analysis in support of this application. This calculates the surrounding relative housing densities of the existing residential developments at between 22 to 42 dwellings per hectare, which is given as justification (in part) for the density proposed under this application.
- 10.10 As the proposal is for 10 dwellings on a site of c. 0.42ha, this equates to a proposed housing density of c. 23.8 dwellings per hectare. Officers recognise that this is considerably lower than the policy requirement of 35 dwellings per hectare and at the lower end of those existing densities in the surrounding area. In being so, Officers also note that the revised proposal, although only indicative at this stage, makes space for other material planning considerations, such as areas for habitat creation, non-car dominated dwelling frontages, and good levels of outdoor amenity garden space for the proposed dwellings.
- 10.11 In assessing this lower proposed housing density, Officers consider that the site would be incapable of hosting a residential development of 35 dwellings per hectare due to its size, constraints, and likely visual and landscape character impacts on the surrounding area given the nature of the surrounding developments' densities and built form/dwelling types. As such, in this instance, a lower proposed housing density is considered to be acceptable given the reasons set out above, as well as other policy and material considerations as

laid out throughout this report. The proposal is therefore considered to be in accordance with Policy LP7 of the adopted Kirklees Local Plan and NPPF (Chapter 11), particularly Paragraphs 119 and 124.

### Landscape Character

- 10.12 Policy LP32 requires that proposals should be designed to take into account and seek to enhance the landscape character of the area, with particular consideration of the setting of settlements and buildings within the landscape, as well as other environmental features in the vicinity.
- 10.13 NPPF (Chapter 12) Paragraph 130 requires that proposals function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history (including the surrounding built environment and landscape setting), establish or maintain a strong sense of place, optimise the site's potential for sustainable development, and create safe, inclusive and accessible places.
- 10.14 As noted in Paragraph 10.9 of this report, the site currently a mostly unused area of interstitial green space between existing residential development, seen only predominantly from their back garden areas. In this regard, it is considered that the site does not provide a high landscape character value to the surrounding area, as it is largely unseen except for rear facing aspects of existing private residential dwellings. As a result, the proposed residential development (at a maximum of 2 storeys) would also likely be largely unseen from the roadside, with the exception of the proposed new access track between N0. 25 and 27 Moor Lane. This is not considered to detrimentally affect the landscape character of the surrounding area due to the predominantly residential nature of the area.
- 10.15 It is noted, however, that the proposal would remove and reduce some areas of the boundary walls and landscaping at the frontages of Nos. 23, 25, and 27 Moor Lane to facilitate site access visibility splays. This is considered to be of detriment to the character of this area of Moor Lane, given that this area is currently characterised by strong highway boundaries with characterful stone walling at property boundaries along Moor Lane. Whilst this detrimental impact is acknowledged, it is considered to be of limited weight in the planning balance as the proposed visibility splays would likely improve existing road safety concerns at this corner on Moor Lane. It is considered that without the proposed visibility splays resulting from the proposal, there would be little likelihood that road safety improvement measures could be reasonably incorporated within Moor Lane to address the existing concerns due to its existing constraints.
- 10.16 In light of this, the proposal is considered to be in overall broad accordance with Policy LP32 of the adopted Kirklees Local Plan and NPPF (Chapter 12) in terms of landscape character impacts, particularly as the potential detrimental effects of the proposal are considered to be outweighed by other material considerations.

### Housing Type & Mix

- 10.17 Policy LP11 requires proposals on sites larger than 0.4ha to provide a mix of housing (of both size and tenure) suitable for different household types and reflecting the changing household composition in the borough. This includes provision of dwellings suitable for adaptation and/or use from those with specialist needs.

10.18 Although only indicative at this stage, the initial proposal sought the following housing mix:

- 5no. 3-bed dwellings
- 3no. 4-bed dwellings
- 2no. 5-bed dwellings

10.19 The revised proposal now seeks an indicative proposed housing mix of:

- 6no. 3-bed dwellings
- 4no. 4-bed dwellings

Officers note that this change in the proposed housing mix was done to provide more space within the site for other necessary considerations, such as highways and making space for open space and landscaping following negotiations with consultees and consideration of public comments.

10.20 At this stage, it is unclear whether the proposed dwellings would be suitable for adaptation and/or use from those with specialist needs; or would meet the voluntary compliance standards of M4(2) (Accessible and adaptable dwellings) and M4(3) (Wheelchair user dwellings) of The Building Regulations 2010 (as amended).

10.21 The Council has recently adopted the Affordable Housing and Housing Mix SPD (March 2023). Principle 1 (Market Housing Mix) of this SPD states that “all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflects 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. Proposals for more than 10 dwellings, or on sites of at least 0.4 hectares, should seek to meet local housing needs by using the market housing shares set out in Table 1 as a starting point.”

10.22 This site is approximately 0.42 hectares in size and is located in the Batley and Spen sub-area. For the Batley and Spen area, the housing mix set out in Table 1 is:

- 1- and 2-beds: 30-60%
- 3-beds: 20-40%
- 4+ beds: 15-35%

10.23 Given the above figures, Officers consider that the housing mix as indicatively shown would broadly address the housing need for this area of the borough. Further consideration of the proposed housing mix would need to take place under Reserved Matters to be acceptable under Policy LP11 of the adopted Kirklees Local Plan and the Affordable Housing and Housing Mix SPD.

#### Form, Scale and Massing & Materials

10.24 As this is an outline application, details of appearance have been reserved. As such, no indicative elevational details have been received. Some indicative information has been received in that the proposed dwellings would each be 2-storeys in height, be a mix of detached and semi-detached dwellings, and

exceed the Nationally Described Minimum Space Standards. These features are likely to be considered acceptable in design and amenity terms under Policy LP24 and NPPF Chapter 12 given the prevailing design vernacular and development character of the surrounding area. Further detailed matters of form, scale and massing, and materials would be considered at Reserved Matters stage if outline planning permission were to be granted.

### On-Site Landscaping

- 10.25 As this is an outline application, details of landscaping have been reserved. As such, no detailed indicative landscaping information has been received, other than in relation to arboricultural considerations. KC Landscape have considered this and recommend the imposition of conditions to secure a full hard and soft landscaping scheme with a 5-year management and maintenance plan to be submitted and considered at Reserved Matters stage. Officers note this approach and shall secure the relevant conditions for consideration in due course.
- 10.26 Notwithstanding the indicative nature of the proposed site layout at this stage, Officers note the indicative inclusion of areas of communal habitat land throughout the site which would be considered to add to the visual amenity of the overall site. These would also help – to a limited extent – to retain some of the site’s existing scrubland character within the proposal. The inclusion of new open space within smaller site is encouraged by Policy LP63 of the adopted Kirklees Local Plan, although there are no specific requirements to do so.

### **Amenity**

#### Separation Distances & Residential Amenity

- 10.27 Policy LP24(b) requires that proposals provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings and the creation of development-free buffer zones between housing and employment uses incorporating means of screening where necessary.
- 10.28 Principle 6 of the adopted Housebuilders Design Guide SPD sets out the typical minimum separation between new and existing dwellings. These are:
- 21m between rear habitable room windows;
  - 12m between habitable and non-habitable room windows;
  - 10.5m between habitable room windows and boundaries of adjacent undeveloped land; and,
  - 2m between side walls and shared boundaries where a new dwelling is located within a regular street pattern of 2-storeys or above.
- 10.29 The proposed dwellings are indicatively located c. 7m from the closest dwelling to the east of the site, c. 21m from those to the south, c. 18m from those to the north (to the rear garages), and c. 32.5m from those to the west (Grade II\* Listed Building). Officers consider that, depending on the locations and opacity of habitable windows in the final design of the proposed dwellings under Reserved Matters, the proposal would likely be able meet the requisite separation distances as specified by the SPD. It is further considered that as a result of this, and the proposed 2-storey dwelling height, they would likely not cause significant detrimental effects on the residential amenity of neighbouring occupiers in terms of overbearing, overlooking, or overshadowing.

- 10.30 The existing dwellings look out onto the site via their rear gardens. As such, the proposal would not be expected to cause significant detrimental effects on the residential amenity of neighbouring occupiers resulting from a loss of outlook.
- 10.31 The proposed dwellings would indicatively have access to good outdoor amenity (garden) space to the front and rear of the properties. The proposed internal floor plans of the proposed dwellings are currently unknown and would need to be fully considered under Reserved Matters. However, as noted previously in this report, each of the dwellings as indicatively shown exceed the Nationally Described Minimum Space Standards. As such, the likelihood is that acceptable levels of residential amenity within the dwellings is likely to be achieved in line with Policy LP24 and the Housebuilders Design Guide SPD.

#### *Dwellings Adjacent to Site Access*

- 10.32 As the site access would run past Nos. 25 and 27 Moor Lane, due consideration of the impacts on their residential amenity from the proposed access can be fully considered at this stage.
- 10.33 The proposal would require the demolition of an extension to No. 27 Moor Lane. It is unclear what this extension is currently used for, but Officers note that its removal would likely have some impact on the residential amenity of the occupiers of No. 27 Moor Lane, due to its considered necessity in being constructed in the first place.
- 10.34 The proposed access road runs within c. 1.2m of the side of No. 25 Moor Lane and within 2.4m of No. 27. Three windows (some of which are highly likely to be habitable) are sited within the eastern wall of No. 25 which, due to site levels, overlook and are separated from the existing grass track by a 1.8m fence. The applicant is proposing to provide a c. 0.7m wide footpath between the new access road and the boundary fence on No. 25, and a c. 1.8m path between the road and No. 27.
- 10.35 No information has been submitted to address the potential amenity impacts in terms of loss of outlook and increased noise, light, and emissions pollution resulting from use of the proposed access road on the residential amenities of the occupiers of Nos. 25 and 27 Moor Lane. Officers consider it necessary that the proposal would need to enhance the boundary treatment alongside No. 25 Moor Lane to a solid brick wall or acoustic fence to mitigate against some of the likely amenity impacts. This could either be achieved by a Grampian type of condition, or under a legal agreement for works on 3<sup>rd</sup> Party land. Although this would be unlikely to negate all the potential amenity impacts, particularly from noise and light pollution resulting from cars entering and exiting the site, Officers consider it likely to make a noticeable positive difference over the conditions likely to be expected if the existing fence were to remain in situ.
- 10.36 Officers also note that the rear garden of No. 27 Moor Lane would also be significantly reduced to facilitate internal forward visibility splays due to the indicative layout of the new road. Overall, the total land envelope of No. 27 Moor Lane would be reduced given the extent of land required to accommodate the technical highways requirements of the proposal, which would ultimately have a knock-on effect on the residential amenity of future occupiers of the dwelling.

10.37 Officers consider that the residential amenities of neighbouring occupiers would likely be detrimentally affected by the proposed access arrangements of the proposal, albeit not significantly with the provision of mitigation. As such, the proposal is considered to be contrary to Policy LP24 of the adopted Kirklees Local Plan in this regard, as the proposal does not demonstrate that it can provide acceptable levels of residential amenities for neighbouring occupiers. However, Officers consider that only some weight should be attributed to this policy conflict, as there is scope to potentially significantly reduce any likely detrimental impacts (albeit not completely) via the imposition of planning conditions and/or other planning obligations. This policy conflict shall be weighed against the other policy and material considerations of this application in the planning balance.

#### Noise

10.38 Policy LP52 requires that proposals which have the potential to increase noise pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.

10.39 KC Environmental Health have reviewed the submitted information and note that the site is in the vicinity of two busy roads; A652 (Dewsbury Rd) and A651 (Oxford Rd). It is also within 500m of the M62. As this could lead to detrimental impacts on the residential amenity of future occupiers, KC EH have recommended a pre-commencement condition for a Noise Impact Assessment and Mitigation Scheme. Officers note the recommended approach and shall secure the necessary conditions in the interests of providing satisfactory levels of residential amenity for existing and future occupiers. As such, the proposal is considered to be in accordance with Policy LP52 of the adopted Kirklees Local Plan.

#### Refuse and Waste

10.40 Policy LP24(d)(vi) requires that proposals incorporate adequate facilities to allow occupiers to separate and store waste for recycling and recovery that are well designed and visually unobtrusive and allows for the convenient collection of waste.

10.41 As this is an outline application, the full details of the site layout and associated refuse and waste storage and collection measures have not been provided at this stage. However, general consideration of the design principles and full consideration of the site's ability to allow the removal of waste by Refuse Collection Vehicles (RCV) can be considered.

10.42 KC Waste Strategy and KC Highways have reviewed the submitted information. Detailed advice has been provided in relation to the on-site storage of refuse and waste, collection points, and appropriate drag distances for wheelie bins for submission and assessment at Reserved Matters stage. Following the submission of a revised access plan, it is considered that Refuse Collection Vehicles would be able to safely access and exit the site in forward gear. The indicative site layout shows adequate space for a turning to facilitate this, but Officers note that the final site layout would be fully considered under Reserved Matters.



- 10.43 As such, Officers consider that the proposal is in accordance with Policy LP24(d)(vi) of the adopted Kirklees Local Plan with regards to refuse and waste collection.

## **Highways Safety & Parking**

### Location Sustainability

- 10.44 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.45 The site is located within a reasonable walking distance of a number of bus stops on Moor Lane, A652, and A651. These provide regular bus services to Halifax, Cleckheaton, Brighouse, Batley, Bradford, Dewsbury, and Leeds.
- 10.46 There are also a number of Public Rights of Way within the wider vicinity of the site.
- 10.47 Given the above, Officers consider that the site is located in a sustainable location and offers good links into the local public transport and other sustainable travel networks. In light of this, the proposal is considered to be in accordance with Policy LP20 of the adopted Kirklees Local Plan.

### Highways Safety and Site Access

- 10.48 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.49 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.50 The adopted Highway Design Guide SPD sets out the Council's approach (as the Local Highway Authority) to the design and sustainability of new highways development. This includes technical details of appropriate road types and achieving requisite visibility splays, as well as car parking provision for new developments.

- 10.51 The applicant has submitted a Highways Access Report and revised supporting information on highways matters in support of this application. These conclude that the proposal would not likely have a detrimental impact on the free flow of traffic or lead to congestion along Moor Lane or the wider local highway network. The reports further detail that the site entrance would provide a safe means of access and that appropriate visibility splays can be achieved.
- 10.52 A revised site access strategy has been received which shows the western visibility splay being achieved through the removal and relocation of parts of the southern boundary walls and vegetation of Nos. 23 and 25 Moor Lane. The applicant has confirmed that permission has been sought from the neighbouring occupiers to do so via relevant legal agreements. Internal forward visibility within the site would be accommodated through the reduction of the applicant-owned No. 27 Moor Lane's rear garden area to achieve the required splay. Provision of a pedestrian footway into the site has also been included in the revised scheme on both side of the access road.
- 10.53 The applicant has also confirmed that they do not intend to offer the internal estate road for adoption to the Council through a Section 38 Agreement. As such, a management company would need to be incorporated via a Section 106 Agreement to maintain the estate roads for the lifetime of the development.
- 10.54 KC Highways Development Management have reviewed the submitted information and initially raised an objection. However, through the submission of amended plans, this objection has been removed and conditions requested for the provision of visibility splays in perpetuity and full details of the internal estate roads.
- 10.55 Officers acknowledge the public representations received regarding the proposed means of site access. These have been addressed with the applicant and amendments have been submitted. Officers also note that the statutory technical consultee has raised no objections in highways safety terms, or any other technical highway matters. It is considered that the proposal would provide a safe site access which is capable of allowing access for private and small-scale commercial vehicles, Refuse Collection vehicles and other road users, including pedestrians. The proposed visibility splays are also considered to represent a positive impact on highways safety on this corner of Moor Lane, which is already a pinch point, by widening the carriageway and promoting sight lines further down the street than are currently available.
- 10.56 Overall, the proposal is considered to be in accordance with Policy LP21 of the adopted Kirklees Local Plan, the Highway Design Guide SPD, and Chapter 9 of the NPPF.

#### Car and Cycle Parking

- 10.57 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel.

- 10.58 The Highway Design Guide SPD does not set local parking standards but notes that it should be used as an initial point of reference in designing new schemes. Based on the calculations within the SPD for this proposal, a total 27 car parking spaces would be required (25 residential and 2 visitor). The SPD also recommends 1 cycle parking space per dwelling.
- 10.59 The applicant has submitted revised plans with regards to car parking in support of this application. This details that based on the indicative housing mix, each new dwelling would have access to 2 off-street car parking spaces. Plots 1, 2, 8, and 10 (4-bed dwellings) would also include integral garages with space for 1 car (the minimal required internal dimensions would be 6m x 3m to be classed as a parking space). Additionally, the proposal would indicatively cater for 3 visitor car parking spaces within the site and the re-location of 2 car parking spaces for No. 27 Moor Lane which would be lost to facilitate the proposed access road. These would be relocated to the west of Plot 3 to the rear of No. 27 Moor Lane. A total of 29 car parking spaces are proposed.
- 10.60 No information on the provision of cycle storage has been submitted at this stage. However, as part of Reserved Matters considerations, details of garden shed storage for cycles at each proposed dwelling would be expected.
- 10.61 The proposal would be expected to incorporate Electric Charging Vehicle Points (EVCPs). No information has been provided in relation this. However, KC Environmental Health recommend the imposition of conditions to secure the relevant number of EVCPs on the site. The applicant's attention is also brought the new EVCP regulations under Part S of The Building Regulations 2010 (as amended).
- 10.62 Officers consider that based on the proposed quantum of residential dwellings, the proposal levels of off-street and visitor car parking are acceptable. As such, the proposal is considered to be in accordance with Policy LP22 of the adopted Kirklees Local Plan and Highway Design Guide SPD.

