

# Public Document Pack



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

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Wednesday 26 July 2023

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 3 August 2023**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Huddersfield 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.

## **Strategic Planning Committee Membership:-**

### **Member**

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

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

### **Substitutes Panel**

#### **Conservative**

D Bellamy  
D Hall  
A Gregg  
R Smith  
J Taylor

#### **Green**

K Allison  
A Cooper  
S Lee-Richards

#### **Labour**

B Addy  
A Anwar  
P Moore  
E Firth  
T Hawkins

#### **Liberal Democrat**

PA Davies  
J Lawson  
A Munro  
A Marchington  
A Smith

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

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

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**2: Minutes of the Previous Meeting**

1 - 4

To approve the Minutes of the Meeting of the Committee held on 6 July 2023.

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**3: Declaration of Interests and Lobbying**

5 - 6

Committee Members will advise if (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 Disposable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

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**4: Admission of the Public**

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

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**5: 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 in writing, at least three clear working days in advance of the meeting and shall subsequently be

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notified if the deputation shall be heard. A maximum of four deputations shall be 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 2023/91092**

Demolition of existing school and erection of new school; improvements to existing access and formation of internal access road and turning head; formation of car park, children's outdoor play areas and associated landscaping at St Peters CE VA Junior Infant and Early Years School, Field Head Lane, Birstall, Batley.

Ward affected: Birstall and Birkenshaw

Contact: Nick Hirst, Planning Services

(Estimated time of arrival at site – 11:00am)

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## **8: Planning Applications**

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 31 July 2023.

To register, please email [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 ext 74993.

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**9: Planning Application - Application No: 2023/91092**

9 - 44

Demolition of existing school and erection of new school; improvements to existing access and formation of internal access road and turning head; formation of car park, children's outdoor play areas and associated landscaping at St Peters CE VA Junior Infant and Early Years School, Field Head Lane, Birstall, Batley.

Ward affected: Birstall and Birkenshaw

Contact: Nick Hirst, Planning Services

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**10: Planning Application - Application No: 2023/90509**

45 - 62

Erection of 2 storey, 5 classroom teaching block including toilet facilities and staff / store rooms at North Huddersfield Trust School, Woodhouse Hall Road, Fartown, Huddersfield.

Ward affected: Ashbrow

Contact: Katie Chew, Planning Services

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**11: Planning Application - Application No: 2023/91093**

63 - 104

Construction of permanent vehicular access track and the erection of fencing (within a site of special scientific interest) at land adjacent to March Haigh Reservoir, off Blake Lea Lane, Marsden, Huddersfield.

Ward affected: Colne Valley

Contact: Ellie Worth, Planning Services

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### **Planning Update**

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

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Contact Officer: Richard Dunne

## KIRKLEES COUNCIL

### STRATEGIC PLANNING COMMITTEE

**Thursday 6th July 2023**

Present: Councillor Steve Hall (Chair)  
Councillor Moses Crook  
Councillor Mohan Sokhal  
Councillor Bill Armer  
Councillor Mark Thompson  
Councillor Andrew Pinnock  
Councillor Eric Firth

Apologies: Councillor Carole Pattison

**1 Membership of the Committee**

Apologies were received from Councillor Carole Pattison.

Councillor Eric Firth substituted for Councillor Carole Pattison.

**2 Minutes of the Previous Meeting**

The minutes of the meeting of the Committee held on the 8 June 2023 were approved as a correct record.

**3 Declaration of Interests and Lobbying**

No interests or lobbying were declared.

**4 Admission of the Public**

All items were considered in public session.

**5 Public Question Time**

No questions were asked.

**6 Deputations/Petitions**

No deputations or petitions were received.

**7 Planning Applications**

The following application was considered.

**8 Planning Application - Application No: 2023/90531**

The Committee gave consideration to Planning Application 2023/90531 Demolition of warehouse unit and proposed erection of production warehouse (use classes B2 and B8) for the purpose of the manufacture and storage of beds, mattresses and their components alongside ancillary retail and office space and associated access, parking and landscaping works. Highgate Beds Ltd, Bretton Street, Savile Town, Dewsbury.

## Strategic Planning Committee - 6 July 2023

### RESOLVED –

1) That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to:

1. Complete the list of conditions, including those contained within the report and planning update as set out below:

1. Commencement of development within three years.
2. Development in accordance with approved document schedule.
3. Submission of and adherence to a Construction Environmental Management Plan.
4. Submission and implementation of a Construction Environmental Management Plan: Biodiversity for the purpose of protecting species and their habitats on site.
5. Submission and implementation of temporary drainage for the construction period.
6. Visibility splays to be provided.
7. Operation and delivery time restrictions.
8. Submission of an Air Quality Screening Assessment.
9. Submission and implementation of a Noise Assessment.
10. Installation of a fat and grease interceptor to food preparation areas.
11. Submission of and adherence to an External Lighting Design Strategy for Biodiversity and Residential Amenity.
12. Submission and installation of kitchen/canteen extraction system details.
13. Submission of a Phase II Contaminated Land Survey.
14. Submission of a Contaminated Land Remediation Strategy.
15. Implementation of a Contaminated Land Remediation Strategy.
16. Submission of a Contaminated Land Validation Report.
17. Submission and implementation of a detailed drainage design.
18. Submission and adherence to details relating to the protection, maintenance and access to the public water supply.
19. Details of surfacing and draining of parking areas.
20. Details of waste storage and collection to be provided.
21. 2m wide footway to be provided.
22. Submission, inspection and implementation of external materials specifications and samples.
23. Submission of evidence confirming installation of the solar array.
24. Submission and implementation of hard and soft landscaping details.
25. Retention and protection of trees.
26. Submission and implementation of a Biodiversity Enhancement Management Plan to ensure that on-site Biodiversity Net Gain.
27. Submission and implementation of security measures.
28. Cycle parking to be provided prior to occupation.
29. Signage and road markings (prohibiting vehicle entry from Bretton Street) prior to occupation.
30. Implementation of the Travel Plan.
31. Requirement to achieve no less than BREEAM "Very Good".

An additional condition to maximise the energy output from the installed solar array.



## Strategic Planning Committee - 6 July 2023

2. Secure a Section 106 agreement to cover the following matters:

- 1) Biodiversity – A financial contribution of £119,600 towards off-site measures to achieve biodiversity net gain in accordance with the Biodiversity Net Gain Technical Advice Not.
- 2) Skills – Provision of a package of training and educational support for existing and future employees based upon the parameters of a Framework Skills Plan (which intends to secure a training programme for at least 15% of the workforce on a yearly basis with up to 45% of the workforce on a training programme after three years of the development being brought into use).
- 3) Sustainable Transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution towards a Sustainable Travel Fund as well as a further £10,000 towards Travel Plan monitoring.
- 4) Off-site Highway Works – An off-site financial contribution of £20,000 towards bus stop upgrades; and
- 5) Management – The establishment of a management company for the management and maintenance of infrastructure relating to surface water and foul drainage infrastructure until formally adopted by the statutory undertaker.

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

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

For: Councillors: Armer, Crook, E Firth, A Pinnock, Sokhal, S Hall and Thompson (7 votes).

Against: (0 votes)

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

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

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 03-Aug-2023

**Subject: Planning Application 2023/91092 Demolition of existing school and erection of new school; improvements to existing access and formation of internal access road and turning head; formation of car park, children's outdoor play areas and associated landscaping St Peters Ce Va Junior Infant and Early Years School, Field Head Lane, Birstall, Batley, WF17 9HN**

#### APPLICANT

The Church of England  
(Diocese of Leeds)

#### DATE VALID

11-Apr-2023

#### TARGET DATE

11-Jul-2023

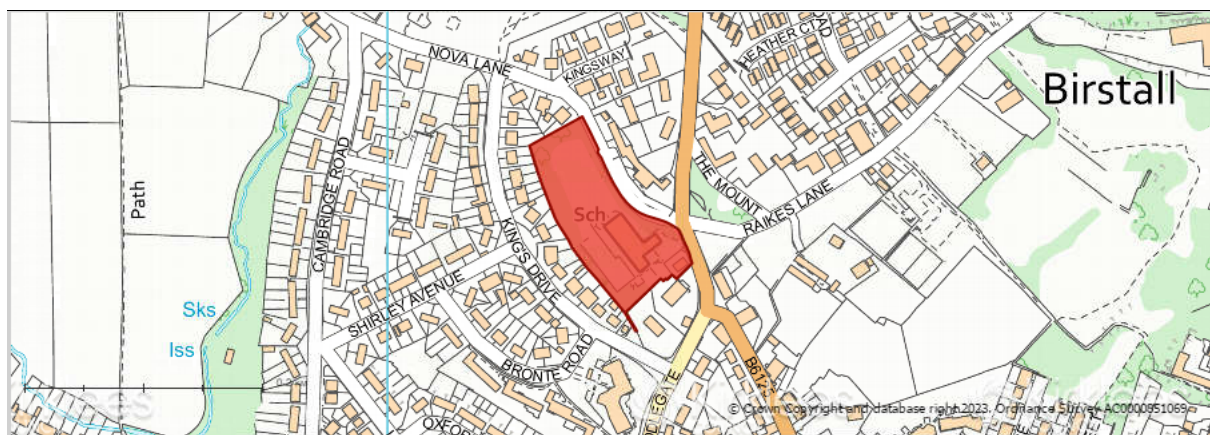
#### EXTENSION EXPIRY DATE

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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**

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

### **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the demolition of the existing school and the erection of a new school. This would also consist of improvements and re-arrangement of the site's existing access, internal road, car parking, landscaping, and play areas.
- 1.2 The application is brought to the strategic planning committee, in accordance with the Delegation Agreement, because the site falls within land allocated as Urban Green Space, therefore representing a departure from the development plan, and has a site area over 0.5ha.

### **2.0 SITE AND SURROUNDINGS**

- 2.1 St Peters C Of E Junior, Infant and Early Years School is located north-west of the centre of Birstall in a predominantly residential area. The topography of the area generally falls downwards from east to west.
- 2.2 The application site has an irregular, roughly rectangular, shape. Nova Lane runs along the site's north-east boundary, on a higher ground level. Residential properties located all around the site, with residential properties accessed from Nova Lane, Kings Drive and Middlegate being on the north, west, and south boundaries respectively. The residential properties are largely on a lower ground level than the application site.
- 2.3 There is woodland within the site, being situated around most of the site's boundary (north, west, and south) with the only break being to the east at the access from Middlegate road. Within the site, the school building and ancillary functions (play area, parking, caretakers house) are all located in the south-east half. The north-west half of the site, outside of the tree-belt, is a grassed play area.
- 2.4 The main school building is part two-storey, part single storey brick-built school building with a flat roof. It has a floor area of 1,454sqm. The school provides education for children aged 3 to 11. The school has a capacity for 210 pupils for ages 4 to 11 years and 26 (full time equivariant) nursery places.



2.5 The existing school opening hours are as follows:

- 0745 Gates Open
- 0845 Registration
- 1500 Nursery Day Ends
- 1515 School Day Ends

There are ten parking spaces on site and one disabled bay, however there is no vehicular drop off/pick up facility within the school grounds. The car park is for staff use only. For safety reasons, the vehicular access gate is closed between 0825 and 0900 and again between 1455 and 1530. Children, other than those attending breakfast club, arrive at the school from 0830 onwards. The children currently all arrive on foot or by car. The applicant states:

*The numbers of children arriving on foot is split evenly between the two pedestrian access points. The majority of cars dropping children off park along either Middlegate or King's Drive.*

2.6 The school is located adjacent to the Birstall Conservation Area and directly south of New Hall and The Barn, Grade II Listed buildings.

### **3.0 PROPOSAL**

3.1 The new school is to be built in the site's northern half, currently hosting the grassed play area. It would be two storeys, offering 1,609sqm of floor space (956sqm on the ground floor and 653sqm on the first floor). The ground floor would comprise of the school reception and offices, the nursery and infant teaching rooms and spaces, the school hall, kitchen, toilets and cloakrooms. The first floor would comprise of the junior teaching rooms and spaces, the library, staffroom, toilets and cloakrooms.

3.2 The building would be predominantly faced in buff brick, with dark brick detailing on certain elevations. The proposed roof would comprise of a flat green roof. Rooflights are proposed on the roof above the school hall with large areas of the remaining roof to be covered by PV solar panels (set at an angle to maximise solar gain) with a vegetation barrier to be installed around the perimeter of the roof.

3.3 Ancillary buildings / structures include a new substation, located adjacent to the caretaker's bungalow, and bin-store that would be adjacent to the new building.

3.4 External works include the site's existing access being widened to 7m. The existing boundary wall is to be set back in places (using the same natural stone materials) to improve sightlines. The footway would also be widened to 2m where feasible. The access would lead to 12 car parking spaces and an extended access road to the school's new location further from the access. This would terminate at a turning head, where deliveries / refuse collection may take place, along with two disabled parking bays. A sheltered cycle store which would accommodate up to 12 cycles for the use of staff and pupils is proposed adjacent to the school entrance.

- 3.5 The proposals also incorporate outdoor play areas for the children. These areas include an Early Years playground, a main playground and a separate hard outdoor PE area. The early years playground would be to the new building's north, with the other play areas to the south. Security fencing, 2.4m in height, would be sited around the site. The hard outdoor PE area would have 3.5m high mesh fencing. The site's existing boundary treatment, specifically that adjoining neighbouring properties, would be retained. The remainder of the site comprises of soft landscaped areas incorporating new and existing trees and vegetation. A retaining wall, 18.8m at the highest point, would separate the car park from the new play areas. It would be faced in buff brick to make the main building.
- 3.6 The applicant has commented that the school will retain its provision of teaching children aged 3 to 11 (reception to year 6) and will continue to employ 31 members of staff. The numbers of children (210) are to remain unchanged. The school start and finish times would also remain the same.
- 3.7 An initial construction phasing strategy has been provided. Due to the operational needs of the school, i.e., the school must remain open at all times, bar school holidays, to ensure ongoing education, the existing building must be retained and be operational during the construction of the new. Following completion of the new building demolition of the existing building may take place, followed by the delivery of the proposed play areas / facilities on its footprint.

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

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

2000/93203: Erection of classroom extension – Granted

2014/91679: Erection of single storey extension – Granted

2017/92004: Change of use from Caretaker's bungalow to educational use (within a Conservation Area) – Granted

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

Various applications relating to householder extensions, listed building consents and works to trees within a Conservation Area. None are deemed relevant to the current proposal.

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

None.

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

- 5.1 The applicant sought pre-application advice for the re-development of the site (app ref. 2022/20124) in January 2022. A meeting took place in April 2022 and a formal advice letter issued May 2022. In summary, the letter advised the applicant that the proposal would be a departure of local Urban Green Space policy and adequate justification would be required to justify such a departure. It was accepted that educational benefit would carry positive weight and may form adequate justification, but the applicant would be required to substantiate such a position at application stage. Other advice and/or details on expectations was offered on matters such as design and impact on neighbours, with input from the Council's technical consultees such as Highways, Drainage, and Ecology also provided.
- 5.2 The current application was received April 2023. Officers undertook their initial assessment and identified several areas of concern. This included, but is not limited to, the elevations of the building being deemed unattractive, opportunities to improve the access further, and the loss of mature trees on the site's boundary adjacent to the Nova Lane / Field Head Lane junction.
- 5.3 A virtual meeting to run through initial thoughts / concerns was held in May 2023 (including attendance by local Cllr Smaje), with amended details provided shortly thereafter to address issues identified. An in-person meeting was held in June 2023 to cover more substantial / outstanding issues. This resulted in a further suite of amended plans, received early July 2023.
- 5.4 The details received in early July 2023 were subject to an additional public representation period. On assessment of the details provided, officers considered the proposal to be in a position which may be accepted.

## **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 Urban Green Space (UG308) in the Kirklees Local Plan. The site is mostly outside of the Birstall Conservation Area, with the exemption of the caretaker's bungalow that is within the CA. The CA's boundary runs along the site's shared boundary with Nova Lane and Middlegate, and the residential properties the Old Vicarage and The New Vicarage to the east.

### 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
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP26** – Renewable and low carbon energy
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Mineral safeguarding
- **LP47** – Healthy, active and safe styles
- **LP49** – Educational and health care needs
- **LP50** – Sport and physical activity
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space

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

#### *Supplementary Planning Documents*

- Highways Design Guide SPD (2019)

#### *Guidance documents*

- 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 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.

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **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**

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

7.1 Prior to the submission of the application the applicant undertook pre-application engagement with the local community. This included a drop in event on the 16<sup>th</sup> of March 2023 (re-arranged from the originally planned 9<sup>th</sup>, due to weather). This was advertised via leaflets delivered to neighbouring properties (57 total), via a sign at the school and on the school website. It is estimated that between 30 and 40 local residents and parents attended the event.

7.2 A feedback form was offered to attendees, of which 22 were complete. The applicant offers the following summary and comments on their findings:

*The majority of the feedback to the proposals was hugely positive. Concerns and issues raised by residents on the feedback forms have been addressed in the submission documents for the application.*

7.3 The applicant acknowledged an error where they failed to notify local ward members as part of the pre-application. The applicant has apologised for this oversight directly to the members.

#### *Public representation*

7.4 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.

7.5 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.