### **Heritage**

- 10.63 Under the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and NPPF (Chapter 16) Paragraph 200, special attention is to be paid to the desirability of preserving or enhancing the character or appearance and settings of Listed Buildings or any features of special architectural or historic interest, and the character of the Conservation Area.
- 10.64 Policy LP35 requires that proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm, or meet the four tests outlined in the policy wording.
- 10.65 The site lies adjacent to the Gomersal Conservation Area, c. 16.5m to the west and c. 3.5m to the south of the site (within Moor Lane).

- 10.66 The site also lies adjacent to the grounds of the Grade II\* Listed mid to late C.17 Manor House and Peel House and c. 23m to the east of the listed heritage asset itself.
- 10.67 The applicant has submitted a brief supporting heritage statement in support of this application. This concludes that any harm to the setting of the Grade II\* Listed Building would be 'less than substantial' given the proposed separation distances, private ownership of the site, and indicative nature of the proposed site layout. Under NPPF (Chapter 16) Paragraph 202, the applicant considers the public benefits of the proposal to outweigh the potential harm. They note these public benefits as being; the provision of 10 new residential dwellings, development of underutilised and sustainable land, and the visual improvement of the site through soft landscaping opportunities.
- 10.68 KC Conservation & Design consider that the proposal would not harm the setting of the adjacent Gomersal Conservation Area due to the presence of mid-20<sup>th</sup> century semi-detached properties around the site. Furthermore, the changes to the site access are also not considered to harm the setting of the Conservation Area.
- 10.69 Officers do note, however, KC C&D concerns about the potential harm to the setting of the Grade II\* Listed Building to the west of the site, particularly given the proposed removal of trees along the western boundary. In noting that the proposed layout is indicative only at this stage, a full assessment of the potential harm to the designated heritage asset is not considered practicable at this stage, and further detailed assessment would be required at Reserved Matters stage.
- 10.70 Historic England have reviewed the proposal but do not wish to offer any comments or advice at this stage.
- 10.71 Officers are content that the proposal would be unlikely to harm the setting of the Gomersal Conservation Area but consider that the proposal has the potential to cause harm to the setting of a Grade II\* Listed Building to the east of the site. Left unmitigated as part of a Reserved Matters application, this harm would likely mean that the proposal would be contrary to the requirements of Policy LP35 of the adopted Kirklees Local Plan, NPPF (Section 16), and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Ecology, Biodiversity & Trees**

### Trees

- 10.72 The site hosts a number of individual and groups of trees protected by Tree Preservation Orders along its northern boundary.
- 10.73 Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

- 10.74 NPPF (Chapter 12) Paragraph 131 requires that new roads which are created through planning application are tree-lined in the interests of visual amenity and to help mitigate and adapt to climate change.
- 10.75 The applicant has submitted an Arboricultural Impact Assessment and Tree Survey in support of this application. These details that the existing trees offer a range of amenity value, from low to medium and of reasonable condition. Several low value trees would be removed to facilitate the proposal, with those of higher amenity value being retained. Shading from the retained is considered to be unlikely to detrimentally impact the residential amenity of future occupiers. An Arboricultural Method Statement and Tree Protection Plan are recommended to be secured by conditions.
- 10.76 KC Trees have reviewed the submitted information and note that they have no objection in principle to the proposal and its potential effects on existing trees, but that further detailed assessment would be required at Reserved Matters stage. They further note that the loss of existing trees may have an impact on Biodiversity Net Gain requirements and the future layout of the site and/or dwellings depending on what could be achieved without resulting in long term harm to those trees with public amenity value.
- 10.77 KC Landscape have noted that no street trees have been indicatively included in the proposed site plans. Although this is not for consideration under this outline planning application, further assessment of the requirements for street trees under national planning policy would be required under Reserved Matters. It is noted that this may have an impact of the overall layout of the site as space would need to be made to facilitate the required street trees.
- 10.78 Given the above, Officers consider that the proposal has provided the requisite information for an outline planning application under Policy LP33 in demonstrating that tree constraints have been considered and could be included within a detailed design. However, further detailed assessment would be required at Reserved Matters stage to ensure compliance with the policy requirements as detailed designs and layout of the site and dwellings emerge.

#### Ecological Implications

- 10.79 The applicant has submitted a Preliminary Ecological Appraisal (PEA) in support of this application. This concludes that the site is generally of low ecological value with low ecological connectivity to the wider landscape. The report further states that significant detrimental impacts on birds, bats, and other fauna are unlikely given the relative remoteness of the are from other habitat networks. Some ecological opportunities have been identified in relation to boundary treatments, wildflower planting, provision of bird and bat boxes, use of small mammal gates, and the implementation of green infrastructure such as rain gardens.
- 10.80 The site also lies within the 'Built-Up Areas' Biodiversity Opportunity Zone. Policy LP30 requires proposals to incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant BOZ.

- 10.81 The applicant has submitted a Preliminary Ecological Assessment Report (PEAR) which concludes that the site is of minimal ecological value; being comprised predominantly of bramble scrub and its relative isolation and low connectivity to the wider landscape.
- 10.82 KC Ecology have reviewed the revised ecological information and consider it to be a comprehensive assessment of the site. KC Ecology have raised no objections to the proposal, subject to recommended conditions for a Biodiversity Enhancement and Management Plan (BEMP) and for works to take place outside of bird nesting season. Officers note this position and shall the secure the necessary conditions.

#### Biodiversity Net Gain

- 10.83 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.
- 10.84 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that 'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'.
- 10.85 NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.86 The applicant has submitted a completed DEFRA Biodiversity Metric 3.1. This concludes that the proposal would result in an overall net loss of 1.36 habitat units on this site, which equates to a -80.15% Biodiversity Net Loss.
- 10.87 The submitted PEAR recommends that a BNG Strategy is drawn up during the design process, presumably at Reserved Matters stage. However, Officers note that consideration of BNG does not form a constituent part of the remaining Reserved Matters. As such, BNG must be considered as part of this outline application as an 'in principle' matter.
- 10.88 KC Ecology have reviewed the initial and revised information submitted in support of this application. They consider that "*every opportunity for this scheme has been taken to maximise the availability of habit units within the site, post development. Therefore, in order for the development to achieve a 10% net gain, off-setting will be required, in the form of a commuted sum*". This commuted sum would be secured through a Section 106 Agreement. The cost of off-site BNG off-setting provision for this proposal is £35,190, based on DEFRA and the Council's Biodiversity Net Gain Technical Advice Note calculations. A further condition is recommended (BEMP) to ensure that 0.34 habitat units to be deliverable on-site would be achievable.

- 10.89 Officers note this approach to securing a Biodiversity Net Gain for this proposal, as set out in local and national planning policy, and consider that the proposal is in accordance with Policy LP30 of the adopted Kirklees Local Plan, Biodiversity Net Gain Technical Advice Note, and NPPF (Chapter 15), particularly Paragraph 174.

## **Flood Risk and Drainage**

### Flood Risk

- 10.90 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Section 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.
- 10.91 The site lies in Flood Zone 1, meaning it is considered to be at the lowest risk of fluvial and river flooding. Further Government flood risk mapping also shows the site to be a very low to low risk from surface water flooding. Given this, no further sequential test is required.
- 10.92 Officers note the public representations in relation to historic flooding near the site. However, KC Lead Local Flood Authority (LLFA) have raised no objections with regards to an increased flooding risk potential either on or as a result of the proposal. As such, Officers consider that the proposal is in accordance with Policy LP27 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

### Surface and Foul Water Drainage

- 10.93 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and wastewater infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.
- 10.94 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 10.95 The applicant has submitted a Drainage Assessment and an amended drainage strategy. These detail the use of a gravity-fed surface water drainage system to replace the pumped arrangement as originally submitted, to connect with the existing drainage network under Moor Lane via No. 41 Moor Lane (a Council-owned property). A surface water discharge flow control rate of 3.5 litres per second has been proposed.
- 10.96 Foul water drainage is proposed to connect to the existing sewerage system under Moor Lane via a new connection at the proposed site entrance. The private foul pumping station proposed at the eastern end of the site would discharge at a maximum rate of 4.5 litres per second.

- 10.97 KC LLFA have reviewed the submitted information and consider it to be acceptable, subject to conditions to secure a detailed design strategy for foul and surface water drainage, overland flow routing, and a construction phase surface water flood risk and pollution prevention plan. A legal agreement would also be required to secure the ongoing maintenance and management of the surface water drainage system by the incorporation of a management company. The method of surface water drainage proposed is also considered to be acceptable under the sustainable drainage hierarchy due to the potential for re-emergence of flows outside the site if soakage into the ground (a preferred method under the hierarchy) were proposed.
- 10.98 Officers also note that the outfall of the proposed surface water drainage system would cross a neighbouring property's [third party] boundaries. As such, this would require legal agreement from the property owner to allow such works to take place.
- 10.99 Yorkshire Water (YW) have reviewed the submitted information and note that the proposed method of drainage is not the preferred option under the sustainable drainage hierarchy. However, this is considered to have been satisfactorily justified in Section 10.96, although YW would also assess this as part of an asset adoption application under Section 104 of the Water Industry Act 1991. YW therefore propose conditions for separate surface and foul water drainage systems and provides advice for the adoption of drainage assets and the requirements for 3<sup>rd</sup> Party permissions for drainage over/through land outside of the applicant's ownership. Provisions for ongoing surface water management and surveying of an existing culvert to the west of the site must also be secured by conditions.
- 10.100 Given the above, Officers note the feasibility of the surface and foul water drainage strategies and consultees' requests for pre-commencement conditions – which shall be secured. As such, Officers consider that the proposal is in accordance with Policy LP28 of the adopted Kirklees Local Plan and NPPF (Chapter 14).

### **Other Material Considerations**

#### Coal Mining

- 10.101 Policy LP53 requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.
- 10.102 The site lies within a Coal Referral Area which is considered to be a high-risk area for new development.
- 10.103 The applicant has submitted a Coal Mining Risk Assessment and Phase 1 Geo-environmental Report in support of this application. These detail that coal mining has taken place in the vicinity of the site and that the presence of a shallow coal seam beneath the site is likely. Both reports recommend further



intrusive surveys to be undertaken prior to development to ascertain the depth of any seams and/or workings (which may have a bearing on the foundation design of the proposed dwellings), the presence of ground gas and contamination, and previously unknown entrances of bell pits and/or mine shafts.

10.104 The Coal Authority have reviewed the submitted information and raise no objections to the proposal subject to the imposition of pre-commencement conditions for intrusive site investigations to ensure that the site is fit for development.

10.105 Officers note the findings of the submitted information and the Coal Authority's request for pre-commencement conditions. Given this, the proposal is considered to be in accordance with Policy LP53 of the adopted Kirklees Local Plan with regards to land stability.

#### Contaminated Land

10.106 The applicant has submitted a Phase 1 Geo-environmental Report in support of this application. This concludes that ground contamination from metals, metalloids, polycyclic aromatic hydrocarbons (PAHs – naturally occurring chemicals associated with coal and other fossil fuels), and asbestos may be present, and that there may be potential contamination-pathway-receptor links resulting from the site and wider area's coal mining, industrial, and railway history. The presence of ground gas can also not be ruled out at this stage owing to the coal mining legacy of the area. Further intrusive ground surveys are recommended.

10.107 KC Environmental Health have reviewed the submitted information and concur with the findings of the Phase I report. Conditions are recommended to secure a Phase II intrusive site investigation, contamination remediation and implementation strategies and validation report. Furthermore, KC EH recommend that ground gas monitoring is undertaken following the relevant CIRIA C665 guidance.

10.108 Officers agree with this approach and, as such, further consider the proposal to be in accordance with Policy LP53 of the adopted Kirklees Local Plan with regards to contaminated land.

#### Construction Matters

10.109 As with any new development project, there would likely be some disturbance to residential amenity during the construction phase of the proposal. Officers note, however, that this in itself is not a material consideration in planning terms that would weigh against a grant of planning permission.

10.110 In noting this, KC Environmental Health have recommended pre-commencement conditions for a Construction Environmental Management Plan (CEMP) to detail the actions that would be taken to minimise adverse impacts on occupiers of nearby properties by effectively controlling noise and vibration, dust, and artificial light pollution during the construction process.

10.111 KC Waste Strategy also require further consideration for on-site refuse and waste collection for those dwellings occupied before the completion of the whole site. Therefore, temporary measures may be required to allow waste to be stored/presented at an accessible location adjacent to the nearest adopted highway as RCVs would not enter construction sites for the purpose of domestic waste collection. An additional pre-commencement condition would be required to secure the details of temporary refuse and waste collection arrangements.

#### Pre-Commencement Conditions

10.112 The recommendation proposes pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority served notice upon the applicant to seek agreement to the imposition of such conditions. The applicant agreed to the imposition of the relevant pre-commencement conditions in writing on 12 June 2023.

### **11.0 CONCLUSION AND RECOMMENDATION**

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

11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for **approval**, subject to a signed Section 106 Agreement and the imposition of the conditions listed below.

### **12.0 CONDITIONS**

1. Details of appearance, landscaping, layout, and scale (hereinafter called the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority no later than 3 years
2. The development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters to be approved.
3. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
4. The Reserved Matters referred to in Condition 1 shall include a report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development (including road traffic), to first be submitted to and approved in writing by the Local Planning Authority.
5. The Reserved Matters referred to in Condition 1 shall include a Biodiversity Enhancement and Management Plan (BEMP), to be submitted and approved in writing by the Local Planning Authority.

6. The Reserved Matters referred to in Condition 1 shall include an Arboricultural Impact Assessment, to first be submitted to and approved in writing by the Local Planning Authority.
7. The Reserved Matters referred to in Condition 1 shall include a scheme detailing the full site and dwellinghouse safety and security measures to be implemented, to first be submitted to and approved in writing by the Local Planning Authority.
8. Notwithstanding the approved plans, the Reserved Matters referred to in Condition 1 shall include a scheme of hard and soft landscape proposals, including a maintenance and management plan, to first be submitted to and approved in writing by the Local Planning Authority.
9. The Reserved Matters referred to in Condition 1 shall include a Landscape and Ecological Design Strategy (LEDS) to first be submitted to and approved in writing by the Local Planning Authority.
10. There shall be no commencement of the development hereby approved until (other than those required for a site investigation report) until a Phase II Intrusive Site Investigation Report by a suitably competent person has first been submitted to and approved in writing by the Local Planning Authority.
11. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to Condition 10, there shall be no commencement of any further groundworks or development until a Remediation Strategy by a suitably competent person has first been submitted to and approved in writing by the Local Planning Authority.
12. Remediation of the site shall be carried out and completed in strict accordance with the Remediation Strategy approved pursuant to Condition 11.
13. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Verification Report by a suitably competent person shall be submitted and approved in writing by the Local Planning Authority.
14. There shall be no commencement of the development hereby permitted until;
  - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.
15. Prior to the first occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall first be submitted to and approved in writing by the Local Planning Authority.

16. There shall be no commencement of the development hereby permitted until a detailed design scheme detailing foul, surface water and land drainage, including agreed discharge rates with the Lead Local Flood Authority of 3.5 l/s indirectly or directly to watercourse, attenuation for the critical 1 in 100 (+ climate change allowance) rainfall event, attenuation construction details /design, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision) has first been submitted to and approved in writing by the Local Planning Authority.
17. There shall be no commencement of the development hereby permitted until an assessment of the effects of 1 in 100 year storm events (+ climate change allowance), blockage scenarios and exceedance events on drainage infrastructure and surface water run-off pre and post development between the development and the surrounding area (both upstream and downstream of the development), has first been submitted to and approved in writing by the Local Planning Authority.
18. There shall be no commencement of the development hereby permitted until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has first been submitted to and approved in writing by the Local Planning Authority.
19. There shall be no commencement of the development hereby permitted until full details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have first been submitted to and approved in writing by the Local Planning Authority.
20. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, full details of which will have first been submitted to and approved in writing by the Local Planning Authority.
21. There shall be no commencement of the development hereby permitted until a Construction Environmental Management Plan (CEMP) has first been submitted to and agreed in writing with the Local Planning Authority.
22. There shall be no commencement of the development hereby permitted until the wall to the site frontage has first been set back to the rear of the proposed visibility splays, as shown on approved plan ref: 18/412/SKH/001 Revision J (Proposed Access Layout with Tracking Manoeuvres Plan, dated 31/03/2023), and has been cleared of all obstructions to visibility and hard surfaced to current standards in accordance with details that have previously been approved in writing by the Local Planning Authority.
23. There shall be no commencement of the development hereby permitted until a scheme detailing the proposed internal estate roads has first been submitted to and approved in writing by the Local Planning Authority.
24. There shall be no commencement of site access and internal highways works until full details of a replacement boundary wall or fence at the east of No. 25 Moor Lane have first been submitted to and approved in writing by the Local Planning Authority.

25. Prior to the first occupation of the development hereby approved, a scheme detailing the dedicated facilities to be provided at each dwelling house for charging electric vehicles and other ultra-low emission vehicles shall first be submitted to and approved in writing by the Local Planning Authority.
26. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become occupied prior to the completion of the development, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall first be submitted to and approved in writing by the Local Planning Authority prior to the occupation of those residential units.
27. No site clearance works shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the site is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.
28. Any tree, shrub or hedgerow forming part of an approved landscape scheme which dies, is removed or become seriously damaged or diseased, within a period of five (5) years from the date of planting, shall be replaced during the next planting season following removal with another of a similar size and species as that originally planted, and in the same place.

and any other conditions deemed necessary by the Head of Planning and Development.

**Background Papers:**

Application and history files.

[Planning application details | Kirklees Council](#)

**Certificate of Ownership:**

Certificate B signed with notice served on the relevant landowners.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

**Subject: Planning Application 2021/90086 Erection of 14 apartments in 2 blocks and change of use and alterations to convert existing restaurant to 6 apartments Grameen Spice, 2, Bristfield Road, Grange Moor, Huddersfield, WF4 4DX**

#### APPLICANT

Balvinder & Dharminder  
Sangha, Smart Build  
Solutions Ltd

#### DATE VALID

09-Feb-2021

#### TARGET DATE

11-May-2021

#### EXTENSION EXPIRY DATE

31-Jan-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:** Kirkburton Ward

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

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

- a) **Affordable Housing:** 3 affordable dwellings (3 affordable rent)
- b) **Open space off-site contribution:** £33,149 towards off-site Public Open Space works within the area.
- c) **Metro / sustainable travel:** £25,276 towards Sustainable Travel, consisting of £13k for bus stop improvements and £10,394 for resident's bus passes
- d) **Bio-diversity:** £11,638 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified
- e) **Management and maintenance:** On-site Drainage features in perpetuity, and Ecological Net Gain elements for a minimum of 30 years.
- f) **Public footpath:** Path along the site's north edge to be kept open for the public.

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

## **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the erection of 14 apartments, across two blocks, and the change of use of an existing building to 6 apartments, for a total of 20 units.
- 1.2 This application is brought to the Heavy Woollen Planning Sub-Committee due to the level of public representations (44 objections received in total), in accordance with the Council's Scheme of Delegation.



## **2.0 SITE AND SURROUNDINGS**

- 2.1 The site is within the south of Grange Moor, on the junction between Liley Lane and Bristfield Road. The site is an irregular L shape and covers 0.24ha. It consists of the former Grameen Spice restaurant, formerly the New Inn public house, its hard surfaced car park and section of grassland. The building is two storeys and has a 4 bed apartment on the first floor, is built using natural stone and has been vacant for several years.
- 2.2 To the south is Jubilee Way, a business park, consisting of modern built commercial units. To the east is urban green space. Due to the site's irregular shape, residential properties are located to the north, west, and south of the site's boundary. Neighbouring dwellings are faced in a mixture of natural stone and render. Red brick properties are also common in other parts of Grange Moor. Liley Lane is to the west of the site, which the existing building fronts onto. The car park is accessed from Bristfield Road to the north-west.

## **3.0 PROPOSAL**

- 3.1 The application seeks full planning permission for the erection of two apartment blocks, to host 14 units across them (10 units in one, four in the other), and the conversion of the existing building into six apartments, for a total of 20 units. All units would be 1-bed. Unit sizes vary as follows:
- Six converted units: 37sqm – 87sqm
  - 10-unit new building: 46.7sqm – 52.4sqm
  - Four-unit new building: all units 37.8sqm.
- 3.2 For the converted units, there would be three units per floor. No external alterations, bar the removal of advertisements, are proposed.
- 3.3 The 10-unit building would be two storeys and located to the north-east corner of the site. The 4-unit building would also be two-storeys, and would be located in the south-east of the site. Each would be faced in stone with tile roofing. Each has a traditional Pennine vernacular architectural appearance, with stone head and cill windows. The 10-bed building would include faux filled in barn doors.
- 3.4 Access would be via the existing access point on Bristfield Road. This would lead to the car parking serving the development. There would be one parking space per dwelling (20), plus five visitor parking spaces. Cycle storage for 18 bikes is proposed. A bin-store is to be erected adjacent to the 10-unit building.
- 3.5 The route through the car park would lead to a gate onto the adjacent Urban Green Space to the east, which would provide access for maintenance vehicles etc. A 3.0m wide footway would be retained along the site's north boundary, connecting Bristfield Road to the public urban green space.
- 3.6 No formal Public Open Space is proposed on the site; however, areas of landscaping are proposed around each new build and to the rear of the converted building.

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

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

2010/93542: Erection of 2 detached dwellings and 1 semidetached dwelling, formation of access and parking area, removal of conservatory from pub and demolition of outbuilding – Granted

2011/92391: Erection of 4 dwellings, formation of access and parking area and demolition of conservatory and outbuilding to pub – Granted

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

*Unit 2, Jubilee Park, Jubilee Way*

2021/90753: Variation of condition 8 (hours of operation) of previous permission ref: 2002/92921 for erection of distribution warehouse and ancillary offices, car parking and service yard – Granted

Note: Approved 24/7 operation.

*Spring Cottage, 8*

2020/92251: Erection of extensions and alterations – Granted

*The Grange, Bristfield Road*

2019/91578: Alterations to convert first floor and part ground floor to 3 apartments – Granted

##### **4.3 Enforcement History**

COMP/22/0158: untidy land & dilapidated building – No evidence of breach.

COMP/22/0230: Untidy land/dilapidated building – Ongoing

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

5.1 As initially submitted the proposal sought 24 units (six within the existing building, the 4-unit block, and a three storey 14-unit block) with only 24 parking spaces. Officers expressed substantive concerns over the proposal as initially submitted, including the visual and residential impact of the 14-unit block, lack of parking, and lack of supporting documents, including drainage and ecology. Officers entered into negotiations with the applicant to address these issues.

5.2 The negotiations were protracted, with various revisions attempt to fit the development onto the site. Eventually, the applicant agreed to reduce the number of proposed units from 24 to 20. This allowed the 14-unit block to be amended to the 10-unit block. Following this, further negotiations took place on finessing the design and ensuring appropriate technical details had been provided.

5.3 Following various amendments, officers were in a position to support the design of the development and the technical details were acceptable. Following these discussions on the proposal's S106 requirements were progressed. The applicant was of the view the policy compliant S106 obligations would make the proposal unviable. To evidence this a viability report was submitted by the applicant. In accordance with the Council's viability guidance, an independent viability assessor was appointed to review the viability assessment submitted. In conclusion, the Council's viability assessor determined the scheme could accommodate the S106 package: this position was subsequently accepted by the applicant. With all matters resolved, officers were in a position to support the application (subject to conditions and S106).

## 6.0 PLANNING POLICY

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

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

6.2 The application site is unallocated in the Kirklees Local Plan. The land to the south is a Priority Employment Area (PEA87). The land to the east is Urban Green Space (UG481).

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
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **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
- **LP61** – Urban green space
- **LP63** – New open space

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

*Supplementary Planning Documents*

- Affordable Housing and Housing Mix SPD (2023)
- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

*Guidance documents*

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

National Planning Guidance

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

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

6.6 Other relevant national guidance and documents:

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

## Climate change

- 6.7 The Council approved Climate Emergency measures at its meeting of full Council on the 16<sup>th</sup> of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.8 On the 12<sup>th</sup> of November 2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *Public representation*

- 7.1 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.4 The end date for public comments was the 21<sup>st</sup> of December, 2021. In total 44 public comments were received, 33 to the first and 11 to the second public representation periods. The following is a summary of the comments made across the two representation periods:

### *General*

- The proposal makes good use of a vacant building, as opposed to greenfield / green belt land is welcomed.
- The properties on Chapel Row have not been shown on plan.
- The local school is over prescribed and cannot accommodate more children.
- The village is family orientated and only family homes should be built, not 1-bed units.
- Three-storey development is not in keeping with the area.
- The proposal is an overdevelopment of a small site. The proposal has a density of 80 dwellings per ha, where normally the Local Plan seeks 35 dwellings per ha. Policy LP7 states only that higher densities will

be sought in principal town centres and in areas close to public transport interchanges (neither are applicable here).

- The site is currently (at the time of writing) used as a general car park for the village, partially when using the neighbouring field. There is no other car park for the village.
- The development will add crime and security concerns for users of the Public Open Space.
- No details of fire mitigation have been provided.
- The development is aimed at student accommodation but is too far from the university. Students will cause issues for existing residents.
- The site should be retained as an amenity: pub, shop restaurant etc.
- The proposed development is not what is required within the district, being only single-occupancy flats. A mixture of dwelling sizes would be better. The past applications on the site were preferable.
- It will compromise the existing equilibrium of the current village community. The plans are not sympathetic to the community or the surroundings, and harm the community spirit.
- Question why the Council have accepted 10-year-old reports as part of the proposal.
- The development will affect people wanting to use the neighbouring open space, and their access to it. It will affect parent's view of their children playing in the open space.
- The proposed development will compromise the attractive aspect of residing in an area known for its quiet existence and low crime rate.
- The units would be 'prices out' for local residents, and not be for local people.
- Local facilities are inadequate, including doctor and dental practises.
- The loss of the site for parking on a weekend, when sports games are played including by children, will displace vehicles onto local roads, raising safety risk.
- The applicant has left the site to degrade, presumably to benefit his application.

### *Highways*

- The application fails to address the high accident rate on Liley Lane.
- There is insufficient parking for the development.
- The entrance to the site is too close to the Liley Lane and Bristfield Road junction. This junction already has queueing in the morning.
- More cars will lead to more air pollution in the village.
- Parking is an issue for the area. One parking space per flat is not enough. The visitor parking space located to the rear of the site will make it unattractive to users. The proposed units will be occupied by families with more than one car. This will result in more parking within the area, specifically Bristfield Road that is already heavily parked, which is used by school children and is a safety issue.
- One electric vehicle charging point, as stated in the application, is not enough. Its location is not shown on plan.
- The Transport Statement is inaccurate, stating traffic is moderate in the area and that the village has a post office.
- The proposal will affect emergency services ability to access the village quickly, through more traffic on the road.

- The plans fail to show where 48 bins (2 per flat) will be stored. The number of bins required will be a pest issue.
- The proposal for a bin-store adjacent to no. 2 Briestfield Road raises concerns over odour and fire safety. Furthermore, its elevations do not match the layout plan.
- The sightlines for the access are inadequate and don't meet the required standards. They require a 0.5 encroachment into the road. It is only achieved from a 2m distance, not the 2.4m that would be required. The proposal is an intensification over the site's current use and past approved use, so the access is not appropriate.
- The 10 cycle spaces would block access into the 10-unit buildings. Other cycle parking is inadequate and the fence storage is insecure.
- The proposal does not widen the footway as initially suggested by Highways DM.

#### *Visual amenity*

- The proposed design is unattractive, not comply with the building line of the area and being out of scale.
- Cottages to the north are single storey, with that proposed being two. It will appear overly large and dominating.

#### *Residential Amenity*

- The application is not supported by a Noise Impact Assessment: given its proximity to commercial developments that operate 24/7, this is not acceptable.
- The proposal will affect the right to light for properties to the north.
- The proposal will lead to harmful impact on existing residents, including overbearing, overshadowing, and overlooking.
- The proposal will cause harmful noise pollution and disturbance.
- The proposal will harm people's views out of their dwellings.

7.5 The site is within Kirkburton Ward, where members are Councillor Bill Armer, Councillor Richard Smith and Councillor John Taylor. The ward councillors were notified at the time of submission. Councillor Armer asked to be kept up to date with the application.

## **8.0 CONSULTATION RESPONSES**

The following provides a summary of the consultation responses received. Where appropriate, these are expanded upon in the main assessment below.

### **8.1 Statutory**

K.C. Highways DM: Expressed initial objection, due to lack of details. Were involved in discussions with the applicant. Following submission of further details, confirmed no objection subject to conditions.

K.C. Lead Local Flood Authority: The applicant has demonstrated the site would not suffer from flood risk and that adequate surface water drainage facilities may be provided. No objection subject to conditions.

Sport England: Object to the proposal and expressed an initial view that the proposal should be called into the Secretary of State if the LPA was minded to approve. Their concerns relate to the development will put pressure on the use of the adjacent pitch, which is used by local sports teams. Representations mention the site, specifically the car park, is used by players and its loss would affect the attractiveness of the pitch and may lead to dangerous parking on local roads. Therefore, the applicant should pay to provide alternative parking at Grange Moor football ground.

On confirmation from the applicant that any parking is informal and/or unauthorised, with no formal ties, along with review of Sport England's own guidance, Sport England confirmed they maintain their objection, unless improvements to Grange Moor football ground are made, but would not request that the application be called into the Secretary of State if the LPA was minded to approve

The Coal Authority: Based on the submitted Coal Mining Risk Assessment, no objection subject to conditions.

Yorkshire Water: No objection subject to conditions.

## 8.2 **Non-statutory**

K.C. Crime Prevention: No objection, subject to condition relating to crime mitigation measures.

K.C. Ecology: No objection subject to conditions and securing £11,638 towards Net Gain in the area.

K.C. Environmental Health: No objection subject to conditions relating to ground conditions, noise management, charging points, construction management, and external lighting.

K.C. Landscape: No objection subject to conditions on landscaping and securing off-site Public Open Space contribution, calculated at £33,149 for 20 1-bed dwellings.

West Yorkshire Metro: Advised that if minded to approve, contributions should be sought to improve local bus infrastructure and promote alternative methods of travel. This is recommended as £13,000 for bus stop improvements and £10,394 for resident's bus passes.

## 9.0 **MAIN ISSUES**

- Principle of development
- Urban design
- Residential amenity
- Highway
- Drainage and flood risk
- Planning obligations
- Other matters
- Representations



## 10.0 APPRAISAL

### Principle of development

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

### *Land allocation and residential development*

- 10.2 The site is unallocated on the Kirklees Local Plan Policies Map and is therefore not identified for any specific use (i.e., housing or retail). When considering such sites, Policy LP1 states that;

*Where there are no policies relevant to the proposal or relevant policies are out of date at the time of making the decision then the council will grant permission unless material considerations indicate otherwise – taking into account whether:*

*a. any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*

*b. specific policies in that Framework indicate that development should be restricted.*

- 10.3 Such material considerations will be assessed throughout this report
- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five-year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply.
- 10.5 The Housing Delivery Test results are directly linked to part of the five-year housing land supply calculation. The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five-year supply position. Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

- 10.6 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.7 Policy LP7 relates to ensuring the “efficient and effective use of land and buildings”. This policy promotes re-using brownfield / vacant buildings, particularly those in sustainable locations, which this proposal would comply with. Specific to residential proposals, the policy also seeks to promote a density of 35 dwellings per ha, where appropriate. This is more than achieved as an apartment development, with the density proposed representing 75 dwellings per ha. Officers therefore consider the proposal and effective and efficient use of land, in compliance with Policy LP7.
- 10.8 Policy LP11 requires that: *All proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities in line with the latest evidence of housing need.* The accommodation proposed is considered to be a suitably high quality, as will be further explored throughout this report.
- 10.9 Regarding housing mix, Local Plan Policy LP11 seeks for proposals to provide a representative mix of house types for local needs. This is expanded upon and detailed within the Council’s Affordable Housing and Housing Mix SPD (March 2023). However, as the Council’s Affordable Housing and Housing Mix SPD (March 2023) was only adopted towards the end of this application’s assessment, reasonable transitional arrangements are required and full adherence to all guidance within the SPD cannot reasonably be expected.
- 10.10 The following is the SPD expectation, for information purposes, against that proposed:

	<b>SPD Expected Mixture (Kirklees Rural East)</b>	<b>Proposed Mixture</b>
<b>1 and 2beds</b>	30 – 60%	100%
<b>3beds</b>	25 – 45%	0%
<b>4beds +</b>	5 – 25%	0%

- 10.11 The proposal does not conform to the recently adopted SPD’s expectations, which was adopted March 2023. However, negotiations between the applicant and officers on the housing mixture were predicated on the older Strategic Housing Market Assessment (SHMA), which did not set housing mixture ratios into policy. Therefore, reasonable allowances for transitional period for older applications, submitted and negotiated prior to the SPD, must be given. Furthermore, as a dedicated apartment development, with limited opportunity for private garden space, 3 and 4+beds would not be particularly compatible with the form of development applied for. The SPD does not intent to prevent specific apartment only development, with it stating:

*This information should be used as a starting point for both market housing and affordable housing contributions for all developments unless robust evidence justifies otherwise. It is acknowledged that it may not be possible to achieve the exact percentages but these provide starting point which seeks to ensure the housing mix aligns with local needs*

In addition, it is noted that 1 and 2bed units are in the most demand for Kirklees Rural East, with the proposal being within the more focused village of Grange Moor where anecdotal evidence provided by the applicant suggest that 1 and 2bed units are further limited and in greater demand. Overall, while the proposal does not comply with the recently adopted SPD, it would deliver a needed housing type at a time of demand.

- 10.12 In light of the above, while the housing mixture does not comply with the Council's Affordable Housing and Housing Mix SPD, this is considered to be justified, with reasonable allowance for a transition period. Furthermore, the impact of the limited housing mixture of this apartment scheme would be offset by the benefits of a denser, more effective use of land that it would delivery. Accordingly, the proposal is deemed to be an effective and efficient use of land.