7.6 The end date for public comments was the 20<sup>th</sup> of July 2023. In total six public comments were received. The following is a summary of the comments made:

- Perimeter fencing should be green, to blend in with the trees.
- Existing trees on the site need to be cut back and managed on shared boundaries and Nova Lane. Some are covered in Ivy and are dying, leading to safety concerns.
- The new building is close to many trees, which will result in tree nuisance and will damage the school in short order.
- A total of 12 cycle space is inadequate for 210 pupils and 31 staff. Furthermore, cycle storage should be adjacent to the building and covered.
- Surrounding roads should be limited to 20mph.
- Local bus stops should be improved to promote bus use.
- The school building would cause overlooking of neighbouring land. The tree-belt is nearly all deciduous trees so offer limited screening in winter months. None of the new planting within the tree-belt is ever-green, so would not address this.
- Concerns over lighting pollution upon neighbouring dwellings: this should be on posts facing into the site, as opposed to being installed on the building facing outwards.
- Concerns about drainage, as the field will be replaced with hard standing. Requesting that adequate drainage be installed to prevent issues for properties on a lower land level.
- Parent parking at present is a 'rear and dangerous problem' that is risking the safety of children on Kings Drive and Bronte Road. Parents park irresponsibly, such as parking on grass verges, in private parking areas, or blocking drives, and this leads to conflict between residents and parents, as well as issues for access by emergency services.
- Concerns over HGV / contractor vehicles on local roads.

- 7.7 The site is within Birstall and Birkenshaw ward, where members are Cllr Joshua Sheard, Cllr Elizabeth Smaje and Cllr Mark Thompson.
- 7.8 Cllr Elizabeth Smaje noted that the applicant had not included Cllrs in the pre-application engagement. This led to a meeting between the applicant and Cllr Smaje, with the case officer in attendance. Cllr Smaje expressed concerns over the changes to the access, wanting to ensure the Conservation Area would not be harmed, and questioned the need for the enlarged school. The applicant responded on each of these points, which are detailed in the following assessment.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

K.C. Highways: Expressed initial concerns and sought greater improvements to highway safety relating to the site access and local roads. No objection subject to conditions.

K.C. Lead Local Flood Authority: The drainage arrangements are acceptable in principle. No objection subject to conditions.

### **8.2 Non-statutory**

K.C. Conservation and Design: Expressed initial concerns and provided input on design matters. Following amendments, no objection.

K.C. Crime Prevention: Advice offered and conditions to ensure appropriate crime mitigation requested.

K.C. Ecology: Adequate survey work and assessment undertaken. Based on initial proposal, identified that an off-site contribution would be required to achieve 10% net gain. Following amendments by the applicant it was confirmed 10% net gain could be secured on site. No objection subject to conditions.

K.C. Environmental Health: Have given due regard to various relevant potential sources of pollution, including noise, lighting, and contaminated land. No objection subject to conditions.

K.C. Highways (Waste): Expressed initial concerns over the size of the bin-store and its accessibility. This feedback was provided to the application, who amended the details accordingly. Based on amended details, no objection subject to conditions.

K.C. Landscape: Landscaping is attractive and welcomed. Initial concern over loss of mature tree adjacent access, which has been addressed via amendment. No objection subject to conditions.

K.C. Planning Policy: Confirmed that the proposal would be a departure from Urban Green Space policy (LP61). However, also accepted that educational benefits are a material consideration which may outweigh the harm caused subject to planning officer's assessment of all material considerations.

K.C. Public Health: Confirmed that the proposal does not trigger a need for a Health Impact Assessment.

K.C. Trees: Initial concern over loss of mature tree adjacent access, which has been addressed via amendment. Other tree works are considered necessary / justified within the submitted Arboricultural Reports. No objection subject to conditions.

Historic England: Offer 'no comment'.

Sport England: In accordance with Sport England guidance the site does not constitute a 'playing field' (due to its size). As such, as confirmed in their comments, Sport England are not a statutory consultee on the proposal> as such, they offer 'no formal comment'. They do however direct officers to their general guidance and advise relating to impacts on sporting provision.

Yorkshire Water: No objection subject to conditions.

## **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 (Urban green space)

- 10.2 The site falls within Urban Green Space as allocated within the Kirklees Local Plan. Therefore, Policy LP61 is relevant. The policy states:

*'Development proposals which would result in the loss of urban green space (as identified on the Policies Map) would only be permitted where...'*



- a. *an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b. *replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
- c. *the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.*

*The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”*

Consideration must first be given to whether the proposal results in a ‘loss of urban green space’.

- 10.3 The new school is proposed to be constructed on the existing school playing field in the northern part of the site and this is proposed to be replaced by a new all-weather pitch hard outdoor PE area and a new hard surface informal social area. These proposed outdoor areas are predominantly within existing hard surfaced play areas in the southern part of the site, but also impinge into the footprint of the existing school building. Overall, the site would reduce the amount of green space, replaced by built footprint and hard surfacing. Therefore, the proposal would therefore result in a definitive loss of Urban Green Space.
- 10.4 As the proposal represents a loss of Urban green Space, due regard should be given to whether any of the exemptions of LP61(a), (b) or (c) apply.
- 10.5 The Planning Statement, which accompanies this application, states that *“this existing field is not regularly used by the school for sport and recreation as for much of the year it is deemed too wet and muddy and therefore unsuitable for use”*. On this basis the applicant considers that criterion (a) of policy LP61 is met in that the school playing field as a greenspace is no longer required by the school.
- 10.6 Officers are of the view that this argument is not sufficient to meet policy LP61 criterion (a): it is not accepted that the school no longer requires outdoor playing/recreational space within the school grounds, particularly as this proposal includes replacement provision in the form of a new all-weather hard outdoor PE area and hard informal social area for outdoor play, demonstrating a need for such areas. Therefore LP61(a) is not deemed applicable.
- 10.7 Progressing to criterion (b), development proposals may only be permitted where the loss of open space, sport or recreation facilities are replaced by facilities which are equivalent or better in both size and quality.

- 10.8 The proposal would result in the loss of a large area of open green space, circa 2,150sqm in size. While areas of planting and green space would still be present around the site, these are small in scale. Comparing the quality of a playing field to planted areas are difficult, but given the substantial size difference and different typology, it is deemed reasonable to consider the quality lesser. In terms of the proposed hard informal social outdoor area, this is to be located on existing outdoor play space within the school grounds, and in effect represents an enhancement to the existing outdoor play area provision rather than part replacement for the existing school playing field. Furthermore, the hard informal social area is proposed to be 432sqm in size; again, taken together with the proposed new all-weather pitch, these are significantly smaller in size than the playing field proposed to be replaced.
- 10.9 Overall, the proposal represents a significant reduction in the amount of open space that will be available compared to the existing situation. The development would result in the loss of the school playing field, does not include like-for-like replacement open space provision of the same size, and would result in the overall net loss of open space, and as such represents a departure from the development plan. Therefore, Local Plan policy LP61(b) is not met.
- 10.10 Criterion LP61(c) does not apply as the proposal is not for an alternative open space, sport, or recreation use needed to help address identified open space deficiencies.
- 10.11 In summary, the proposal would result in the loss of designated Urban Green Space without providing adequate replacement. Therefore, officers conclude that the proposal would not comply with LP61. This weighs against the proposal. Conversely, the Local Planning Authority may depart from development plan policy where material considerations indicate that the plan should not be followed. Due regard to such material considerations will be given throughout this assessment.

*Impact on sport provision*

- 10.12 Local Plan Policy LP47 states:

*‘The council will, with its partners, create an environment which supports healthy, active and safe communities and reduces inequality. Healthy, active and safe lifestyles will be enabled by [the relevant sub-points being]:*

*a. facilitating access to a range of high quality, well maintained and accessible open spaces and play, sports, leisure and cultural facilities;*

*c. the protection and improvement of the stock of playing pitches.’*

- 10.13 Local Plan Policy LP50 states:

*‘The council will seek to protect, enhance and support new and existing open spaces, outdoor and indoor sport and leisure facilities where appropriate, encouraging everyone in Kirklees to be as physically active as possible and promoting a healthier lifestyle for all.’*

10.14 Paragraph 99 of the NPPF states:

*99. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

*a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*

*b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*

*c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

10.15 While there is open grass to the north of the site, this is not recognised by either Sport England or the LPA as a formal playing pitch (for planning purposes). Sport England have commented:

*Aerial photos taken across a number of years clearly show that the green space at site being used to accommodate a football pitch. Having taken measurements it is clear that the pitch's area is less than 0.2Ha and given the shape and dimensions of the greenspace it would not be possible to set out a larger playing pitch.*

*In light of the above, Sport England considers that (in planning terms) the application site does not contain a playing field. The proposed development does not therefore fall within our statutory remit (Statutory Instrument 2015/595), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.*

10.16 Although the site does not constitute a formal playing pitch, Sport England advise that the site may still be considered a sports facility and considered in the context of Paragraph 99.

10.17 The current grassed pitch is used for informal play and infrequent PE lessons. Its use is weather and season dependant. It is used by the school only, with no community use. The proposed all weather / hard surface facilities would be usable all year around, with the applicant stating:

*the proposals would significantly increase the amount of hard informal social areas for the children to enjoy during outdoor play times and the amount of hard outdoor PE space would also be increased (+432m<sup>2</sup> and +241m<sup>2</sup> respectively).*

*As a result, the new and larger all-weather hard outdoor PE area would be much more practical for use all year round. This area has been designed to be 37 x 18.5m, which is a typical dimension for a 5- a-side football pitch based on Sport England Guidance. The functionality and accessibility of all outdoor spaces for the school would therefore be greatly improved through the proposed scheme*

- 10.18 Officers concur with the above comments. The current playing field (reiterated as not being to playing pitch standard), while in theory an attractive sporting / recreation provision, would in practise have limited day to day use for the school's young students. In this case, the proposed facilities would be an appropriate alternative sports and recreation provision, the benefits of which would clearly outweigh the limited harm to local sports through the loss of the grassed area.
- 10.19 Policy LP50 requires consideration of whether a community use of new sports facilities is appropriate. In this case, no formal sport pitches are proposed. As a combined nursery / primary school, with the proposed facilities that are to be delivered being designed for young children, officers do not consider it necessary or appropriate to seek an enforced community use, although the school would be free to pursue this if desired.
- 10.20 In summary, the proposal will result in the loss of a sizable area of grass that has an infrequent sports / recreation use by the school's students (only). While this grassed area would be lost and not replaced like-for-like, the proposed all-weather facilities would offer a more practical day-to-day use for students and result in a net positive for the school's sports and recreation provision. Accordingly, the proposal is deemed to comply with the aims and objectives of LP47, LP50, and paragraph 99 of the NPPF.

#### *Education development*

- 10.21 National Planning Policy Framework recognises the importance of ensuring that there is a sufficient choice of school places available to meet the needs of existing and new communities, and that councils should give great weight to the need to create, expand or alter schools; (paragraph 95) and work with school promoters to identify and resolve key planning issues before applications are submitted (paragraph 96).
- 10.22 The relevant Local Plan Policy for education facilities is LP49. It outlines the following:

*Proposals for new or enhanced education facilities would be permitted where:*

- a. they would meet an identified deficiency in provision;*
  - b. the scale, range, quality and accessibility of education facilities are improved;*
  - c. they are well related to the catchment they are intended to serve to minimise the need to travel or they can be made accessible by walking, cycling and public transport.*
- 10.23 The school has been selected by the Department for Education for its School Rebuilding Programme. The programme carries out major rebuilding and refurbishment projects at schools and colleges across England, with buildings prioritised according to their condition. The existing school was built circa 1960 and is in a poor state of repair and its facilities are no longer fit for modern purpose. This includes, but is not limited to, insufficient staff and student amenities, accessibility facilities, and class rooms / circulation spaces being too small. During the feasibility stage, it was determined that St. Peter's should be rebuilt rather than refurbished, due to its age and condition making it fundamentally unsuitable for modern use.

- 10.24 The Planning Statement describes how the new school will be increased in size from 1,454sqm to 1,728sqm, but would not result in an increase in student numbers. The additional floor space that the new school would provide would improve the learning environment for pupils due to its modern, high-quality provision of contemporary facilities. For example, although the number of staff and pupils will remain the same, the proposal would provide additional teaching rooms and ancillary spaces which will give staff and pupils more space and access to better facilities such as a medical room and a reprographics room.
- 10.25 This meets the internal space standards and facility provision which the DfE now requires of new schools and represents an improvement to the scale and range of facilities. The Planning Statement also identifies that the staff facilities are currently inadequate and proposes an improvement to staff rooms, will provide a lift and wider circulation spaces to meet the latest DfE guidance, and also looks to enhance green spaces with soft landscaping proposed around the site including areas of wildflowers and native shrub. In addition to this, the roof of the school would comprise a green roof, a welcomed ecological / quality enhancement.
- 10.26 Returning to policy LP49, the proposal would meet identified (by the national Department for Education) deficiencies in provision, through delivering facilities that comply with modern standards, thereby comply with LP49(a). Overall, the development would improve the scale, range, quality and accessibility of the site's education facilities, as required by LP49(b). In regards to LP49(c), the proposal seeks to upgrade an existing site and therefore has an established and defined catchment. Transport considerations are addressed in paragraphs 10.90, but in summary the proposal is deemed a net improvement in this regard.
- 10.27 The proposal fully complies with the objectives of LP49. In accordance with paragraph 95 of the NPPF great weight should be attributed in favour of a development which supports / improves education.

*Sustainable development and climate change*

- 10.28 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
- 10.29 The application is supported by a Climate Change Statement which details what consideration has been given to measures to limit harmful impacts. This includes, but is not limited to:
- The new school building will not be supplied with fossil fuels, and will be an all-electric development using photovoltaics to produce enough renewable energy to offset the core carbon demand.
  - We will endeavour to utilise local suppliers and materials where possible for the Project, along with recycling of existing Site materials

- The building block has been designed to DfE layout and environmental standards to use space as efficiently as possible. The window provision and internal layout has been designed to efficiently meet the requirements for daylight and thermal comfort for school buildings. Building U-Values and air tightness calculations are proposed to be better than those required in the building regulations
- The building floor level has been determined through the design process to minimise the need for retaining structure and allow for gravity fed drainage away from the building. A green roof and below ground surface water attenuation control run off and discharge rates into the local network.
- 10% ecological net gain shall be provided on site.

10.30 The above provisions are welcomed. The intention to have no fossil fuel supply is notable and a condition requiring the delivery of the solar panels, as put forward by the applicant is recommended, to ensure compliance with LP24 and LP26.

*Principle of development; conclusion*

10.31 The site is Urban Green Space, which the proposal would result in the partial loss of. The proposal therefore represents a departure from Policy LP63 of the Local Plan.

10.32 The proposal would change the site's sporting provision, removing a large grass pitch and replacing it with smaller all-weather facilities. While smaller in scale, the current grassed area has limited practical use compared to the proposal facilities. As such the proposal would not conflict with LP47, LP50 or paragraph 99 of the NPPF.

10.33 The proposal would address an identified deficiency in local education and represent a notable improvement to education facilities, complying with the aims of policy LP49. In accordance with paragraph 95 of the NPPF great weight should be attributed in favour of a development which supports / improves education.

10.34 Planning permission decisions must be taken in accordance with the development plan, unless there are material considerations that indicate otherwise. In this case the harm of this loss is minimal and the public benefits of the proposal, to local education, are deemed to clearly outweigh the harm caused to the site as Urban Green Space. Furthermore, adequate consideration of, and mitigation for, climate change has been evidenced. Therefore, the principle of development is deemed to be acceptable. Consideration must be given to the local impact, outlined below.

Phasing of the development

10.35 As previously noted, the school has been selected by the Department for Education for its School Rebuilding Programme. It was determined early in the design process that the school should be rebuilt rather than refurbished, due to its age and condition not being conducive to modern standards.

- 10.36 The construction phase of the development would be prolonged, up to 18 months. To ensure minimum disruption to the education of the school's existing students, the new school must be built alongside the existing school, while it remains open. Only when the new school is complete and students transferred over, can demolition of the existing school take place.
- 10.37 An option for the school to be built within 2 to 3 metres of the existing school, on the existing playground, was considered but discounted as a number of significant disadvantages were identified. These included:
- The logistical difficulties and disruption to the school during construction due to the proximity of the existing, live school building.
  - The loss of hard play during construction.
  - The increased health and safety risks and safeguarding issues.
  - The close proximity of adjacent residential properties to the new school and the impact this would have.
  - The overshadowing of roof solar panels and parts of the school building due to the close proximity of the trees.
  - Limited space for expansion in the future.
- 10.38 Ultimately, the applicant concluded that the proposed approach (development on the site's existing north field) would represent the least impactful and most beneficial approach, with reasons including:
- Segregation between the construction activity/traffic and school activity considered to be more achievable.
  - Limited impact on the school operations during construction.
  - Easier and better health and safety management during construction.
  - No requirements for temporary accommodation elsewhere (which could have been for a period of around 18 months while the new school was being built).
  - The two-storey approach maximises the useable outdoor space, as well as the available construction space.
- 10.39 Officers concur with the above, and agree that the proposed location is the most appropriate and logical, to ensure minimal disruption to the education of students. However, a comprehensive Phasing, including demolition, and Construction Management Plan, in the interest of securing appropriate provision and timings, ensuring resident amenity, and student safety is recommended via condition.

Urban design, including the historic environment.