*Sustainable development and climate change*

- 10.13 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions
- 10.14 The re-use of pre-existing buildings and the effective use of brownfield land has various economic, social, and environmental benefits, including the conservation of energy and materials which is a positive of the proposal.
- 10.15 The site is within an urban environment, lying within an existing established settlement and close to various local amenities and facilities. Bus stops adjacent to the site give reasonable access to local centres as well as district centres such as Huddersfield and Wakefield. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.16 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

*Impact on adjacent Urban Green Space and neighbouring playing pitch*

- 10.17 The land to the east of the site is Urban Green Space (UGS), but would not encroach into it. As such, there would be no direct loss of Urban Green Space. In terms of accessibility, a path through the site from Briestfield Road is to maintain access for pedestrians, while the internal road is to give access to the UGS for maintenance vehicles. Therefore, there will be no indirect harm to the UGS.

- 10.18 Notwithstanding the above, the UGS hosts a playing pitch and consultation was undertaken with Sport England. Sport England have objected to the proposal, due to the proposal's perceived impact upon the playing pitch. Sport England note, through anecdotal evidence from representations, that the application site has historically been used for car parking for users of the pitch on match / practise days. The loss of the car park would therefore prejudice the attractiveness, and therefore use, of the pitch. This concern led to Sport England to offer a formal objection to the proposal.
- 10.19 Sport England stated that their concern could be addressed, via the applicant paying to improve and enhance a nearby changing room and parking area at Grange Moor Football Ground. If unwilling to do so, Sport England initially they stated that, should the Local Planning Authority be minded to approve the application, they would ask for the application to be referred to the Secretary of State, via the National Planning Casework Unit, prior to determination.
- 10.20 The applicant expressed objection to Sport England's comments. They stated that any use of their site for parking, if it took place, was informal and not with their agreement. There is no legal tie or planning obligation between the application site and the pitch to enforce any association. As such, since March 2021, the applicant has blocked access to the car park and all use of the car park has ended.
- 10.21 Sport England were notified of the above. Nonetheless, they maintain their objection. However, they confirmed that as the proposal does not directly result in harm to the pitch, they no longer require the application to be presented to the Secretary of State if the LPA is minded to approve.
- 10.22 Officers concur with the applicant in this case. There is no tie between the car park and the pitch, bar their proximity. They are in separate ownerships, with no evidence of anything more than an informal, historic association provided. Ultimately the applicant is within their right to close the car park and prevent pitch users parking there, as they have exercised since 2021. As the proposal would not lead to direct harm of the pitch, in accordance with Policies LP47 and LP50, it would be unreasonable to require the applicant to contribute towards improvements and/or replacement facilities associated with the un-associated pitch in this case.

### Urban Design

- 10.23 Chapters 11 and 12 of the NPPF, and Local Plan Policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the Council's Housebuilders Design Guide and National Design Guide.
- 10.24 At present the site is vacant and has begun to degrade. Representations have commented that the empty building on site is detrimental to the visual amenity of the village. Officers consider the site to hold limited visual amenity value at present and holds no intrinsic design value: its re-development is not opposed.
- 10.25 No physical changes, bar the removal of advertisements associated with the restaurant, are proposed to the existing Grameen Spice building on site. The building at present is not unattractive, bar beginning to show signs of vacancy. Bringing it back into use, as built, is not opposed.

- 10.26 The new buildings would be located to the rear of the site. Representations have raised concerns that the development would not respect the 'building line' of the village. While it is accepted that most buildings in Grange Moor front onto the public highway, the village does not have a definitive 'building line'. The village is made up of irregular roads that given an organic pattern to its layout as opposed to a regimented organization. Proximity to the road is varied, with some buildings fronting the road, others set back. There are also various examples of buildings being set off smaller private roads, away from the public highway, including close to the site The Grange public house, the bungalows nos. 1 – 4 Chapel Row to the north of the site and the cottages nos. 2 – 6 Liley Lane to the east. As such, the proposed layout is considered acceptable.
- 10.27 In terms of size, the new buildings would be two-storey, which is typical for the area. While bungalows are located to the north of the site, bungalows adjacent to two-storey buildings is not unusual and, given the separation distance, will not appear jarring. The 10-bed unit is larger (in footprint) than the structures immediately adjacent to it, but not overly so and would not appear out of context in its setting. Its size is equivariant to The Grange public house to the north. Although the size and shape of the site is restrictive, there is considered adequate spacing around the building so as not to appear cramped. The 4-bed unit is comparable to a typical semi-detached pair and would be, roughly, aligned with nos. 2 – 6 Liley Lane. The size and massing of the new buildings are considered acceptable.
- 10.28 The architectural detailing of the new units is considered attractive and in keeping with the area. Each has a simple, yet traditional design that reflects the architectural form of the older housing stock in the village. The 10-unit building includes element of architectural interest, including projecting gable section to add depth to the elevation, and faux infilled barn doors. A condition requiring details of the faux filled in sections, to ensure they are suitably recessed to achieve the intended objective and be readable from a distance (typically a 30cm recession) is proposed.
- 10.29 Materials are proposed as 'stone and tile', with no specifics given. Officers consider the use of natural stone mandatory for this development. Natural stone is the predominant material in the immediate area and wider village; an artificial substitute would be of an inferior quality that would detract from the amenity of the area. Therefore, a condition requiring the use of natural stone, with samples to be provided and approved is recommended. Roofing materials are more varied in the area, and officers do not consider the use of natural materials to be necessary (although their inclusion would be welcomed). Suitably high-quality artificial materials would be acceptable: a condition is recommended requiring samples of roofing materials to be provided and agreed prior to their use.
- 10.30 In terms of other works, most of the site's rear is already a hard surfaced car park that would be retained as such, to deliver the 25 parking spaces to serve the development. Pockets of landscaping are proposed to the building's rear, which would be a welcomed introduction, although detailed landscaping information (planting species, locations, densities etc.) has not been provided. A condition for a full landscaping strategy is therefore recommended. At present the area to the front of the existing Grameen Spice building is hard

surfaced: officers would expect this to be broken up by landscaping and/or measures to avoid parking here, again which may be secured via condition. Boundary treatment to the north and south of the site is to be kept as existing, however no specific details on the eastern boundary treatment (to the adjacent Public Open Space) have been provided. Such details would need to balance the amenity of residents, visual amenity, and crime mitigation but would not be prohibitively difficult to resolve via condition.

- 10.31 A bin-store is to be located adjacent to the site's entrance and cycle sheds are located through the development. These are typical paraphernalia for a residential development, partially apartments, and their inclusion welcomed for their benefits. The bin-store adjacent to the access is not ideal, but a utilitarian structure by the public realm, but mandatory for effective refuse collection: other locations were attempted, but discounted as inappropriate. However, there are noted to be inconsistencies between the layout of the bin-store and the elevations provided, which are considered to be indicative. Furthermore, at only 1m in height, they are unlikely to appropriately screen the bins. Concerns over fire safety of the bins, being adjacent to no. 2 Briestfield Road have also been raised within the representations: while a Building Regulations matter at its core, a condition is proposed requiring detailed elevations of the bin-store which may address fire concerns also.
- 10.32 Located circa 200m to the north-east is a Grade 2 Listed Dumb Steeple. Given the separation distance and intervening development, officers are satisfied that the proposal would not impact upon the heritage asset. No other heritage assets are within the area.
- 10.33 In summary, it is accepted that the proposed works would change the character and appearance of the site and, to a lesser degree, the wider area. Nonetheless, the proposed development is considered to be well designed to a high standard. The proposal would represent an attractive inclusion within the village and be of high quality. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

#### Residential Amenity

- 10.34 Local Plan Policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings. Existing third-party residential properties are located adjacent to the site's north and south/west boundaries.
- 10.35 First considering the conversion of the existing building on site, as an existing building there are no concerns relating to overbearing and/or overshadowing. There are no windows on the south elevation, which sits upon the shared boundary with no. 8 Liley Lane, that would result in harmful overlooking and no other windows are orientated to provide a detrimental outlook onto neighbouring land.
- 10.36 The 10-unit block is the largest of the two new build blocks. Its blank side elevation would be circa 20m away from the original elevations of the units to the north, consisting of nos. 1 – 4 Chapel Row, although no. 1 does have an extension that has a habitable room window facing the site that would reduce the separation to 14.0m. While the new building would be clearly visible from

these units, these separation distances are considered sufficient to prevent materially harmful overbearing or overshadowing being caused upon the occupiers of nos. 1 – 4.

- 10.37 To the west of the 10-unit block is no. 8 (aka Spring Cottage) on Liley Lane. The building-to-building separation distance is 29.7m, although no. 8 does have an extant planning permission which would reduce this to 28.5m. These separation distances are sufficient to prevent concerns of overlooking, overbearing or overshadowing between building. However, the new building would be 9.5m away from the shared boundary and due regard must be given to whether this would prejudice no 8's amenity, principally through overlooking and loss of privacy. The LPA does not hold policy or guidance on expected separation distances between new buildings and garden spaces, requiring a site-by-site assessment. The ground floor windows of the new building would be fully screened by the existing boundary treatment. The first-floor window, through negotiations, would be bedrooms. While habitable rooms, bedroom windows are less likely to be occupied through the day. Furthermore, during the application the height of the building has been reduced from three storeys and its location amended to minimise the impact upon neighbouring occupiers, including no. 8. Weighing these factors, alongside the scale of no. 8's garden and the sizeable area which would be in excess of 12m away from the building, mitigation through the existing boundary treatment, and the separation distance between the building causing no concern, officers are satisfied that the proposed building's proximity to the shared boundary and no. 8's garden would not materially prejudice the amenity value of no. 8's occupiers.
- 10.38 Progressing to the 4-unit new block, this would be aligned but set back by circa 4.3m from the terrace row hosting nos. 2 – 6 Liley Lane, with no. 6 being the unit adjacent to the development. While set back, given the side-to-side separation distance of 8.3m between the new block and no. 6, the new block would be suitably set away to not result in materially harmful overbearing or overshadowing, either from no. 6's garden or dwellinghouse. The new unit's front and rear windows would not have an invasive view towards no. 6 or the other terrace units, and no side facing windows are proposed which would result in harmful overlooking of no. 6's private garden area.
- 10.39 The above assessment is based on the proposal as submitted. As flats, the proposed dwellings post completion (if minded to approve) would not benefit from Permitted Development for windows / extensions etc and therefore the removal of Permitted Development rights is not required.
- 10.40 The proposed development places car parking and its access route adjacent to the boundary with the neighbouring properties, partially no. 8 Liley Lane due to its garden sharing a north and east boundary with the site. The coming and going of residents from the car parking area may cause a degree of disruption to existing occupiers through noise. However, due regard must be given to the site's existing use: it is already largely a car park. Therefore, consideration must be given to the site's use as a car park for a restaurant (formally a public house), a use which could re-commence without planning permission, and a residential car park. The proposed car park is not anticipated to be more traffic / busy than the restaurant could be, and while the restaurant / public house would presumably close prior to unsociable hours, the coming and going of residents at such hours is unlikely to be materially significant. Ultimately, officers do not consider there to be a material difference and the proposed car park is not opposed.

- 10.41 Notwithstanding the above, it is expected that the car park will be illuminated, for the convenience and safety of residents. A condition for a lighting strategy, to ensure the lighting scheme does not cause harmful light pollution upon existing and future residents, is therefore considered necessary.
- 10.42 To appropriately manage the construction phase, a condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.43 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.44 The sizes of the proposed residential units are a material planning consideration. Local Plan Policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.45 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.
- 10.46 All 20 units are 1-bed in size. For the units within the two new buildings, sizes vary between 37.8sqm and 52.8sqm. Units within the converted building vary between 37sqm and 87sqm (notable variance due to working to the existing shape / structure of the building). The NDSS minimum size for a 1bed 1storey unit is 37sqm, which all units would meet or exceed, which is welcomed. Furthermore, all habitable rooms would have suitably sized windows that provides a clear outlook and level of natural light. This is subject to securing appropriate boundary treatment to the rear of the site, adjoining the Urban Green Space, securable via condition.
- 10.47 Unit 15, on the ground floor within the converted building, would have windows directly onto the pavement of Briestfield Road. These windows are to serve a living room, which benefits from windows on another elevation as well, and a bathroom. To secure the amenity of future occupiers it is considered necessary to condition that these windows be obscure glazed.



- 10.48 The proposed dwellings would not have dedicated private garden spaces. However, such provision is not usual for apartment units and the site is within a semi-rural environment, with open countryside in easy walking distance, ensuring direct access to the outdoors and the amenity it offers. In addition, while no Public Open Space is proposed on the site, the site is adjacent to several Public Open Spaces, again providing direct access, that the proposal will contribute towards financially. Please see paragraph 10.93 for further details.
- 10.49 The nearby Liley Lane and adjacent commercial units are sources of potential noise pollution, as is the recreation ground in the eastern Public Open Space. However, none of these potential noise pollutions are considered fundamental issues, as evidenced by existing residential properties alongside them. A condition for a noise mitigation strategy, to review the existing noise climate and provide appropriate mitigation for future occupiers, is however recommended by officers and Environmental Health.
- 10.50 The proposed development would not prejudice the amenity of neighbouring residents. Future occupiers can expect a high standard of amenity, subject to the given conditions. Accordingly, the proposal is considered to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

#### Highway

- 10.51 Local Plan Policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.52 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 highway safety, or if the residual cumulative impacts on the road network would be severe.
- 10.53 First considering traffic generation, due regard must be given to the existing (albeit currently vacant) use. As a restaurant, with apartment above, the site's current traffic generation would be focused in the evening period when the restaurant was most busy. Using the TRICS database, the applicant identifies the existing restaurant use as having approximately 98 two-way movements per day. The proposed residential development will be spread out through the day, with the normal AM (0800 – 0900) and PM (1700 – 1800) peaks. Using the TRICS database, the applicant calculates the proposed development having a traffic generation of 52 two-way movements. In summary, the applicant's Transport Statement concludes:

*It is considered that the anticipated traffic generated by the proposed development would not be discernible from the daily fluctuations in flows that could be expected on the local highway network. The level of traffic generated by the proposals can be accommodated and will have no material impact on the safe operation of the local highway and will not significantly add to any congestion at the peak times on the local network.*

Planning and Highways Development Management officers agree with the above, and anticipate that the proposal would represent a reduction in traffic movements from the approved use.

- 10.54 Progressing to the internal layout, the site is to host a parking forecourt as opposed to an estate road. The details provided, such as the forecourt layout, geometry and capability to host turning vehicles, have been reviewed by K.C. Highways and found to be acceptable. In terms of access point, the site's existing access is to be used. Acceptable sightline to the east has been demonstrated on plan. To the west, Bristfield Road connects to Liley Lane, thus resulting in lower sightlines.
- 10.55 A total of 25 parking spaces are proposed. This consists of 20 for the flats, at a rate of one to one, and five visitor spaces. This provision is consistent with the expectations of the Highways Design Guide and is welcomed. The delivery of all of these spaces may be secured via condition, to ensure sufficient parking.
- 10.56 The proposal includes 20 cycle parking spaces, at one per dwelling. This is welcomed, although details of the cycle parking provision, to ensure it is fit for purpose (secure from crime and the elements) is recommended. However, concerns are held over the location of the 10 cycle parking spaces to serve the 10-unit block. As proposed, they would partly block the window of flat 2's living room, partially if the cycle store is a substantial structure. An additional condition, requiring details of an appropriate alternative location for these cycle spaces, is therefore considered necessary to avoid conflict with flat 2's amenity.
- 10.57 The internal forecourt proposed can accommodate internal turning of an 11.85m refuse vehicle. However, as a private road, it is unlikely refuse services would enter the site. Therefore, a bin-storage point has been located to the front of the site, adjacent to the access onto Bristfield Road. This will enable the effective and efficient collection of waste for refuse services. However, this will require a carry distance of circa 60m for residents in the 4-unit block. This is in excess of the maximum desirable distance of 30m. Due to the size and shape of the site, this distance is a necessity without effectively preventing the development of a sizable portion of the site. Therefore, while the carry distance for residents is noted, on balance it is not considered to carry significant negative weight against the proposal.
- 10.58 The submitted plans currently show a 1.0m enclosed fence around the bin-store: this would be insufficient for amenity and security. A condition for details of a secure and appropriate bin-store arrangement are to be secured via condition, along with its delivery.

### *Sustainable Travel*

- 10.59 Policy LP20 of the Kirklees Local Plan states *'The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and will accept that variations in opportunity for this will vary between larger and smaller settlements in the area.'*
- 10.60 Travel Plans are not required for residential developments below 50 units. Nonetheless, due regard has been given to other methods of sustainable travel and how they may be promoted / improved.
- 10.61 Grange Moor hosts several amenities that can accommodate residents' day to day needs via walking, including a small general store and public house. The site is also within 5km, a type maximum cycle distance, of several local centres, including Lepton, Kirburton, Mirfield, and Ravensthorpe, where other amenities and facilities can be found.
- 10.62 Regarding public transport, the site is adjacent to stops on Liley Lane that connect towards Huddersfield, Wakefield, and Dewsbury. To promote buses as a viable alternative, a S106 contribution of £25,276 towards Sustainable Travel, consisting of £13k for bus stop improvements and £10,394 for resident's bus passes, has been secured.
- 10.63 In regard to other methods of travel, opportunities for cycle improvement in the area are limited. Nonetheless, the provision of cycle storage facilities and electric vehicle charging points (EVCP), one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel.
- 10.64 The site is considered to be within a sustainable location and the proposal will contribute towards local bus provision. Other conditions relating to cycle storage and EVCP are proposed. As such, the development is deemed to comply with the aims of LP20.