- 10.40 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 and National Design Guide.
- 10.41 Consideration must also be given to the historic environment. The Birstall Conservation Area partly encroaches into the site (encompassing the caretaker's bungalow to the east) and runs along the north and east boundaries elsewhere. Furthermore, the residential properties New Hall and The Barn are located north of the site (on Nova Lane); each is Grade 2 listed, although The Barn is listed by association with New Hall.
- 10.42 Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduce a general duty in respect of listed buildings and conservation areas respectively. S66 requires the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. S72 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Additionally, LP35 and NPPF Chapter 16 outline the principle of development and restrictions for development in the historic environment. Chapter 16 requires great weight to be given to the conservation of designated heritage assets where a proposed development has impact of on the significance of the heritage asset (paragraph 199).
- 10.43 The NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 202 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.44 These policies require consideration of an identified heritage asset's specific heritage value. The applicant's Heritage Impact Assessment includes a detailed assessment on both the Conservation Area's significance and that of the listed buildings. The following is a summary of the significance of the listed buildings:
- New Hall has historic interest on the basis of its age as it is a Georgian house that helps illustrate the development of Birstall in this period. Notable significant design features include use of a traditional and restrained palette of materials (stone) and the polite symmetrical frontage of the house.
  - The converted barn retains the legibility of its former use and therefore retains some significance, albeit at a lower level compared to the house as it is a much-altered ancillary building.



- Historic maps suggest the site hosted an orchard / garden which may have been associated with New Hall. The presence of Nova Lane, separating the land, brings this into question however. If any connection existed, it has been lost through the construction of the school and the associated landscaping, with there being no visual historic association.

10.45 The following is a summary of the significance of Birstall Conservation Area, again as identified by the applicant's heritage impact assessment and using the Council's Birstall Conservation Area; Area Appraisal:

- Birstall is a fine example of an early Market Town which has evolved into a small textile town with its own identity, and not under the shadow of another place' and that 'The historic street pattern, the origins of which partly date from Roman times, still prevails. This street pattern is an essential component of Birstall conservation area and should be preserved in its present form.
- It can also be surmised that Birstall's significance derives from its diverse history of occupation, and its textile industry set within the varied topography of the Spen Valley. The main thoroughfare was designated a conservation area where many historic buildings portray vernacular architecture that includes local stone and slate roofing.
- There are important views that contribute to the significance of Birstall Conservation Area. Views within and along the High Street and Market Place, situated in the centre of Birstall, are important in understanding the form and layout of the village and inform the historical context of the village's thoroughfare. The topography of Birstall helps extend the key views and vistas, with the steep hill of Middlegate, along with the heightened grounds of St Peter's Church graveyard also providing raised views overlooking Birstall.
- The stone wall which borders the school from the conservation area acts as a visual barrier. Although the fabric of the school boundary wall is in keeping with the fabric found elsewhere in the conservation area, it also acts as an effective physical and visual barrier to the modern school buildings and modern landscape of the school site from the conservation area.

10.46 The identified elements which constitute the heritage value of the heritage assets will be considered, where necessary, throughout this assessment followed by a conclusion on whether the proposal prejudices the heritage value.

*Demolition of existing school*

10.47 The existing school was built circa 1960. It has limited architectural interest and is dated in appearance. Debatably its removal could be seen as a positive, as the current building is not attractive design, nor in keeping with the architectural design of the area. This is picked up within the applicant's HIA, where it is stated:

The reason why the school slightly impinges in views where it can be glimpsed derives from the extensive bright blue colour finish to cladding etc and the white finish to the heavy fascia boards to the flat roof, which is incongruous in this area where the colour palette is otherwise essentially natural, traditional and muted.

However, any harm from the school (as existing) is limited by virtue of the screening from other buildings, the stone boundary wall on Middlegate, and trees. Nonetheless, officers conclude that the demolition of the school causes no harm, either to visual amenity in general, or the historic environment.

#### *Erection of new school block*

- 10.48 The new school block is to be in the north half of the site, replacing the current pitch. The choice of location is directed by the need to build the new building while keeping the existing school open, as detailed in paragraph 10.35 – 10.39, to ensure continuous education of students. The loss of the open pitch, due to its limited prominence in the wider area, is not considered detrimental to visual amenity of the built environment, nor would it be harmful to any of the heritage assets.
- 10.49 The footprint of the new building would be kept a reasonable distance from the site's boundary and, importantly, the woodland buffer zones. None of the boundary trees are to be removed to facilitate the new building; those proposed to be removed around the new building are due to arboricultural grounds (tree health / safety etc.). Tree loss and replacement is considered further in paragraphs 10.63 and 10.64. By virtue of the topography, screening from trees, and existing built development, the school will continue to be well screened and have limited prominence in the area. The layout of the new building is considered acceptable.
- 10.50 The new school is to be two storeys with a parapeted flat roof, akin to the existing building. However, the new building would have an internal area 156sqm greater than the existing school (existing 1,454sqm, proposed 1,610sqm). This increased floor area is due to ensuring the new school complies with modern (Department for Education) school standards, that the existing school fails to comply with. This includes, but is not limited to, minimum classroom sizes, corridor widths, and teacher facilities. Discussions with the applicant has confirmed that the new building is as small as it can be, while complying with the Department for Education's modern space standards. Two storey buildings are typical in the area; however, the massing and footprint of the building would be larger than most structures in the area. Nonetheless, this is to be expected from a school building and that proposed is not substantially greater in size than the existing building on site and would not cause it to appear incongruous in the setting. The size and height of the building is deemed appropriate.

- 10.51 Officers have discussed the architectural features and materials of the building at length with the applicant, requesting several amendments from that initially proposed. Window locations are influenced by the internal layout, that is itself dictated by ensuring compliance with Department for Education standards. Overall window positions have been aligned where possible to ensure visually attractive vertical and horizontal alignment. Extruded brickwork around the windows has been used to reflect window alignment and add further design interest on elevations. Projections, both minor and more notable, are present on the larger west and east elevations, to add depth and visual relief to otherwise flat walls.
- 10.52 The building's rear elevation, the east elevation, would face towards Nova Lane and the heritage assets. As the rear elevation, the elevation is less articulated and somewhat plain. This led to initial concerns from the Conservation officers that there would be harm caused due to poor quality. Due to space requirements, the site's layout, and the building's internal layout, the east elevation being the building's rear is necessary. Through discussions mitigation has been incorporated, including adding an additional window and the above-mentioned extruding header brickwork. Metal cladding was removed. These improvements, plus the varied material pallet and depth, result in a simple, yet not unattractive rear elevation. By virtue of these changes, planning and Conservation officers are satisfied that there would be no material harm to the heritage assets.
- 10.53 Following amendments, the material pallet has been simplified, removing areas of metal cladding that were deemed incongruous and unattractive. The materials are now proposed as a mixture of predominantly buff brick, with detailing provided by darker tone bricks. Buff brick as the main material is considered appropriate: to the north / east buildings are predominantly stone, and those to the south / west are mostly red brick. Buff brick is considered a suitable transition material that compromises and suitably transitions between the two pre-existing material pallets. The use of darker tone bricks, in moderation, is considered acceptable to add architectural interest. A condition for samples of the materials, to ensure suitable quality end products are used, is recommended.
- 10.54 The roof is to include a green roof (vegetated base) and solar panels, modern features not typical in the historic environment. While Nova Lane, the Conservation Area, and Listed Buildings are on a higher ground level than the site, they are not so high to have a clear view of the (two storey) roof of the building. Views towards the solar panels and green roof would be further limited by the site's 1.4m high parapet, greater than the 0.8m high solar panels and nominal height of the green roof vegetation. Furthermore, the solar panels will be south facing, with Nova Lane / listed buildings to the north, preventing concerns of glint / glare. Such features are typical of modern developments and are welcomed; they would not harm the identified heritage values of the heritage assets.
- 10.55 Overall, officers consider the new block to be well designed, being an attractive building that would harmonise well with the character of the built environment. While a modern intervention, it is concluded that the building would not conflict or prejudice any of the considerations that form the heritage significance of the Birstall Conservation Area or adjacent listed buildings.

### *Works to boundary*

- 10.56 The site's boundary to Middlegate is a traditional natural stone wall, with stone copings, that is circa 1.8m in height. The point of vehicular access from Middlegate is a steel framed gate (painted blue). As noted in paragraph 10.45, this wall contributes to the heritage value of the Birstall Conservation Area directly. It also provides indirectly benefits, by screening and limiting views towards the school as exiting; if not present, the existing school's appearance would cause greater harm to views within and into the Conservation Area.
- 10.57 Notwithstanding its heritage value, the wall's height, and location results in very poor vehicle access arrangements for the school. This includes sightlines of 11m to the right and 31m to the left. The wall is to be partly demolished to improve the site's access and well as widen the footway around it, to improve pedestrian safety. This is considered further in paragraph 10.90, but in summary the alterations are a notable highway safety improvement.
- 10.58 The loss of the wall would cause harm to Birstall Conservation Area. However, it is proposed to re-build it, using natural stone (reclaimed from the existing wall, where possible). This includes the stone pillars and coping stones.
- 10.59 While the wall would no longer be original, the wall's construction and origin itself is not of heritage significance: it's the good design and quality that contribute to the conservation area, and indirectly its screening of the current school. These can be replicated through the re-building of the wall, while ensuring the public benefits to highway safety. Therefore, by virtue of the wall being re-built to the same quality (securable via condition), officers consider the impact to the Conservation Area to be neutral, while gaining notable public benefits.

### *Landscaping and other external works*

- 10.60 Existing ground levels are to be modified across the site to facilitate the development. This includes the existing playing pitch being raised, up to circa 2.2m, to form a level plateau to host the new building and the formation of a retaining wall within the south half (separating the car park from the play areas). While these level alterations are not insignificant, they will be well contained within the site. The changes will be largely imperceptible from outside the site, not resulting in impacts upon visual amenity. When viewed within the site, the level changes are part of the site's comprehensive re-development, are proposed to be addressed logically, and would not be visually unacceptable.
- 10.61 Fencing / walling along the site's boundary to neighbouring land is to be retained as existing. New fencing is proposed within the site to form secure perimeters (2.4m in height) around children play areas, with taller sports fencing around the outdoor play area (3.5m in height). Such fencing is typical for modern schools and around sports facilities, and raises no concerns.
- 10.62 Trees within the site are neither within a Conservation Area, nor benefit from a Tree Preservation Order. Nonetheless LP33 establishes principle to retain trees wherever feasible and, if removal is necessary, seek mitigatory re-planting.

- 10.63 The proposal's tree loss is kept to a minimum. In total four individual trees are to be removed and the partial removal of young trees within three tree groups are to be removed to facilitate the development. Notably, a mature ash and sycamore that are of good quality and amenity value alongside Nova Lane are to be felled. Their removal is necessary to enable the access road to the school. Relocating the access road further from the trees would require more substantial retaining works within the site and reduce the size of the children's play area. Officers consider the removal to be justified as it is expected that the road would lead to the school's frontage. As noted, the trees are not within the Conservation Area, but are adjacent to it: officers are satisfied that the minimal removal of trees on the boundary would not harm the identified heritage significance of the Conservation Area. Several other trees spread around the site are to be felled or require pruning works due to existing ill-health and safety. A condition requiring the development to be done in accordance with the submitted Arboricultural Reports is recommended.
- 10.64 A comprehensive landscaping strategy has been provided. In addition to low level planting throughout the site it includes 30 replacement trees, some within the Nova Lane tree-belt, others spread within the site. K.C. Landscaping consider the landscaping proposals to be acceptable (following amendments that removed potentially invasive species) in principle. However, specifics, such as species mixture and the size and species of the proposed trees have not been provided. A condition requiring full technical details and for the landscaping to be undertaken prior to occupation (within the first planting season) is recommended. No details on landscaping management and maintenance have been provided and are likewise required via condition.

#### *Summary of heritage impacts and urban design*

- 10.65 The proposed development is considered to have a neutral impact upon the identified heritage value of the nearby listed buildings. None of their fabric would be affected and the site is removed and isolated away from the listed buildings so as to not cause material harm to their setting.
- 10.66 While partly within and adjacent to the Birstall Conservation Area, subject to the site's boundary wall / access onto Middlegate being re-built to a suitable standard which is to be secured via condition, the proposal is considered to have a neutral impact on the identified heritage value of the CA.
- 10.67 For the reasons explored through this assessment, it is concluded that the proposal would not materially impact upon the features of nearby heritage assets that make them special (their heritage value). The proposed development is considered to promote good design which would respect and enhance the character of the townscape. It is therefore considered to comply with the objectives of Policies LP24 and LP35 of the Local Plan, and guidance within chapters 12 and 16 of the NPPF.

#### Residential Amenity

- 10.68 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.69 Residential properties are located surrounding the site in each direction.

- 10.70 Residential properties on Nova Lane to the east are at a higher ground level than the site. The minimum separation distance would be 26m. This distance, plus the lower ground level and intervening woodland, is considered sufficient to prevent materially harmful overbearing, overlooking, or overshadowing.
- 10.71 Properties to the west are on Kings Drive and back onto the site, with 22 houses sharing a boundary with the site. Of these 22, approximately seven would be in-line with the new school. These dwellings are on a lower ground level to the site, with the difference to be further increased due to the proposal seeking to raise the site's ground level by up to 2.2m, to facilities a level plateau for the new school. As a result, the proposed school would be at a notably higher ground level than the properties on Kings Drive. The proposed building is, although only two storeys, larger in mass compared to the predominant domestic scale properties in the area.
- 10.72 The minimum separation distance between the new school and properties on Kings Drive is 30m. Under a 'clear earth' scenario (i.e., removing existing vegetation and buildings), the new school would be prominently visible from the rear elevation. Given its location and height, it has the potential to be prominently visible. The visibility would however be reduced by the site's boundary tree belt, which varies between 10 and 14m in thickness. This is a substantial boundary that would reduce the prominence and visual impacts of the new school.
- 10.73 Giving due regard to the separation distance and mature woodland boundary, officers are satisfied that, when viewed from the rear windows and gardens of properties on Kings Drive, the new school building would not appear overbearing, in a way that would detract from the amenity value of occupiers. These mitigating factors likewise prevent concerns of overlooking upon existing residents, or harmful overshadowing by virtue of the new school being to the north and north-east.
- 10.74 Turning to other physical works, such as the retaining wall to form the access road, and fencing within the site, these are smaller scale, contained within the site and well removed from 3<sup>rd</sup> party dwellings. As such, they are not expected to cause harmful overbearing, overlooking, or overshadowing. Fencing etc. on the boundaries are to be retained as existing, which is securable via condition.
- 10.75 Due regard must also be given to sources of environmental pollution, including noise, odour, and light.
- 10.76 A school would be considered a potential noise pollutant, attributed to children at play. However, it must be acknowledged that the site is an existing school and therefore, for parts of the site at least, there would be no material change in circumstances or a reduction in noise. This includes the southern portion of the site, which currently hosts outdoor play and would remain so. The northern part of the site, being grassed, hosts infrequent PE use but is now proposed as the main nursery and reception play area. For this nursery and reception play area it has been identified that, in the worst-case scenario, proposed typical playground sound levels may be expected to be up to 10dB higher than existing typical playground sound levels at the nearest noise sensitive receptors. A 10dB level above background is considered by guidance to *'likely be an indication of a significant adverse impact'*. Officers asked the applicant to consider methods to manage and/or mitigate the noise impact.

10.77 The applicant gave regard to an acoustic fence. Various locations for the fence were considered, including along the schools' frontage, within the woodland or upon the boundary with neighbouring properties: these were discounted due to impacts on the woodland, use of the school and/or the amenity of neighbours. The applicant confirmed that, to achieve the required noise mitigation, a 3.0m high acoustic fence would be needed around the nursery play area. However, this too was deemed undesirable, with the applicant commenting:

*Overall, we believe that the proposal to enclose the Early Years / reception play area with a 3-metre acoustic fence to reduce noise for neighbouring properties would greatly reduce the value of the Early Years / reception play area. This space is such an important facility in the development of these young people's education and it needs to be designed as such. It provides fresh air and outdoor space with a direct connection to the surrounding nature, something that this site is fortunate to have in abundance. The appreciation and enhancement of natural areas, and the health and wellbeing link we increasingly acknowledge these areas to have is a key priority on most new build schemes and for most local authorities. The design team have worked hard to retain the existing trees and vegetation and integrate the proposed school into these areas.*

10.78 Officers do not disagree with the above, and conclude surrounding a nursery play area with 3.0m high fencing would not be conducive to a healthy and attractive play environment to young children. As physical mitigation measures are undesirable, consideration was given to management measures.

10.79 The applicant raises that the 10db raise is 'worst case scenario', and likely to typically be lower. They also note that the use would be limited to school times (0835 – 1500), and only certain controlled times within the day. These are:

- 0930 – 1000 Structured Play
- 1020 – 1055 Structured Play
- 1200 – 1230 Lunch Time
- 1330 – 1430 Structured Play

The above are subject to weather and the majority of the above are 'structured play', which the applicant defines as:

*It should be noted that structured outdoor play is very different from normal play times. Firstly, the numbers of children outside at any one time is smaller than during normal lunch time play when more children are outside. Secondly, the type of play is structured and fully supervised by adults at all times. The activities involved in the structured play and the numbers of children participating in the activities would result in much lower noise levels than during normal play times. Essentially, the outside areas used during the structured play are more akin to an outdoor classroom rather than a 'playground'.*

10.80 Preventing any outdoor play in the north of the site is impracticable and it is undesirable to have nursery / reception children with or near older children. Therefore, an alternative location for the play area is not feasible. Ultimately a balanced decision must be reached on this issue, weighing the proposal's benefits to children vs the potential impacts to residents.