### *Public right of way*

- 10.65 There are no currently recorded Public Rights of Way Definitive Map on or around the site. However, the Council has received an application for a Definitive Map Modification Order (DMMO) to add to the Definitive Map and Statement of public rights of way (the DMS) a public footpath through the proposed development site.
- 10.66 The claimed route commences at Briesfield Avenue and runs along the site's northern boundary into the eastern Public Open Space, where it continues across the open space before connecting to Greenfield Crescent.
- 10.67 Without prejudice to the ongoing Definitive Map Modification Order (DMMO) application, the route of the claimed path would not conflict with the proposed development and has been incorporated into the proposed design. A 2.0m wide footway is proposed along the northern boundary of the site to allow public access. This is welcomed, however, in the interest of preserving the

route for the public, the retention of the path being kept open is to be secured within the S106. Regardless of the DMMO, this is a positive element of the proposal and would promote walkability for local residents, in accordance with the aims of Policy LP21.

#### Drainage and flood risk

- 10.68 The site is within Flood Zone 1 and below 1ha in size. Therefore, a site-specific Flood Risk Assessment is not required.
- 10.69 Due regard must still be given to surface water flood risk (i.e., rainfall). A surface water drainage strategy has been submitted and reviewed by the LLFA. Discharge into the combined sewer on Bristfield Road has been accepted, as infiltration and discharging to watercourse have been discounted. The proposed discharge rate of 2l/s is opposed by the LLFA, as the minimum acceptable (to prevent blockage) is 3.5l/s (per ha). Given that this change would reduce the size of the attenuation tank, which is in itself not opposed, there are considered no prohibitive issues. Nonetheless, the LLFA have requested a condition for a fully detailed drainage strategy, to be secured via condition, which may address this minor issue. A condition for exceedance event flood routing, to demonstrate where water would go should the attenuation tank fail and/or capacity be exceeded.
- 10.70 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.71 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the S106, the proposal is considered by officers and the LLFA to comply with the aims and objectives of Policies LP28 and LP29 of the Kirklees Local Plan.

#### Other Matters

##### *Air Quality*

- 10.72 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.73 Notwithstanding the above, in accordance with government guidance on air quality mitigation, outlined within the NPPG and Chapter 15 of the NPPF, and local policy contained within Policies LP24(d) and LP51 and the West Yorkshire Low Emission Strategy Planning Guidance seeks to mitigate Air Quality harm. Given the scale and nature of the development officers seek the provision of electric vehicle charging points, either 1 per 10 parking spaces for unallocated car parking, or 1 per dwelling for allocated car parking. It is unknown how the site's parking will be managed, but this provision may be secured via condition. The purpose of this is to promote modes of transport with low impact on air quality.
- 10.74 Subject to a condition requiring this provision, the proposal is considered to comply with Policies LP24(d) and LP51 of the Local Plan.

### *Contaminated land*

- 10.75 The site and/or nearby land is potentially contaminated due to historic uses. The applicant has submitted Phase 1 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 report has been accepted; however, it identifies that a Phase 2 report is required, and presumably remediation measures. Accordingly, KC Environmental Health recommend conditions relating to further ground investigations. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of Policy LP53.

### *Coal legacy*

- 10.76 The site is within an area identified at being at High Risk from historic coal mining. The application is supported by a Coal Mining Risk Assessment (CMRA) which has been reviewed by the Coal Authority. The Coal Authority consider the CMRA's assessment to be acceptable and adequately considers the implications of coal risk for the site. It sets out an indicative investigation and remediation process, to the satisfaction of the Coal Authority, who support the application subject to the imposition of conditions to secure such works. Subject to this, the proposal complies with the aims and objectives of Policy LP53.

### *Crime Mitigation*

- 10.77 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments.
- 10.78 A condition is proposed for crime mitigation details to be provided. This will require consideration of the site's rear boundary, finding an appropriate balance between an attractive design which does not prejudice amenity with security being adjacent to a public area, and consideration of the security for the bike / car parking area, including lighting.

### *Ecology*

- 10.79 Policy LP30 of the KLP states 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.
- 10.80 The application is supported by a Preliminary Ecological Appraisal (PEA), which is appropriate for the nature of the development. The PEA identifies that the site has limited ecological habitat value, due to consisting predominantly of hard surfaced area and a small area of (formally) managed grassland. Development of the area is not considered a cause for concern and would not prejudice local species.

- 10.81 The PEA does note that the existing building on site has moderate potential to host roosting bats, with no survey undertaken. However, as the proposed works are a conversion of the building which will not affect the roof, further investigation on this matter is not deemed necessary for the determination of the application. However, in the event that roof works are required as part of the conversion, a condition is recommended requiring an up-to-date survey be provided and any necessary mitigation undertaken prior to works upon or within the roof taking place.
- 10.82 Notwithstanding the above, all major developments are required to deliver 10% net gain in the site's ecological value. If this cannot be achieved, improvements in the area may be considered, or an off-site contribution.
- 10.83 The application's Biodiversity Net Gain metric calculates that post-development, the development will result in an 100% net loss of habitat units on the site. However, the site is of limited value at present, having a base of only 0.46 units. It is not unusual for a smaller site, particularly a brownfield development with limited starting value, to struggle to achieve a net gain or avoid a large shortfall. There are limited options to maximise the availability of habitat units within the site, and officers are satisfied that these have been considered and discounted. As such, off-setting will be required in order for the development to achieve a biodiversity net gain. In order for the development to achieve a net gain, 0.506 habitat units (a 10% increase of 0.46) will need to be delivered. Commuted sums are calculated on the basis of £20,000 per habitat unit (national average taken from DEFRA's latest BNG impact assessment) plus a 15% admin fee (as detailed in the BNG technical advice note). Therefore, a commuted sum of £11,638 would be required in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. This may be secured within the S106.
- 10.84 Separate to the site's net gain value, policy seeks for proposals to look to support other forms of ecological enhancements, such as bat boxes. A condition for an Ecological Design Strategy is recommended for the applicant to consider and deliver such measures. An additional condition is recommended that clearance be done outside of the bird breeding season (unless appropriate pre-survey is undertaken).
- 10.85 Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of Policy LP30 of the Kirklees Local Plan.

#### Planning obligations

- 10.86 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

### *Affordable Housing*

- 10.87 Policy LP11 of the Local Plan and the Council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 20 units would be 4 units.
- 10.88 Due regard must be given to national policy on Vacant Building Credit, which the Government summarises as:

*National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.*

- 10.89 Officers are satisfied that the Grameen Spice building fits into the criteria for Vacant Building Credit. Therefore, the proportion of the re-used floor space (297sqm) must be compared against the total end floor space (955sqm (consisting of the converted floor space (297sqm) + new build (658sqm)), which comes to 31%. Thus, the policy starting point figure, 4 units, is reduced by 31%, to 3 units (rounded up).
- 10.90 In terms of the mixture of units, the Affordable Housing and Housing Mix SPD and National Planning Policy Guidance states that all affordable units within a Built to Rent scheme, such as that proposed, shall be affordable rent only. Therefore all 3 affordable units are to be secured as affordable rent.

### *Ecology*

- 10.91 An off-site contribution of £11,638 has been identified to secure a 10% ecological net gain. See paragraph 10.83 for details.

### *Public Open Space*

- 10.92 In accordance with Policy LP63 of the Kirklees Local Plan new housing developments are required to provide public open space or contribute towards the improvement of existing provision in the area.
- 10.93 No on-site open space provision is proposed. This is considered acceptable, given the site's proximity to open space and semi-rural location. However, this would put additional pressure on nearby open space. Therefore, an off-site contribution of £33,149 is required. This has been calculated in accordance with the Kirklees Public Open Space SPD. The contribution is recommended to be secured within the S106 to ensure compliance with Policy LP63 of the Kirklees Local Plan.

### *Sustainable Travel*

- 10.94 As detailed in paragraph 10.62, a contribution is sought to improve the local bus service. Specifically, £13,000 is sought to provide a shelter to the nearest bus stop on Liley Lane (ID15236). This is to promote and enhance alternative methods of travel. Furthermore, a contribution of £10,394 for resident's bus passes is sought. The provision of this contribution is considered to comply with the aims of Policy LP20 of the KLP.

### *Management and Maintenance*

- 10.95 Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on the site. This includes arrangements for the management and maintenance of drainage infrastructure (prior to adoption by a statutory undertaker) in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

### Representations

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

### *General*

- The applicant has left the site to degrade, presumably to benefit his application.

**Response:** This is speculation and carries no material weight.

- The units would be 'prices out' for local residents, and not be for local people.

**Response:** The proposal is to include three units at affordable rent. Beyond this, the price of units is a private matter for the applicant.

- The loss of the site for parking on a weekend, when sports games are played including by children, will displace vehicles onto local roads, raising safety risk.

**Response:** It is accepted that visitors to the Urban Green Space / pitch will have to park elsewhere. However, as per the applicant's decision to close the site since March 2021, the land is privately owned with no legal tie requiring it to be kept open in association with the pitch. This is a private matter for the applicant and there is no requirement for them to deliver alternative parking.

- The properties on Chapel Row have not been shown on plan.

**Response:** This was addressed via amended plans.



- The site should be retained as an amenity: pub, shop restaurant etc.

**Response:** Officers must assess the proposal as submitted, against material planning policies. Unless it is allocated within the Local Plan, officers cannot enforce a certain use on a site. The site is under private ownership and is unallocated in the Local Plan.

- Local facilities are inadequate, including doctor and dental practises.
- The local school is over prescribed and cannot accommodate more children.

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

With regard to schools, as 1-bed apartments no school aged students are expected to occupy these units full time and it would be against policy to seek an education contribution for such a proposal (furthermore, education contributions are only sought on schemes for 25+ units).

- The development is aimed at student accommodation, but is too far from the university. Students will cause issues for existing residents.

**Response:** There is no suggestion that this development is targeted at students.

- It will compromise the existing equilibrium of the current village community. The plans are not sympathetic to the community or the surroundings, and harm the community spirit.
- The village is family orientated and only family homes should be built, not 1-bed units.
- The proposed development is not what is required within the district, being only single-occupancy flats. A mixture of dwelling sizes would be better. The past applications on the site were preferable.

**Response:** Local Plan policies support mixed and balanced communities. While it is accepted the proposal is for only 1bed units, in the village / subdistrict as a whole there is a demand for 1bed units.

- The proposal is an overdevelopment of a small site. The proposal has a density of 80 dwellings per ha, where normally the Local Plan seeks 35 dwellings per ha. Policy LP7 states only that higher densities will be sought in principal town centres and in areas close to public transport interchanges (neither are applicable here).

**Response:** Policy LP7 does that that “higher densities will be sought in principal town centres and in areas close to public transport interchanges”. It does not however exclude higher densities elsewhere. For the reasons given in this report, the density is considered acceptable.

- The development will add crime and security concerns for users of the Public Open Space.
- The development will affect people wanting to use the neighbouring open space, and their access to it. It will affect parent’s view of their children playing in the open space.
- The proposed development will compromise the attractive aspect of residing in an area known for its quiet existence and low crime rate.

**Response:** Officers and the K.C. Designing Out Crime Officer do not expect the development to generate crime, nor prejudice the use of the Public Open Space. A condition is recommended for crime mitigation measures; however, this principally relates to protecting the future development from crime.

- Question why the Council have accepted 10-year-old reports as part of the proposal.

**Response:** The report in question, a Phase 1 Contaminated Land Report, was not accepted. An up-to-date report was provided and found to be acceptable by K.C. Environmental Health.

- No details of fire mitigation have been provided.

**Response:** Fire mitigation is a consideration of Building Regulations and does not fall to be considered in planning (unless the building is classified as ‘high rise’ at over 18m or 7 storeys).

### *Highways*

- The proposal will affect emergency services ability to access the village quickly, through more traffic on the road.
- The application fails to address the high accident rate on Liley Lane.

**Response:** The site is considered to have sufficient parking on site to accommodate the expected demand. The number of traffic movements, partially giving regard to the site’s existing use, is not expected to materially impact on the network nor exacerbate any existing issues.

- The sightlines for the access are inadequate and don’t meet the required standards. They require a 0.5 encroachment into the road. It is only achieved from a 2m distance, not the 2.4m that would be required. The proposal is an intensification over the site’s current use and past approved use, so the access is not appropriate.
- The entrance to the site is too close to the Liley Lane and Bristfield Road junction. This junction already has queueing in the morning.

**Response:** The development utilises the existing access arrangements, which provides visibility splays of 2m x 43m to the right (critical direction) and 2m x tangential to the left (enabling visibility to the junction with Liley Lane). Whilst an X distance of 2.4m is normally used in most built-up situations, an X

distance of 2m can be considered. Using this value will mean that the front of some vehicles exiting the development will protrude slightly into the carriageway, the reduced X distance tends to encourage drivers to emerge more cautiously. In these situations, consideration needs to be given to the ability of drivers and cyclists to see the exiting vehicle from a reasonable distance and to manoeuvre around it without undue difficulty. Forward visibility for vehicles travelling along Bristfield Road towards the development access is good, enabling drivers on Bristfield Road to see any emerging vehicle. A review of accident records shows that there have been no recorded accidents associated with the access in the preceding five-year period and that the access appears to operate satisfactorily. Given that the development utilises the existing access arrangements which appear to operate satisfactorily and is not expected to be a material intensification in traffic movements over the approved use, it is considered that the proposed access visibility is acceptable and will not result in any undue highway safety implications.

- The proposal does not widen the footway as initially suggested by Highways DM.

**Response:** In discussions with the applicant, and upon receipt of acceptable sightlines, it was concluded this was not necessary to secure a safe access arrangement.

- The plans fail to show where 48 bins (2 per flat) will be stored. The number of bins required will be a pest issue.
- The proposal for a bin-store adjacent to no. 2 Bristfield Road raises concerns over odour and fire safety. Furthermore, its elevations do not match the layout plan.

**Response:** As an apartment development, communal bins will be used as opposed to one general / one recycling bin per unit. As detailed within the report, officers are to seek further details on the bin-store to ensure it does not prejudice the amenity of future or existing residents, via condition. This would allow the applicant to address potential fire safety issues that may be raised at Building Regulations stage.

- Parking is an issue for the area. One parking space per flat is not enough. The visitor parking space located to the rear of the site will make it unattractive to users. The proposed units will be occupied by families with more than one car. This will result in more parking within the area, specifically Bristfield Road that is already heavily parked, which is used by school children and is a safety issue.

**Response:** The Council's Highways Design Guide requires one-bed flats to have one parking space, and visitor parking spaces to be provided at a ratio of 1:4. These standards have been reached. The visitor parking location is noted but, is on balance, not considered to weigh against the proposal.

## *Residential Amenity*

- The proposal will harm people's views out of their dwellings. The proposal will affect the right to light for properties to the north.

**Response:** There is no 'right to a view in planning' when considering a proposals impact upon residential amenity. However, due regard must be given to the amenity of neighbouring (and future) occupiers, as per the assessment in paragraphs 10.34 – 10.42. The 'right to light' is a separate legal concept outside of planning. Overshadowing is a material consideration. However, officers are satisfied that the proposal would not result in materially harmful overshadowing of neighbouring land.

### **11.0 CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal would bring a vacant building, and its land, back into a beneficial use in both an effective and efficient way. Therefore, the principle of development is acceptable.
- 11.3 The proposal's design is considered high quality and attractive. The proposed development is not deemed harmful to the amenity of local residents, nor would it harm the safe and effective operation of the highway, subject to the recommended conditions. Other material considerations have been assessed, including drainage and ecology, and likewise have been demonstrated to have acceptable impacts.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Details of faux infilled sections
4. Material samples, to include natural stone, to be provided.
5. Landscaping strategy, including to the front of the Grameen Spice, to be provided
6. Boundary treatment details to be provided.
7. Detailed elevations of the bin-store to be provided, giving due regard to fire safety.
8. Remove PD rights for side windows of new build.
9. Unit 15 side windows obscure glazed.
10. Noise impact assessment to be undertaken

11. Lighting strategy to be provided.
12. Path to the north to be provided.
13. Parking spaces to be provided.
14. Full technical details of surface water drainage system to be provided
15. Surface water flood routing plan to be provided and implemented.
16. Details of cycle storage system to be provided, and bikes provided. To include relocation of cycle spaces to serve the 10-unit building.
17. Details of bin store to be provided and approved.
18. Details of temporary surface water drainage to be provided
19. Provision of EVCP
20. Bat survey to be undertaken prior to works within or upon the roof taking place.
21. Further contaminated land investigation and, if required, remediation / validation to be undertaken.
22. Coal Mining investigation and mitigation to be undertaken
23. Ecological Design Strategy to be undertaken
24. Clearance to be done outside of bird breeding season, unless site surveyed.

## **Background Papers**

### Application and history files

Available at:

[Planning application details | Kirklees Council](#)

### Certificate of Ownership

Certificate B signed.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

**Subject: Planning Application 2022/94117 Change of use and alterations to convert existing building to garage MOT testing station Crossfield Farm, 17, Woodland Grove, Dewsbury Moor, Dewsbury, WF13 3PE**

#### APPLICANT

I Ayub

#### DATE VALID

18-Jan-2023

#### TARGET DATE

15-Mar-2023

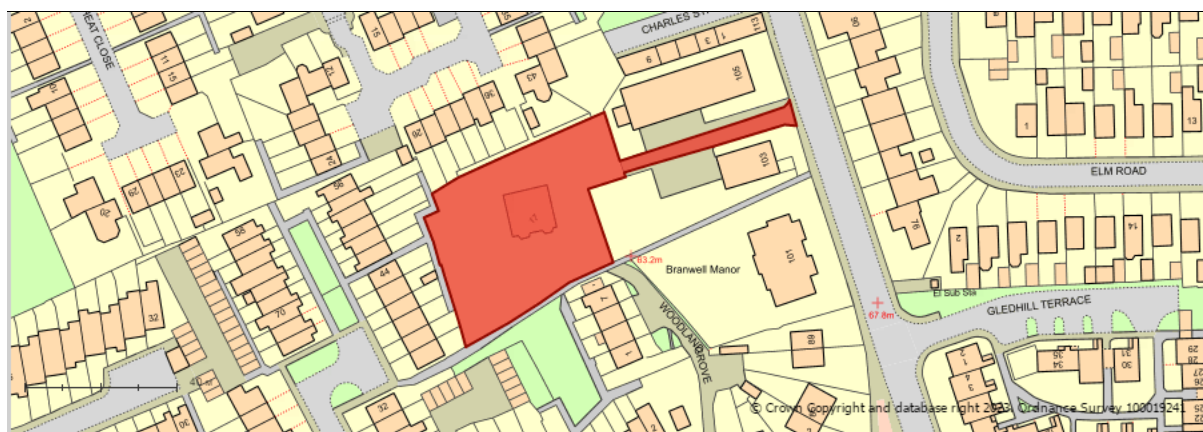
#### EXTENSION EXPIRY DATE

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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: Dewsbury West**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**REFUSE**

1. The proposed use would have an adverse and detrimental impact on the residential amenity of the neighbouring occupants as a result of noise and disturbance from car engines and ancillary uses associated with the proposed MOT garage over and above that considered acceptable in a residential setting directly adjacent to a large number of dwellings. Furthermore, customers visiting the site, which is located directly next to dwellings, would allow for views into gardens and habitable rooms, thus resulting in a detrimental and harmful loss of privacy for occupants of the neighbouring dwelling. To permit the development would be contrary to policy LP24 of the Kirklees Local and Paragraph Chapter 12 of the National Planning Policy Framework.

2. The proposed development would intensify the use of the site, resulting in a significant increase in the number of vehicles entering and exiting the site. The single track access from Heckmondwike Road would not be sufficient for the additional vehicle use and the access would not allow for two vehicles to pass. This would result in vehicles having to reverse on to or off a classified B road. Access would also be difficult for service vehicles from Heckmondwike Road into the site given the width of the existing access. As such, the site access would be sub-standard and unsuitable for any further intensification in use. The scheme would neither ensure the safe and efficient flow of traffic within the development or on the surrounding highway network, thus having a detrimental impact upon highway safety. To permit the development would be contrary to LP21 of the Kirklees Local Plan and Paragraphs 110 and 111 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 This application is brought to the Heavy Woollen Planning Sub Committee due to a significant volume of local opinion (33 representations received). This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site comprises a derelict two-storey stone built detached house. It is noted that the dwelling has large openings on the ground floor which have been recently added. The dwelling is surrounded by hardstanding and is accessible via an access road which runs between Nos.103 and 105 Heckmondwike Road, providing access to Heckmondwike Road. The property is identified as a non-designated heritage asset for its architectural merit and history.



2.2 Woodland Grove and the adjacent Heckmondwike Road are characterised by a mix of residential and commercial developments. The land level drops gradually from the east to the west with all buildings on Grove Hall Road set at a lower level than that which currently stands on site. A Public Footpath (DEW/104/10) runs along the southern boundary of the site.

### **3.0 PROPOSAL:**

3.1 The application is seeking permission for the Change of use and alterations to convert the existing building to garage MOT testing station.

3.2 The site would use the existing access from Heckmondwike Road. The two large openings on the ground floor of the north and south elevations would have roller shutter doors installed and would have concrete ramps for vehicle access. Internally the first floor would be removed to allow for an increased head height.

3.3 The application does not propose the erection of any buildings on the site.

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

2011/91653 Demolition of existing buildings and outline application for residential development (9 dwellings). Withdrawn

2012/90438 Demolition of existing buildings and outline application for erection of residential development (9 dwellings). Withdrawn

2014/93553 Alterations to convert existing building to 2 dwellings. Refused.

2020/90084 Demolition of existing house and barn and erection of office block/storage with canopy over parking area. Refused.

#### *Enforcement*

COMP/22/0021 Demolition of barn, Breach of condition (2020/62/90084/E) Also reports of breach of the original planning decision (2020/62/90084/E). Where the land will be used as a car sales. No further Action.

#### *At 103 Heckmondwike Road*

2020/91865 Erection of vehicle repair garage and boundary fence/gates. Conditional full permission.

2021/92795 Discharge of conditions 4 (Site Investigation), 5 (Coal Mining), 9-13 (Desk Study/Site Investigation) and 14 (Noise Assessment) on previous permission 2020/91865 erection of vehicle repair garage and boundary fence/gates. Split decision

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

5.1 The submitted plans raised significant concerns in terms of residential amenity and highway safety. Although the Kirklees Development Management Charter together with the National Planning Policy Framework and the DMPO 2015 encourages negotiation/engagement between Local Planning Authorities and agents/applicants, this is only within the scope of the application under

consideration. As there were multiple issues, these were considered too significant to resolve under this application. As such, amended plans have not been sought.

## **6.0 PLANNING POLICY:**

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

### Kirklees Local Plan (2019):

- 6.2 **LP1** – Achieving sustainable development  
**LP2** – Place shaping  
**LP3** – Location of new development  
**LP21** – Highways and access  
**LP22** – Parking  
**LP24** – Design  
**LP30** – Biodiversity and Geodiversity  
**LP51** – Protection and improvement of local air quality  
**LP52** – Protection and improvement of environmental quality  
**LP53** – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

- 6.3 Kirklees Council has adopted (as of 29<sup>th</sup> June 2021) supplementary planning documents for guidance on house building, house extensions and alterations and open space, to be used alongside existing SPDs previously adopted. They are now being considered in the assessment of planning applications, with full weight attached. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development. In this case the follow SPDs are applicable:
- Biodiversity Net Gain Technical Advice Note
  - Highways Design Guide

### National Planning Guidance:

- 6.4 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.

- 6.5 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.
- Chapter 2 – Achieving sustainable development
  - Chapter 6 – Building a strong, competitive economy
  - Chapter 9 – Promoting sustainable transport
  - Chapter 11 – Making efficient use of land
  - Chapter 12 – Achieving well-designed places

## 7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 The application was advertised by neighbour notification letters, site notice and in the press due to the proximity to a public right of way (DEW/104/10). Final publicity expired on 23<sup>rd</sup> February 2023.
- 7.2 33 representations were received, 21 against and 12 in support of the application. A petition was also submitted with 20 objections, one of which has also submitted a representation. It is noted that 5 of the objections were raised by two objectors, and 2 of the supporting comments were raised by the same neighbour. Their comments have been summarised as follows:

### Objections

- Access sight lines are difficult on a busy main road.
- Parking problems on main road.
- Hazardous to pedestrians and school children.
- Increased volumes of traffic
- Middle of a residential area.
- Noise pollution
- Privacy, overlooking into neighbouring gardens and windows.
- Safety
- Site used late at night.
- Air pollution
- Another garage is not needed.
- Unauthorised workings and demolition at the property
- Previous application already refused at committee.
- Alterations to access under 2020/91865 not complete.
- Adjacent to potentially contaminated land
- Damage local wildlife
- Impact on value of homes.
- Groups of people congregating
- Dog barking and running near public footpath
- Did not received neighbour notification letter

### Supporting comments

- Bring employment
- Bring a derelict building back into use
- Lots of parking
- Efficient use of space
  
- Essential service in a convenient location
- Revitalise community
- Already an existing garage

## 8.0 CONSULTATION RESPONSES:

Below is a summary of the consultation responses. Where relevant, these are expanded upon in the main assessment below.

8.1 KC Highways Development Management – Object and recommend refusal of the application based on concerns regarding visibility, width of access, uncontrolled parking, lack of access for service vehicles.

8.2 KC Environmental Health – No objections subject to condition

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

### Principle of development

10.1 NPPF paragraph 12 and LP1 outlines a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation. The dimensions of sustainable development will be considered throughout this proposal. The site is without notation on the KLP Policies Map. Policy LP2 states that: 'All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement'.

10.2 Chapter 11 of the NPPF requires that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improvement the environment and ensure safe and healthy living conditions. As well as this, Local Planning Authorities have the responsibility to help create the conditions, in which businesses can invest, expand, and adapt. It follows that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

10.3 In this case, the proposal would represent a more effective use of land than the current situation, contributing positively to the local economic growth through creation of employment opportunities. With these factors in mind, officers are satisfied that the proposal accords with chapters 6 and 9 and 11 of the NPPF. The principle of re-using/ re-developing the building and land adjacent could be considered favourably, so long as it contributes to the improvement of the environment and ensures safe and healthy living conditions of the neighbouring residents.

- 10.4 The site is unallocated in the Kirklees Local Plan. As such, in the broadest form, the development of this site is considered acceptable in accordance with Local Plan Policies LP1 and LP2. However, the development must now be assessed against all material considerations.

Impact on visual amenity

- 10.5 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) provides a principal consideration concerning design which states: “The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.
- 10.6 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. LP24 states that proposals should promote good design by ensuring: “a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...” Chapter 12 of the NPPF supports this.
- 10.7 The area surrounding the site is predominantly residential, however there are two commercial units to the west of the site. The existing garage to the west of the site separates the application site from Heckmondwike Road, thus shielding the property from the wider street scene. The site is also visible from the public footpath (DEW/104/10) which runs along the southern boundary of the site. Given that Heckmondwike Road is characterised by a mix of residential and commercial developments, to permit an MOT garage, as proposed, is unlikely to cause a significant change to the prevailing character of its immediate surroundings.
- 10.8 The proposed development would comprise a conversion of the existing former farmhouse and would not include any additional structures on the site. Two openings have already been formed in the northern and southern elevations and the surrounding site has been covered in hardstanding which was completed prior to the submission of this application. Although not ideal in terms of design, Officers consider that it would be unreasonable to refuse the proposal on visual amenity grounds based on the existing openings. The openings would be enclosed with roller shutters which would be in keeping with commercial use of the property. It is also noted that this proposal would bring a redundant building back into viable use.
- 10.9 It is noted that at the time of the previous application (2020/90084), the property was considered to be a Non-Designated Heritage Asset due to its architectural merit and history. The previous scheme was for demolition of the property, and the loss of the Non-Designated Heritage Asset was one of the grounds for refusal. As discussed above, the openings in the exterior of the property are not ideal in terms of design, however these have already been inserted. This application would retain the old farmhouse with minor alterations to the exterior and therefore this application would not result in the loss of a Non-Designated Heritage Asset.

10.10 Having taken the above into account, the proposed development would not cause any significant harm to visual amenity, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and the aims of chapter 12 of the National Planning Policy Framework.

#### Residential Amenity

10.11 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out in terms of policy LP24 c), which states that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

10.12 The application site borders the rear amenity space for 18 residential dwellings along Groves Hall Road, Barley Croft and Woodland Grove.

10.13 The proposed use of the site as an MOT garage would lead to disturbance and harm to neighbouring residential properties from a number of sources. With regard to noise and disturbance, this would come from car engines, associated works and the coming and going of customers. Officers note the sound of car engines is typical in residential areas, however not to the degree caused by an MOT garage. Furthermore, by the nature of introducing visitors/customers to the site, it will increase the number of people within the forecourt, and parking facilities, which is adjacent to the entire rear private gardens of the adjacent properties and very close to the dwellings themselves. As such, this would result in a loss of privacy to the occupants of the adjacent dwellings. It is noted that the representations received have raised concerns regarding noise and air pollution and loss of privacy to neighbouring occupants.

10.14 If this application was to be recommended for approval, a noise report and details of lighting would need to be submitted and agreed by the LPA prior to development commencing and the hours of use would need to be restricted by condition in order to protect residential amenity.

10.15 Whilst it is noted that nos. 103 and 105 Heckmondwike Road are currently operating as an MOT garage, this does not have the same direct relationship to a significant number of residential dwellings as the proposed site and as such is not as close to sensitive receptors as the application site.

10.16 It is considered by officers that these issues which cause disturbance are specific to the use of the site for commercial use as an MOT garage, and when in such close proximity to residential properties, would have an adverse and detrimental impact on residential amenity and the health and wellbeing of the occupiers contrary to LP24, LP51 and LP52 of the KLP and Chapters 12 and 15 of the NPPF.

#### Highway issues

10.17 Local Plan Policy LP21 states that 'All proposals shall:

a. ensure the safe and efficient flow of traffic within the development and on the surrounding highway network...

e. Take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely;'

- 10.18 This is supported by Chapters 9 and 12 of the NPPF and guidance within the Highways Design Guide SPD. KC Highways Development Management have also been consulted as part of this application.
- 10.19 The application site is accessible via an access lane which goes through the centre of an existing garage at nos.103 and 105 Heckmondwike Road. Notice was served on the owner of the land and Certificate of Ownership B was signed and submitted with the application. The access lane provides access from Heckmondwike Road which is a classified B road (B6117). It is a single width lane which already provides access for a large number of vehicles visiting the existing garage.
- 10.20 KC Highways DM were formally consulted regarding the scheme and Officers have significant concerns regarding the access to the proposed site. Given the size of the application site, there should be ample space to provide off-street parking and service vehicle turning. However, the access has no pedestrian provisions and sight lines from the access on to Heckmondwike Road are poor in both directions due to the width of the existing footway along this section of Heckmondwike Road and adjacent boundary fencing. On-street parking to both sides of this access further reduces visibility. The lane is also single width and would not be sufficient for vehicles to pass one another.
- 10.21 Representations have raised significant concerns regarding the access and lack of visibility, especially in relation to the nearby Westmoor Primary School and increased footfall during drop off and pick up times.
- 10.22 Due to the nature of the proposed use, as an MOT garage, this would significantly intensify the number of vehicles entering and exiting the site. The existing access is sub-standard and there has been no attempt to mitigate this harm to highway safety.
- 10.23 It is noted the existing garage has also recently been granted permission to extend (2020/91865), although this should not result in additional vehicles. This was approved under the condition that the fences to the site frontage are set back to the rear of the visibility splays. If this application were to be recommended for approval, similar conditions would need to be added to this application. The surfacing and boundary treatment would also need to be controlled by condition.
- 10.24 As discussed, the proposed MOT garage use is contrary to Local Plan Policy LP24 as it neither ensures the safe and efficient flow of traffic within the development and on the surrounding highway network, nor provides an adequate layout and visibility to allow the development to be accessed safely. The scheme is also contrary to paragraph 110 of the NPPF as it does not provide a safe or suitable access to the site for all users. The scheme has an unacceptable impact on highway safety thus should be recommended for refusal as per Local Plan Policy LP21 and Paragraph 111 of the NPPF.

### Representations

- 10.25 33 representations were received, 21 against and 12 in support of the application. It is noted that 5 of the objections were raised by two objectors, and 2 of the supporting comments were raised by the same neighbour. Their comments have been summarised as follows:

## Objections

- Access sight lines are difficult on a busy main road.
- Parking problems on main road.
- Hazardous to pedestrians and school children.
- Increased volumes of traffic

*Response: These are all material planning considerations that have been carefully considered in the highway safety section of this report.*

- Middle of a residential area.
- Noise pollution
- Privacy, overlooking into neighbouring gardens and windows.
- Safety
- Site used late at night.
- Air pollution
- Groups of people congregating

*Response: These are all material planning considerations that have been carefully considered in the highway safety section of this report.*

- Another garage is not needed.
- Unauthorised workings and demolition at the property
- Previous application already refused at committee.
- Alterations to access under 2020/91865 not complete.

*Response: Officers are aware of the site's history and context. This has been considered within the assessment where necessary.*

- Adjacent to potentially contaminated land

*Response: This is a material planning consideration which has been carefully considered in the other matters section of this report.*

- Damage local wildlife

*Response: This is a material planning consideration which has been carefully considered in the other matters section of this report.*

- Impact on value of homes.

*Response: this is not a material planning consideration so no further comment will be made.*

- Dog barking and running near public footpath

*Response: the application is for the change of use to an MOT garage and therefore, this is not a material planning consideration so no further comment will be made.*

- Did not received neighbour notification letter

*Response: this application was advertised by neighbour notification letters, site notice, online and in the press in accordance with the statutory publicity requirement for planning applications.*

## Supporting comments

- Bring employment
- Bring a derelict building back into use
- Lots of parking
- Efficient use of space
- Essential service in a convenient location



- Revitalise community
- Already an existing garage

*Response: these comments have all been noted and taken into consideration where appropriate.*

### Other Matters

#### *Carbon Budget*

- 10.26 On 12th November 2019, the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change.
- 10.27 When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In order to meet the policy and guidance outline above, the provision of one electric vehicle charging point for every ten spaces to be installed could be sought by condition should the application be approved. There are controls in terms of Building Regulations, which will need to be adhered to as part of the construction process and which will require compliance with national standards. This will ensure the proposal accords with LP51 and LP52 of the KLP.