- 10.81 The benefits of good outdoor facilities to children are important and, as per the NPPF, great weight should be given to supporting education facilities. In regard to the impact on neighbours, it has the potential to result in harm, although the harm would be during limited windows during school time and the work week only. Officers propose a condition which allows the school to operate for 12 months without dedicated physical mitigation measures. This is to demonstrate whether their source management measures are successful. If, after the 12 months, complaints and/or issues of nuisance have been identified then a further scheme of mitigation measures (which may or may not require acoustic fencing) would be sought. Officers consider this condition to be a reasonable compromise, balancing the needs of education and the children alongside reasonable protection for residents.
- 10.82 The proposal includes 3.5m high weldmesh ball-stop fencing to the outdoor PE area: K.C. Environmental Health recommend a condition to ensure this is installed in accordance with the Design Guidance Note from Sport England - Artificial Grass Pitch (AGP) Acoustics - Planning Implications document. This is to ensure ball strike does not cause loud vibrating noise. Another condition, limiting the noise of the site's roof plant, is also requested.
- 10.83 The new block would include dining and kitchen areas for students / staff and therefore would involve the preparation and cooking of food. As there is existing residential amenity nearby, there is the potential to generate odours that may have an adverse impact on the amenity at nearby properties. A condition relating to odour management and mitigation is recommended to ensure no harmful odour pollution is caused.
- 10.84 A lighting plan has been provided; however, it does not go into sufficient detail and only defines lighting 'zones'. It does not provide detail Lux details. Lighting plans must balance the considerations of ecology, safety, and amenity. A condition for such a lighting plan is therefore recommended.
- 10.85 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.
- 10.86 In summary, subject to the proposed conditions, the proposed development is not considered materially detrimental to the amenity of neighbouring residents. the application is deemed to comply with LP24 of the Kirklees Local Plan

#### Highway

- 10.87 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.



- 10.88 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.89 Consideration is first given to traffic generation. As the site is already run as an education facility, the use is established as is its level of traffic movements. The proposal would result in a net increase of 156sqm of educational floor space at the school. However, the proposal is not intended to increase either student or staff numbers, which are currently 210 pupils for ages 4 to 11 years and 26 FTE nursery places, plus 31 members of staff. The additional floorspace is to comply with modern spacing standards that the existing school falls below. Given that the applicant's assessment is based on there being no material change, it is recommended that the retention of the existing maximum student and staff numbers be secured via condition.
- 10.90 Vehicular access to the site is to remain via the current point onto Middlegate. However, the current access is to be improved. The width of the access is to be increased from 5.0m to 7.5m. The sightlines would be increased from 11m (right) and 31m (left) to 28m (right) and 43m (left). The 28m to the right remains below standard but is as high as can reasonably be achieved without requiring substantial groundworks that would have knock on affects to adjacent land / buildings. The increase in the sightlines is notable and is considered acceptable. As part of the access improvement works the width of the pavement on Nova Lane would be increased to 2m where feasible (due to avoiding root protection areas and again working within topography constraints) around the entrance, to the benefit of pedestrians.
- 10.91 The above works require the demolition and/or partial re-construction of the existing boundary wall. These works and their implementation are to be secured via condition.
- 10.92 Regarding parking, the school currently has 10 formal parking spaces. Informally, these are often doubled up via tandem parking. The car park is for staff use only and no drop-off/pick-up facility are provided on site. The proposal would increase the number of parking bays to 12. The Council do not hold parking standards for schools, requiring a case-by-case assessment. Officers and K.C. Highways are of the view that 12 parking spaces (with the informal option of tandem parking remaining) is insufficient for a school of the proposed size. Conversely, 12 spaces do represent an increase over the existing situation, while the number of staff is not to increase. Limitations on providing further additional parking include the shape of the land, ensuring adequate outdoor space, and the need to install retaining structures for levels. Given the proposal would not increase the number of students or staff, while the low level of parking is noted, officers are satisfied further parking cannot be reasonably accommodated and the proposed level of parking is on balance considered acceptable.

- 10.93 The current school has no dedicated student drop off / pick up facilities. This remains the case for the proposed development. Officers have discussed this with the applicant and concede there is no feasible method of achieving on-site student drop-off and pick up due to site constraints.
- 10.94 At present student pick up / drop off takes places on local roads, principally Kings Drive to the site's south where the school has a secondary pedestrian access. The Council's Highway Safety do however have records of incidents caused by parents using Nova Lane, which is narrow and deemed unsuitable for such use, as well as on Kings Drive due to poor parking and conflicts with residents. Officers have raised concerns over this matter to the applicant, seeking measures to control parent parking on Kings Drive and Nova Lane. The applicant has refused, stating these are existing issues that would not be materially affected by the development, due to the number of students and staff remaining the same.
- 10.95 While the applicant's argument is noted, ultimately officers disagree and consider assessment of parent parking's impact on the local road network and, if necessary, mitigation measures to be reasonable. It is proposed that this be secured via condition. This is in the interest of highway safety and ensuring the proposed development has appropriate access arrangements. The school's current access arrangements are poor and well below modern expectations. As per Highway Safety's data, it is evident that there is an existing access issue that the proposed development would propagate if not addressed. As a current application the proposal is being assessed against modern policy and therefore appropriate access arrangements must be secured.
- 10.96 In terms of sustainable methods of travel, the site is an existing school and the proposal would not represent a material intensification in use given that staff and student numbers are to remain the same. However, the application is supported by a Travel Plan. This proposes a 10% modal shift over 5 years away from car movements, with measures including (but not limited to):
- The TPC will issue walk isochrones to staff and parents/guardians of existing/prospective pupils, to demonstrate to staff and pupils how long walk trips to/from the Site may take. The TPC will also promote the health and wellbeing benefits of regular walk trips to staff and pupils.
  - St Peters C of E Primary School is currently signed up to the Living Street WOW initiative. Living Streets is the UK charity for everyday walking. 'WOW the Walk to School challenge' requires children to log their method of travel to school through an interactive WOW travel tracker. Children that undertake journeys by walk/wheel, cycle or scoot, once a week for a month are rewarded with a badge. The scheme also includes Park and Stride journeys where parents/guardians park further from the school and undertake a walk trip (typically 5 to 10 minutes) to the school gates. This helps to reduce congestion and pollution in the vicinity of the school and incorporates a walking trip to the school.

- Bikeability and Scooter training is currently provided by the school. Pupils are required to pass level 2 of the Bikeability course in order to cycle to school. This training will continue to be offered at the new school to provide positive encouragement for pupils to cycle to school.
- Promotional events and literature will be arranged by the TPC, to encourage cycling, and emphasising the health benefits
- The TPC will provide information staff and parents/guardians regarding the routes and frequencies of bus services calling at these stops, including highlighting services that are useful for school start and finish times
- The new staff/pupil Induction Pack prepared by the TPC, and issued to all new staff, and parents/guardians of pupils new to the school will include information on bus services. This will include bus stop locations, routes & destinations, and frequency of services.

10.97 A condition requiring the development to operate in accordance with the travel plan is recommended.

10.98 Notwithstanding the above, the proposed cycle parking is deemed insufficient. The proposal includes 12 cycle parking spaces as Sheffield stands, which is considered inadequate. National cycle guidance LTN 1/20 suggest a rate of 1:20 cycle spaces per staff, and 1:10 for students at all educational institutes. This would equate to 22 cycle spaces. Acknowledging however, that this site is a primary / nursery school, as opposed to high school or college, where student cycling is expected to be lower, a minimum provision of 18 spaces is deemed a reasonable compromise. Furthermore, these must be adequately secure from crime and the elements. Therefore, a condition for details of a minimum of adequately secured 18 cycle parking spaces is recommended.

10.99 Servicing of the site includes twice weekly refuse collection and daily food deliveries. At present, delivery and refuse vehicles access the site and require complicated turning manoeuvres within the small car parking area.

10.100 The proposal includes dedicated turning facilities for service vehicles. For most vehicles the on-site turning is acceptable. However, the swept path plan shows that an 11.85m refuse vehicle turning would encroach nominally on a pedestrian area. In mitigation the applicant has said:

*there are bollards to demarcate the actual pedestrian walkway adjacent to the building which does not stray into the bin waggon overrun areas, and you will also note that the secure fence line position means that school children would actually have no access to the school drive area / turning head*

The applicant considers the arrangements to be acceptable. Furthermore, they highlight that the overlap is nominal and a vast improvement over the current arrangements. However, they have stated it may be feasible to accommodate turning and intends to provide an updated swept path plan, but it would likely reduce the size of the play area and is not their preference. An alternative that officers would consider appropriate would be a condition for a refuse collection plan, to ensure refuse collection takes place in a way that ensures no risk to pedestrians / students. Further details shall be provided in the update to members.