#### *Land Contamination*

- 10.28 The site lies adjacent to potentially contaminated land. The land around the building will need to be cleared but no detail is given on what needs to be done nor how it is to be done. The submitted plan from Martin Walsh Architecture dated 20 December 2022 Ref 0011-RevP1 shows 4no. concrete ramps which will require an element of groundworks. A condition is recommended for the discovery of unexpected contamination during any works. Therefore, the proposal complies with LP53 of the Kirklees Local Plan.
- 10.29 It is noted that the application site is within a High-Risk Area as defined by the Coal Authority. This application is for the change of use of an existing building, which would not include any additional structures or buildings other than concrete ramps which involve minimal groundworks and therefore a Coal Mining Risk Assessment was not required in this instance and The Coal Authority were not consulted.

#### *Ecology*

- 10.30 This application is for the change of use of an existing building and the application site is already entirely covered in hardstanding. Therefore, the site offers limited ecological potential, and the proposed change of use is considered to not cause any additional harm to ecology. The proposed site plan shows some additional green space and trees in the form of biodiversity enhancement to the proposed in the south-eastern and north-western corners of the site. Therefore, the proposal complies with Policy LP30 of the Kirklees Local Plan.

## **11.0 CONCLUSION**

- 11.1 This application for the change of use and alterations to convert an existing building to garage MOT testing station at Crossfield Farm, 17 Woodland Grove has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.
- 11.2 The proposed use would have an adverse and detrimental impact on the residential amenity of the neighbouring occupants as a result of noise and disturbance from car engines and ancillary uses of the proposed MOT garage over and above that considered acceptable in a residential setting directly adjacent to a large number of dwellings. Furthermore, customers visiting the site which runs the directly next to dwellings would allow for views into gardens and habitable rooms, thus resulting in a detrimental and harmful loss of privacy for the neighbouring dwelling.
- 11.3 The proposed development would intensify the use of the site, resulting in a significant increase in the number of vehicles entering and existing the site. The single track access from Heckmondwike Road would not be sufficient for the additional vehicle use and the access would not allow for two vehicles to pass. Access would also be difficult for service vehicles from Heckmondwike Road into the site given the width of the existing access. As such, officers consider the site access to be sub-standard and unsuitable for any further intensification in use.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material considerations.

## **12.0 REASONS FOR REFUSAL**

The reasons for refusal are set out at the beginning of this report.

### **Background Papers:**

Application and history files.

[Planning application details | Kirklees Council](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f94117)

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f94117>

Certificate of Ownership – Certificate B signed and dated.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 22-Jun-2023

**Subject: Planning Application 2022/93499 Outline application for erection of 15 dwellings with new highway access and parking Healey Lane, Batley, WF17 8BN**

#### APPLICANT

Lauren Simpson, Owens  
Developments Ltd

#### DATE VALID

26-Oct-2022

#### TARGET DATE

25-Jan-2023

#### EXTENSION EXPIRY DATE

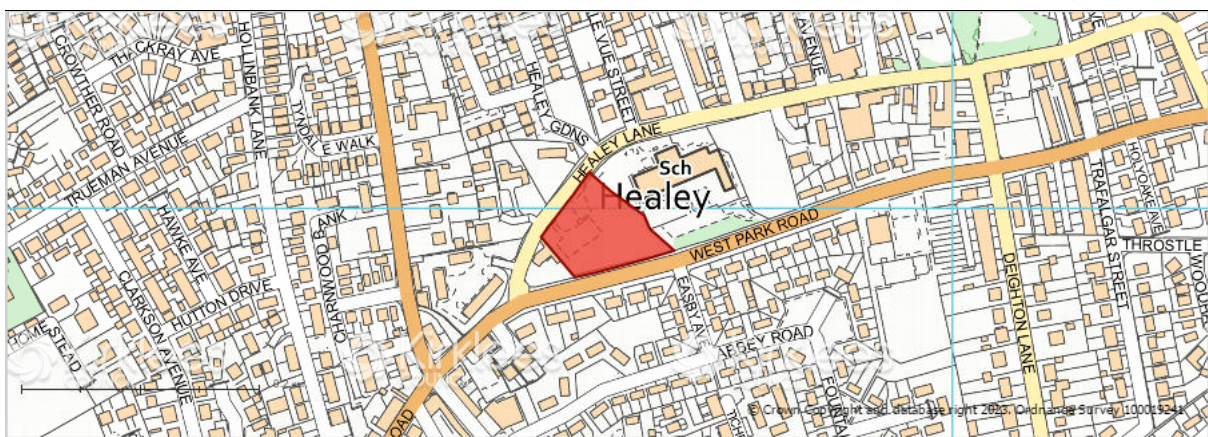
30-Jun-2023

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Batley West**

**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 those contained within this report and to secure a S106 agreement to cover the following matters:

1. Public open space provisions including off site commuted sum (£33,604.42)
2. Off-site highway works for a Traffic Regulation Order (£7,500)
3. Contribution to traffic calming measures (£35,000)
4. 20% of total number of dwellings to be affordable with a tenure split of 55% being Social Rented and 45% being Submarket and one being a Starter Home.
5. Incorporation of a Management Company (drainage, highways, public open space)

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

## **1.0 INTRODUCTION**

- 1.1 The application is brought to the Heavy Woollen Area Sub-Committee at the request of Ward Councillors Pandor and Lowe (Batley West) on the grounds of overdevelopment and highway safety.
- 1.2 The Chair of the Heavy Woollen Sub-Committee has confirmed that a referral to the committee on the grounds of highways safety is valid having regard to the Councillor's Protocol for Planning Committees.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site sits between West Park Road (to the south) and Healey Lane to the north. To the east of the site is Healey Junior, Infants & Nursery School. To the west are 3 dwellings, including No. 228 Healey Lane, which has a principal elevation facing on to the site (and immediately bordering it).

- 2.2 The site levels drop slightly from north to south and mature trees line the southern boundary of the site – these are not subject to Tree Preservation Orders. Vehicle access into the site was originally from Healey Lane. Remnants of areas of hardstanding are present to northern parts of the site, with the remainder of the site being largely grassed.
- 2.3 The application site red line boundary measures approximately 0.49 hectares.
- 2.4 The site's red line boundary was revised on 16/12/2022; reducing it from c. 0.51ha to c. 0.49ha following a re-design of the southern boundary. This is considered to represent a material reduction in the scale of the site and, as such, re-advertisement and consultation was not considered necessary in this instance as any likely impacts resulting from the proposal would likely be reduced.

### **3.0 THE PROPOSAL**

- 3.1 The applicant is seeking outline planning permission for the erection of '*15 dwellings with new highway access and parking*'. All matters are reserved except for access. The description of the proposal was revised on 16/12/2022 to reflect what had been applied for on the submitted application form and removing references to all other reserved matters.
- 3.2 Access to the site is proposed to be taken from Healey Lane with an indicative 'Y'-shaped internal highway network to serve the 15 dwellings. No through route is proposed on West Park Rd.
- 3.3 The site has previously received outline planning permission for 15 dwellings (2014/92328) which was determined on 29/10/2015 after being determined at committee. This application proposed a highway through route directly between Healey Lane and West Park Road to which there were no in principle KC Highways objections. It is noted that the Reserved Matters application (2017/94229) was subsequently refused, principally due to a lack of information.

#### *Supporting Information*

- 3.4 In addition to the submitted plans, the following documents have been submitted in support of this application:
- Application Form
  - Design and Access Statement
  - Noise Impact Assessment
  - Arboricultural Report
  - Arboricultural Method Statement
  - Phase 1 Geo-environmental Report
  - Phase 2 Geo-environmental Appraisal
  - Flood Risk Assessment
  - Ground Gas Risk Assessment
  - Coal Mining Risk Assessment
  - Preliminary Ecological Appraisal and Biodiversity Net Gain Feasibility Report

## 4.0 RELEVANT PLANNING HISTORY

*Application:* 2017/94229

*Description:* Reserved matters application pursuant to outline permission 2014/92328 for residential development (15 dwellings)

*Decision:* Refused 24/05/2021

*Application:* 2014/92328

*Description:* Outline application for residential development (15 dwellings)

*Decision:* Approved 29/10/2015

Earlier applications related to educational and other non-residential uses.

## 5.0 HISTORY OF NEGOTIATIONS

5.1 Officers negotiated with the applicant to:

- Clarify coal mining risk at the site with the Coal Authority.
- Amend site layout to remove rear access to Plots 6-11 from West Park Road following KC Crime Prevention and KC Trees comments.
- Undertake Biodiversity Net Gain modelling to demonstrate if 10% on-site biodiversity net gain is achievable on this site and, if not, enter into an agreement for off-site financial contributions.
- Demonstrate how the proposal would achieve satisfactory highway safety at the site entrance and on Healey Lane and secure necessary contributions.

## 6.0 PLANNING LEGISLATION AND 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 Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

6.2 The following legislation, policies, and guidance are considered relevant to the determination of this application:

### Kirklees Local Plan (February 2019)

The site is unallocated in the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP4 – Providing infrastructure
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP11 – Housing Mix and Affordable Housing

- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP23 – Core walking and cycling network
- Policy LP24 – Design
- Policy LP27 – Flood risk
- Policy LP28 – Drainage
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP32 – Landscape
- Policy LP33 – Trees
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land
- Policy LP63 – New open space

#### Supplementary Planning Documents

- Housebuilders Design Guide SPD (June 2021)
- Open Space SPD (June 2021)
- Biodiversity Net Gain Technical Advice Note (June 2021)
- Planning Applications Climate Change Guidance (June 2021)
- Highway Design Guide SPD (November 2019)

#### National Policies and Guidance

- 6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

#### National Planning Policy Framework (NPPF) (July 2019)

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

#### Climate Change

- 6.4 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.

6.5 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 REPRESENTATIONS

7.1 This application has been advertised as a major development.

7.2 Publication of the application has been undertaken in accordance with the Council's Development Management Charter (July 2015) and in line with the Council's adopted Statement of Community Involvement (December 2019).

7.3 The statutory public consultation period took place between 18/11/2022 and 09/12/2022.

7.4 During the public consultation, a total of 4 representations were received. Of these, 2 were received as objections and 2 as general comments.

7.5 The key points raised in OBJECTION are as follows:

- Previous tree removal works on-site have led to flooding issues at adjacent properties.
- The submitted Geo-environmental Report and Flood Risk Assessments are inaccurate.
- Neighbouring dwellings already have issues accessing the highway from their driveways.
- The area already experiences excessive traffic speeds which the proposal would exacerbate (particularly near the school).

7.6 The key points raised as COMMENT are as follows:

- The area already experiences issues in relation to highway safety.
- A full road survey should be undertaken.

7.7 Local Members (summarised):

Cllr Gwen Lowe (Batley West) – Concerns raised around highway safety and the number of dwellings proposed.

Cllr Shabir Pandor (Batley West) – Committee call-in request due to concerns about the number of dwellings being too high and additional traffic causing more congestion.



## 8.0 CONSULTATION RESPONSES

8.1 Below is a summary of the consultee responses received during the course of the application. Where appropriate, these are expanded on further in the main assessment.

### **Statutory:**

KC Highways Development Management – No objections subject to conditions and a Section 106 Agreement for off-site highways safety works.

KC Lead Local Flood Authority – No objections subject to conditions.

The Coal Authority – No objections subject to conditions.

### **Non-statutory:**

KC Crime Prevention – No objections subject to conditions.

KC Ecology – No objections at this stage subject to BNG being demonstrated at the full planning application stage.

KC Environmental Health – No objections subject to conditions.

KC Highways Structures – No objections subject to conditions.

KC Landscape – No objections subject to conditions and a Section 106 Agreement for off-site Public Open Space provision.

KC Minerals – No objections.

KC Strategic Housing – No objections, stated 20% affordable units are required..

KC Strategic Waste – No objections subject to conditions.

KC Trees – No objections to outline principle of development.

KC Waste Strategy – No objections subject to conditions.

Yorkshire Water – No objections subject to conditions.

## 9.0 MAIN ISSUES

9.1 Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Access and Highways Safety
- Biodiversity and Ecology
- Flood Risk and Drainage
- Design and Landscape
- Amenity

- Planning Obligations
- Other Material Considerations

## 10.0 APPRAISAL

### Principle of Development

- 10.1 Policy LP1 of the Kirklees Local Plan (KLP) sets out the Local Planning Authority's approach to the presumption in favour of sustainable development, as laid out in National Planning Policy Framework (NPPF) (Chapter 2), particularly Paragraph 11(c). Policy LP1 states that 'when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework'.
- 10.2 Policy LP2 requires that proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places. The policy's supporting text identifies the Batley and Spennings Dale sub-area as having a range of settlements with distinctive characters and good access to local services, but that the area is at risk from traffic congestion and faces issues with brownfield site re-development and associated flood risks. Policy LP3 concerns the location of new development. In considering the abovementioned requirements of Policies LP1 and LP2, proposals are also required to reflect a settlement's size and function, place shaping strengths and opportunities/challenges for growth, spatial priorities for urban renaissance and regeneration, and the need to provide new homes.
- 10.3 With regard to the need, the Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement. The latest published five-year housing land supply position for Kirklees, as set out in the Authority Monitoring Report (AMR), is 5.17 years. This includes consideration of sites with full planning permission as well as sites with outline permission or allocated in the Local Plan where there is clear evidence to justify their inclusion in the supply. Furthermore, as identified within Policy LP2 a housing need of c. 725 new residential dwellings has been identified for the Batley area, through a combination of housing and mixed-use site allocations, over the lifetime of the adopted Kirklees Local Plan.
- 10.4 The 2022 Housing Delivery Test results have yet to be published and the government is currently consulting on changes to the approach to calculating housing land supply. Once there is further clarity on the approach to be taken, the council will seek to publish a revised five-year supply position. Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.

- 10.5 As this site is unallocated, it represents a windfall site which would provide over and above that need which has been identified within the KLP. The scheme represents the delivery of a medium sized housing development in a predominantly residential area. The site is well positioned being set close to a school to the east and a small commercial complex to the west. Paragraph 69 of the NPPF recognises that “small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes”.
- 10.6 Furthermore, Policy LP7 of the Kirklees Local Plan states that should encourage the efficient use of previously developed land in sustainable locations provided that it is not of high environmental value and a net density of at least 35 dwellings per hectare should be provided. Principle 4 of the Housebuilders Design Guide seeks to ensure a density of 35 dwellings per hectare or more is achieved. Where a density of 35 dwellings per hectare cannot be achieved, policy LP7 sets out that lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. In this case, the site is 0.49 hectares in size. At this calculation, the site should host 17 dwellings. The development proposed would provide just short of this with 15 dwellings. Whilst slightly below the density set out by policy, this proposed density level is much more in keep with the existing density of the surrounding area. Any further dwellings would either result in an overdeveloped site visually or bring housing types that do not accord with the wider area. As such, 15 dwellings represents an effective and efficient use of the land that accords with the character and grain of development in the surrounding area and is deemed to be in accordance with overarching purposes of the housing policy. It shall be secured via the s106 agreement that 20% affordable housing is secured.
- 10.7 For all the reasons mentioned above, which includes: the residential setting; Kirklees’ housing land supply; the proposed density being in accordance with the character of the area; and, the local connections, it is considered that the proposal would be acceptable in principle subject to being concluded as acceptable in relation to all other applicable policies (discussed within the following report). As such it is considered the proposal meets the requirements of policies of LP1, LP2, LP3, LP7, LP11 and LP24 of the Kirklees Local Plan, Chapters 2 and 11 of the NPPF and the key principles of the Housebuilders Design Guide SPD.
- 10.8 The planning history must also be considered. In 2014, when the site was Council owned, outline permission was granted for up to 15 dwellings. This carries some weight in establishing the principle of development.

### Impact on Visual Amenity

- 10.9 Alongside the general principle of development, access is the only matter for which approval is sought as part of this outline application. As such, only the principle of development and access point are being considered from a visual amenity perspective at this stage.
- 10.10 Local Plan Policies LP1, LP2 and most importantly LP24, are all also relevant. All the policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development in the local area and is visually attractive. Policy LP11 sets out that all proposals for housing, including those affecting the existing housing stock, will be of high quality and design and contribute to creating mixed and balanced communities. Local Plan Policy LP24(a) states that all proposals should promote good design by ensuring the following: 'the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'. Chapter 12 reiterates this requirement for high quality design.
- 10.11 The Housebuilders Design Guide SPD helps to deliver schemes that accord with Local Plan Policy LP24 and Chapter 12 of the NPPF by setting out Design Principles. Principle 5 states, amongst other things, that buildings should be aligned and set-back to form a coherent building line and designed to front on to the street. To avoid dominating the street, principle 12 states parking to the front will need creative design solutions to be incorporated.
- 10.12 The proposed access point is functional in terms of design. It cannot be considered harmful in terms of visual amenity. With regard to general principle, the indicative site plan shows that the site could be designed at the reserved matters stage to incorporate up to 15 dwellings that accords with the character of the area. The site is sufficiently large enough for dwellings designed with a coherent building line and provides suitable garden and landscaped areas. Considering that access is the only matter for assessment at this time, alongside the principle, at this outline stage the scheme accords with the Kirklees Local Plan, the NPPF and the Housebuilders Design Guide SPD with regard to visual amenity.

### Impact on Highway Safety

#### *Access, Safety and Sustainable Transport*

- 10.13 Policy LP20 requires that proposals are located in accordance with the Council's spatial strategy to ensure the need to travel is reduced and that essential travel needs can be met by forms of sustainable transport other than the private car. Furthermore, proposals should be designed to encourage sustainable modes of travel and demonstrate how links have been utilised to encourage connectivity.
- 10.14 Policy LP21 requires proposals to demonstrate sustainable modes of transport and be accessed effectively and safely by all users. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Furthermore, proposals are required to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

- 10.15 NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 further details priority use of new roads, addressing the needs of people with disabilities, creating safe and secure places, allowing for efficient delivery of good and emergency service access, and enabling the use of electric vehicles.
- 10.16 Healey Lane is a 30mph two-way single carriageway link road with footways on both sides and street lighting present. There are School Keep Clear TRO markings to the northeast of the proposed site access and No Waiting at any Time TRO markings around the junction with Healey Gardens. There is a medium frequency bus route along West Park Road with bus stops within a 400m walk of the centre of the site. It is approximately 165m to the closest school and convenience stores and other services within approximately 500m.
- 10.17 KC Highways Development Management and KC Highway Safety have been consulted on the scheme. Consultation with KC Highway Safety has raised some concerns on both parking and speed issues on Healey Lane. Officers have been informed that a safety engineering scheme has been proposed for the eastern end of Healey Lane, however this does not extend to the location of the site access. As such, in order to calm traffic sufficiently to ensure safe access to and from the site, and to resolve the on street parking displacement issues the new access would create, Officers and the applicant have agreed to financial contributions. A contribution of £35,000 has been agreed to extend the independent safety engineering scheme to the development, between the community centre and the junction with West Park Road. This would consist of four features likely to be flat top road humps and/or a junction plateau too with associated drainage. Furthermore, a £7,500 contribution has been agreed to manage parking at the junction with a Traffic Regulation Order (TRO), likely in the form of 'No Waiting at Any Time TRO markings' to mirror the ones across the road at Healey Gardens access. It is considered that these contributions would help the authority conduct works which remove the majority of the highway safety concerns associated with the access if fully completed.
- 10.18 In terms of visibility, the proposed access to the site is shown in drawing No 2340-D-20-003 Rev A, and this includes a 2.4m x 43m visibility splay (although the north eastern tip of the splay is cut off on the drawing it does appear achievable), this would be acceptable for a road speed of 30mph as posted, and a junction radius of 10m which would be suitable for access with a refuse collection vehicle. The access road drawing shows a swept path analysis for a refuse vehicle that indicates it is safe for turning to allow the vehicle to enter and exit the site in forward gear and this is acceptable also. There are also 2m wide pedestrian footways on both sides of the access.
- 10.19 Conditions are required for details of retaining walls / structures adjacent to the highway and details of surface water attenuation measure also to ensure these meet the relevant policy.

- 10.20 For the reasons set out above, it is considered the outline application with access only as submitted is acceptable in principle with the contribution to road safety measures and legal agreement in place and a condition for details of the access gradients to be suitably provided. These matters are considered acceptable in terms of highway safety and are in accordance with the forementioned policy.

### *Car Parking*

- 10.21 Policy LP22 requires that proposals provide full details of the design and levels of proposed parking provision following the principles set out in the policy wording. In doing so, they should demonstrate how the design and amount of parking proposed is the most efficient use of land within the development as part of encouraging sustainable travel. However, layout is a reserved matter and cannot be assessed at this outline stage. Notwithstanding these, the submitted indicative plan shows that suitable off street parking for all new dwellings could likely be provided.

### Biodiversity and Ecology

- 10.22 Policy LP30 requires that proposals do not result in unmitigated or uncompensated significant loss of or harm to biodiversity and should provide biodiversity net gains through good design.
- 10.23 The Council's adopted Biodiversity Net Gain Technical Advice Note Paragraph 3.1.1 states that *'at this time, in the absence of legislation, a minimum of 10% net gain in biodiversity is required'*.
- 10.24 NPPF (Chapter 15) Paragraph 174(d) further requires that proposals should minimise impacts on and provide net gains for biodiversity. In addition, Paragraph 180(a) also states that if a proposal would result in unmitigated or uncompensated significant harm to biodiversity, planning permission should be refused.
- 10.25 The applicant has submitted an Ecological Impact Assessment (EclA) and Biodiversity Net Gain (BNG) report in support of this application. This details that at present, the site is predominantly covered in hardstanding, with only a small area of non-native shrub at the north of the site. The site is therefore considered to be of minimal ecological value. However, as the layout and landscaping is to be agreed at the reserved matters stage, officers cannot assess whether the BNG is yet suitable as BNG enhancement features would come forward as part of those reserved matters. However, as per the information in the EclA, considering the site has a minimal ecological value, officers are content that at the reserved matters stage, a biodiversity net gain could be achieved under the means set out by Local Plan Policy LP30, the Biodiversity Net Gain Technical Advice Note and Chapter 15 of the NPPF.

### Trees

- 10.26 Policy LP33 states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity. Furthermore, proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment.

- 10.27 NPPF (Chapter 12) Paragraph 131 states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. It requires that proposals should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.
- 10.28 KC Trees have been consulted on the application. With regard to the access and principle of development, matters which are considered in this application, officers consider that the access and use of the site for residential use can be supported with regard to trees. The proposed access would not result in the loss of any trees, whilst it is feasible that the layout at the reserved matters stage can be designed to incorporate the trees of value. As such, KC Trees have no objection to this application and deem it to accord with Local Plan Policy LP33 and Chapters 12 and 15 of the NPPF.

## **Flood Risk and Drainage**

### Flooding Risk

- 10.29 Policy LP27 requires that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. The national policy requirements are set out in NPPF (Chapter 14). This details the sequential approach to development and flood risk to steer new development to areas with the lowest risk of flooding from any source.
- 10.30 The site lies in Flood Zone 1. As such there are no sea or river flood risk concerns.

### Surface and Foul Water Drainage

- 10.31 Policy LP28 contains a presumption for the use of sustainable drainage systems (SuDS). In addition to this presumption, the policy also states that 'development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development'.
- 10.32 NPPF (Chapter 14) Paragraph 169 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 10.33 With regard to drainage and localised flooding, KC Lead Local Flood Authority have been consulted. The submitted Geo-Environmental Report indicates the site has minimal made ground and has a Thornhill Rock Sandstone bedrock of high to moderate permeability. The site does however fall from the north-east to south-west with an approximate gradient of 1 in 17. As such there are drainage concerns.

10.34 The developer proposes to dispose of surface water run-off via soakaways, however Kirklees Council have received reports that neighbouring properties have experienced cellar flooding which would indicate a high water table. As such, the LLFA does not recommended infiltration as this would increase the flood risk to existing properties. Therefore, surface water run-off from the site will need to be attenuated to the equivalent greenfield run-off rate for the 1 in 2 year rainfall event. The attenuated discharge shall be connected to the Yorkshire Water 225mm diameter Surface Water sewer in Healey Lane (subject to YW approval). Surface water run-off up to the critical 1 in 100 year rainfall event (plus 30% climate change) shall be contained within the site without the risk of flooding of proposed or existing properties. Subject to conditions for: technical drainage detail, overland flow routing, a construction phase surface water flood risk and pollution prevention plan; and, a s106/unilateral undertaking for the applicant to set up a management company for the maintenance and management of surface water drainage systems for the lifetime of the site, the scheme is considered acceptable with regard to flood risk and drainage.

#### Impact on Residential Amenity

- 10.35 Local Plan policies LP11 and LP24 require all proposals for housing to be of a high quality and design, providing a high standard of amenity for future and neighbouring occupants. The need for providing a good standard of amenity for all is reiterated by principles set out in the Housebuilders Design Guide SPD and Chapter 12 of the NPPF. Local Plan policy LP52 is also relevant with regard to noise.
- 10.36 As the application applied for is outline permission with all matters except for access reserved, a true assessment on the impact of amenity for future and neighbouring occupiers cannot be undertaken until the layout, scale and landscaping matters are being assessed. As this application relates to access and principle of development only, the residential amenity impacts of these matters are limited at this stage.
- 10.37 The site is bound by Healey Lane to the North, West Park Road to the South, Healey Infants School to the east and two dwellings to the west. As such, there are very few neighbours that could feasibly be affected. The dwellings to the west will likely be side by side with the new dwellings thus mitigating potential harm. Therefore, in principle, the scheme can be delivered without an adverse impact on the amenity of neighbours, subject to an appropriate design at the reserved matters stage. The access would not impact on the amenity of any neighbouring occupants also. However, there is potential for the amenity of neighbours to be harmed during construction. As such, it shall be conditioned that a construction environment management plan be submitted to resolve this matter.
- 10.38 As stated above, the site is surrounded by three noise generating uses – the school and the two roads. As such, a condition is required for the submission of a Noise Assessment specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development. Subject to this, at this outline stage, the scheme is considered to ensure a suitable level of amenity of future occupants.



## Other Material Considerations

### *Contaminated Land*

- 10.39 Policy LP53 of the KLP requires that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology will require the submission of an appropriate contamination assessment and/or land instability risk assessment. Furthermore, any development which cannot incorporate suitable and sustainable mitigation measures (if required) which protect the well-being of residents or protect the environment will not be permitted.
- 10.40 NPPF (Chapter 15) Paragraph 183 requires that proposals ensure that the site is suitable for its intended purpose taking into account the ground conditions and any risks arising from land instability and contamination, and that any contaminated land is remediated with works overseen by a competent person.

### *Historic Landfill*

- 10.41 The site lies in a Historic Landfill 250m Buffer Zone. KC Environmental Health have been consulted on this matter. The Phase 1 Report submitted is accepted and concludes that investigations are required. The site investigation reports submitted are unfortunately four years out of date. As such it is plausible that the site conditions and surrounding area have changed since the reports were authored. This may alter the risk assessments undertaken (e.g. the introduction of potentially contaminative land uses nearby and/or fly tipping, burning of wastes on site etc). A new site walkover and Phase II investigation shall be conditioned as it is required to confirm the validity of the previous Phase II reports. Furthermore, a remediation strategy and validation report shall also be conditioned. Subject to these conditions, it is considered the site can be suitable remediated in to ensure end user safety in accordance with Local Plan Policy LP53 and Chapter 15 of the NPPF.

### *Coal Mining*

- 10.42 The site lies in a Coal Advice Area (Development High Risk Area). The Coal Authority's records also indicate that surface coal resource (SCR) is present on the site. KC Minerals note that clarity should be provided for the removal of coal reserves if found on-site. In light of this, Officers shall secure conditions for further Phase II intrusive ground investigations to establish the presence of SCR on the site and provide for a coal removal method statement to establish the quantum and methodology of removal (if any).
- 10.43 The submitted Coal Mining Risk Assessment also stated that a former mine entry was recorded during the intrusive investigation and that it is possible that this feature, and unrecorded mine entries, may still be present on the site itself. Section 10.0 'Further Works' of the Phase 2 Geoenvironmental Appraisal also identifies the requirement for, amongst other things, additional intrusive works (topsoil and made ground strip) in the south-eastern corner of the site to determine the presence or not of historic mine shaft and its potential zone of influence upon development within this part of the site. For

these reasons, it shall be conditioned that: a scheme of investigation in accordance with the submitted information be carried out; the reserved matters application details the relationship of the mine entry, its zone of influence to the development layout and any proposed remediation works are set out; and, the submission of a signed declaration making sure the site has been made safe. Subject to these conditions, the scheme is acceptable with regard to the historic coal mining legacy.

#### Carbon Budget / Climate Change

- 10.44 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. 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.
- 10.45 In this case, in order to help lessen the impact of this development on climate change, it shall be conditioned that 10% of parking spaces be served by an electric vehicle charging points. This will mean the development accords with local and national policy with regard to carbon budget.

#### Required Planning Obligations

- 10.46 Policy LP63 of the KLP states that the Council will seek to secure well-designed new and improved open space [...]. New housing developments will also be required to provide or contribute towards new open space or the improvement of existing provision in the area, unless the developer clearly demonstrates that it is not financially viable for the development proposal. New open space should be provided in accordance with the council's local open space standards or national standards where relevant.
- 10.47 The adopted Open Space SPD sets out the Council's approach to securing off-site public open space financial contributions where a proposal provides a shortfall in the quantum of required on-site public open space. These planning obligations are required to improve the local public open space offer due to the increased impacts of new residential development on existing provision. The obligations cover a number of public open space typologies and are tailored to local need and the type of residential development proposed.
- 10.48 As a residential development comprising of 15 new dwellings, the required off-site public open space contribution for this application is **£33,604.32**. This figure breaks down to:
- Amenity Green Space – £5,995.88
  - Children & Young People – £6,817.81
  - Parks and Recreation – £8,330.57
  - Natural and Semi-Natural Green Space – £7,125.98
  - Outdoor Sports – £5,333.08

10.49 There is existing POS provision within 720m of the site which has been identified by KC Landscape as requiring enhancement as a result of the proposal. It is also unlikely that any meaningful POS would be provided on the site. As such, the financial contributions above should be allocated to enhance these existing facilities to improve the local public open space provision. The contributions would be sought via a Section 106 Agreement. As such, the proposal is considered to be in accordance with Policy LP63 of the adopted Kirklees Local Plan.

10.50 Following the above assessment of the proposal, a Section 106 Agreement will be required to secure the following Heads of Terms:

- A minimum of 20% affordable dwellings in perpetuity
- Off-site Public Open Space contribution of £33,604.32
- Off-site highways safety works contribution of £35,000
- Funds for a Traffic Regulation Order of £7,500
- Incorporation of a Management Company (drainage, highways, public open space)

### Representations

10.51 During the public consultation, a total of 4 representations were received. Of these, 2 were received as objections and 2 as general comments.

10.52 The key points raised in OBJECTION are summarised and responded too as follows:

- Previous tree removal works on-site have led to flooding issues at adjacent properties.

*Response: Noted and assessed in the report above.*

- The submitted Geo-environmental Report and Flood Risk Assessments are inaccurate.

*Response: These reports have been assessed by specialist consultees and are deemed suitable.*

- Neighbouring dwellings already have issues accessing the highway from their driveways.

*Response: Noted – the highways impacts are assessed in the report above.*

- The area already experiences excessive traffic speeds which the proposal would exacerbate (particularly near the school).

*Response: Noted – the highways impacts are assessed in the report above.*

10.53 The key points raised as COMMENT are as follows:

- The area already experiences issues in relation to highway safety.
- A full road survey should be undertaken.

*Response: Both these points are noted and the highways impacts are assessed in the report above.*

10.54 Local Members (summarised):

Cllr Gwen Lowe (Batley West) – Concerns raised around highway safety and the number of dwellings proposed.

Cllr Shabir Pandor (Batley West) – Committee call-in request due to concerns about the number of dwellings being too high and additional traffic causing more congestion.

*Officer Response: The overdevelopment matter and the highways matters have been assessed in full in the appraisal above. The density is considered to accord with the requirements of Local Plan Policy LP7. For the reasons given in the assessment above, the scheme is considered to not have a harmful impact on highway safety.*

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 This application has been assessed against relevant policies in the Development Plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to the imposition of the conditions as set out below and the satisfactory completion of a Section 106 Agreement.

## **12.0 CONDITIONS**

1. Details of appearance, landscaping, layout, and scale (hereinafter called the "Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority no later than 3 years.
2. The development hereby permitted shall begin no later than 2 years from the date of approval of the last of the reserved matters.
3. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule.
4. The Reserved Matters referred to in Condition 1 shall include an Arboricultural Impact Assessment has first been submitted to and approved in writing by the Local Planning Authority.
5. There shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new retaining walls and building retaining walls adjacent to the proposed/ existing highway has first been submitted to and approved in writing by the Local Planning Authority.
6. There shall be no commencement of the development hereby permitted until a scheme detailing the location and cross-sectional information together with the proposed design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint or influence zone of highway loading has first been submitted to and approved in writing by the Local Planning Authority.

7. There shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until a scheme of further intrusive site investigation to be completed.
8. Notwithstanding the submitted details, any application seeking approval of a detailed layout of development, shall be accompanied by:
  - the findings of the further intrusive site investigation (required by Condition 7 above);
  - the submission of an updated plan which identifies the relationship of the mine entry and its zone of influence to the development layout; and
  - any proposed remediation works and/or mitigation measures, as may be necessary, to address land instability arising from the recorded mine entry.
9. Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.
10. Details of temporary arrangements for the storage and collection of waste.
11. Measures to protect the public water supply infrastructure that is laid within the site boundary.
12. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
13. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have first been completed.
14. There shall be no commencement of the development hereby permitted until a detailed design scheme submitted.
15. There shall be no commencement of the development hereby permitted until an assessment of the effects of 1 in 100 year storm events has been submitted
16. There shall be no commencement of the development hereby permitted until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation/site strip) has first been submitted.
17. Details of external artificial lighting.
18. Submission of a report specifying the measures to be taken to protect the future occupants of the development from noise.
19. There shall be no submission of any Reserved Matters application seeking approval of a detailed layout of development until the recommended further works measures in Section 10.0 of the approved Phase 1 Geo-Environmental Report (ref: H17075 Revision 0, dated May 2018) have first been carried out.

20. Submission of a Phase II Intrusive where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to Condition 19.
21. Submission of a remediation strategy where deemed required pursuant to Condition 20.
22. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved.
23. Submission of a Verification Report by a suitably competent person.
24. Provision of electric vehicle charging points.
25. There shall be no commencement of the development hereby approved until a Construction Environmental Management Plan (CEMP).

**Background Papers:**

Application and history files.

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**Certificate of Ownership:** Certificate A signed and dated.