- 10.101 Given the scale and nature of the development, officers recommend a Construction Management Plan be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works.
- 10.102 In summary, subject to the recommended conditions, officers are satisfied that the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan.

#### Drainage and flood risk

- 10.103 The application is supported by a comprehensive Flood Risk Assessment and Drainage Strategy which has been reviewed by the Lead Local Flood Authority.
- 10.104 The site is within Flood Zone 1. Appropriate regard has been given to whether other potential sources of flooding exist; these have been discounted. Due regard has also been given to surface water flood routing (exceedance event) through the site.
- 10.105 A detailed drainage strategy for the development has been provided and is considered acceptable by LLFA officers. The proposed attenuation tank, point of discharge, and discharge rate comply with relevant guidance and policy and are acceptable. Their implementation may be secured via condition.
- 10.106 As the site falls under a single ownership, management and maintenance responsibility will rest with the land owner and a S106 for a management company is not deemed necessary. The submitted FRA and Drainage Strategy includes management and maintenance details for the abovementioned future drainage infrastructure, which is welcomed.
- 10.107 A Temporary Surface Water strategy has been provided up front and the LLFA confirm it is to be acceptable. Likewise, a condition requiring adherence to it is recommended.
- 10.108 The proposal includes large cooking facilities. K.C. Environmental Health and Yorkshire Water have requested that a condition be imposed requiring details of grease / fat traps be imposed which officers support as a recommendation.
- 10.109 The proposal is considered to comply with the aims and objectives of LP27 and LP28.

## Ecology

- 10.110 The Ecological Impact Assessment (EclA) provides a comprehensive assessment of the site, laying out the potential impacts on the habitats and species at the site, brought about by the proposed development. The habitats on site consist of the school buildings and associated playgrounds, car parking and introduced planting. Small areas of grassland and woodland are present at the site, providing much of the boundary habitats. Overall, the habitats on site are common and widespread. There will be a low impact on the woodland through pruning and the loss of trees, as detailed in paragraph 10.63 to accommodate the development and new access road, however most of the trees and woodland will be retained. Given the availability of habitats within the wider area, comprising gardens and large areas of grassland and woodland to the north, east and west, it is considered that the loss of these small areas of habitat will have a minimal ecological impact.
- 10.111 The EclA determines that the site provides minimal opportunities for protected species, however, significant vegetation removal/pruning has the potential to disturb nesting birds, therefore it is recommended that this is completed outside of the bird breeding season, securable via condition. The EclA lays out a number of mitigation and enhancement measures, which can be secured via a suitably worded condition.
- 10.112 Stray light pollution may impact on the habitat value of adjacent woodland. While some lighting details have been provided, they do not provide a detailed lux plan. A condition for a detailed lighting assessment, which will also need to consider amenity and security, is therefore recommended.
- 10.113 The above considers the proposal's direct impacts on local habitat and species. Policy also requires development to result in a net gain to local ecology, in this case a 10% gain using the DEFRA Metric. Following amendments and further details being provided, the applicant has confirmed that the development can deliver the 10% net-gain on site (negating the need for delivery in the area and/or an off-site financial contribution) the delivery of the 10% is to be secured via condition.
- 10.114 Subject to securing the above-mentioned conditions, officers consider that the proposal would comply with the aims and objectives of Policy LP30 of the Kirklees Local Plan.

## Other Matters

### *Air quality*

- 10.115 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.116 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 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 on new development that includes car parking. The purpose of this is to promote modes of transport with low impact on air quality.

10.117 The applicant has proposed the delivery of two EVCP. Of the 14 parking bays (inc. two accessible bays), this represents a delivery of 15%, which is considered acceptable. No details of specifications have been provided, therefore a condition securing a minimum delivery of two EVCP, at an appropriate specification, is recommended.

10.118 Subject to a condition requiring this provision, the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

#### *Contaminated land*

10.119 Due to the scale of the development and sensitive end users, due regard must be given to ground contamination.

10.120 The applicant has submitted Phase 1 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, it identifies that a Phase 2 report is required to further investigate and, if necessary, identify necessary remediation measures. Accordingly, Environmental Health recommends 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 LP53.

#### *Crime Mitigation*

10.121 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to site security, rear access security and boundary treatments. Some of these comments, such as fencing location and design, are material considerations to planning. These have been considered by the applicant and incorporated through the amendments.

10.122 Further details on lighting are required and must appropriately balance impacts on the amenity of neighbours, ecology, and security. While some details of lighting have been provided, they are insufficient in detail and are to be sought via condition.

10.123 Other comments, such as window specifications and locks, go beyond the remit of planning and are not to be secured via condition. Nonetheless, the applicant has been aware of the advice.

10.124 For the reason given above, officers are satisfied that the proposal, subject to condition, complies with the aims and objectives of LP24(e).

#### Representations

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

- Perimeter fencing should be green, to blend in with the trees.

**Response:** No new fencing is proposed around the site. Fencing is proposed within the site, but away from the boundary. Insisting on new fencing being green in colour is unnecessary.

- Existing trees on the site need to be cut back and managed on shared boundaries and Nova Lane. Some are covered in Ivy and are dying, leading to safety concerns.

**Response:** Tree management such as the above goes beyond the remit of this application.

- The new building is close to many trees, which will result in tree nuisance and will damage the school in short order.

**Response:** This is deemed a management and maintenance issue for the applicant and outside the remit of the planning application.

- Surrounding roads should be limited to 20mph.
- Local bus stops should be improved to promote bus use.

**Response:** Such works are not considered reasonable or necessary to make the proposal acceptable in planning terms.

- The school building would cause overlooking of neighbouring land. The tree-belt is nearly all deciduous trees so offer limited screening in winter months. None of the new planting within the tree-belt is ever-green, so would not address this.

**Response:** This is noted. While the tree-belt is helpful mitigation, ultimately officers consider the separation distance sufficient in its own right to prevent harm.

## 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 site is Urban Green Space, which the proposal would result in the partial loss of. The proposal therefore represents a departure from the Local Plan. Planning permission decisions must be taken in accordance with the development plan, unless there are material considerations that indicate otherwise. In this case the harm of this loss is minimal and the public benefits of the proposal, to local education, are considered to clearly outweigh the harm caused. Therefore, the principle of development is deemed to be acceptable.

11.3 The site is adjacent to heritage assets. Nonetheless, the proposal is considered well designed and attractive. It would not therefore harm the historic environment and would harmonise well with the built environment.

11.4 Subject to the conditions referenced through this assessment and listed below the proposed development is not deemed harmful to the amenity of 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.

11.5 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.

**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. Solar panels to be provided as proposed
4. Phasing strategy to be provided
5. Construction Management Plan to be provided
6. Solar panels to be provided.
7. Condition for materials to be provided.
8. Boundary stone wall to be re-built, with access improvements.
9. Works to be done in accordance with Arb reports
10. Landscaping strategy to be submitted and implement in first season after occupation
11. Landscaping management and maintenance to be provided.
12. Fencing / boundaries to be done in accordance with plans.
13. Odour mitigation plan
14. Review of noise mitigation measures after 12 months.
15. 3.5m high weldmesh ballstop Design Guidance Note from Sport England Artificial Grass Pitch (AGP) Acoustics
16. Roof plant noise limit.
17. Staff and student maximum numbers
18. HW survey of local road network and parent parking habits. If necessary, mitigation to be implemented.
19. Development to operate in accordance with travel plan
20. Details of minimum secure 18 cycle parking spaces to be provided.
21. Drainage system to be installed in accordance with approved details.
22. Temporary surface water to be managed in accordance with submitted details.
23. Kitchen discharge to go via fat / grease trap.
24. Lighting strategy to be provided (ecology, amenity, and security).
25. Site clearance outside of bird breeding.
26. EclA enhancement measures to be implemented.
27. 10% net gain to be delivered on site.
28. Contaminated land investigations
29. Minimum two EVCP to be provided at required spec



## **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

### STRATEGIC PLANNING COMMITTEE

**Date: 03-Aug-2023**

**Subject: Planning Application 2023/90509 Erection of 2 storey, 5 classroom teaching block including toilet facilities and staff / store rooms North Huddersfield Trust School, Woodhouse Hall Road, Fartown, Huddersfield, HD2 1DJ**

#### APPLICANT

Joe Tingle, KSSL,  
Kirklees School Services  
Ltd

#### DATE VALID

10-Mar-2023

#### TARGET DATE

05-May-2023

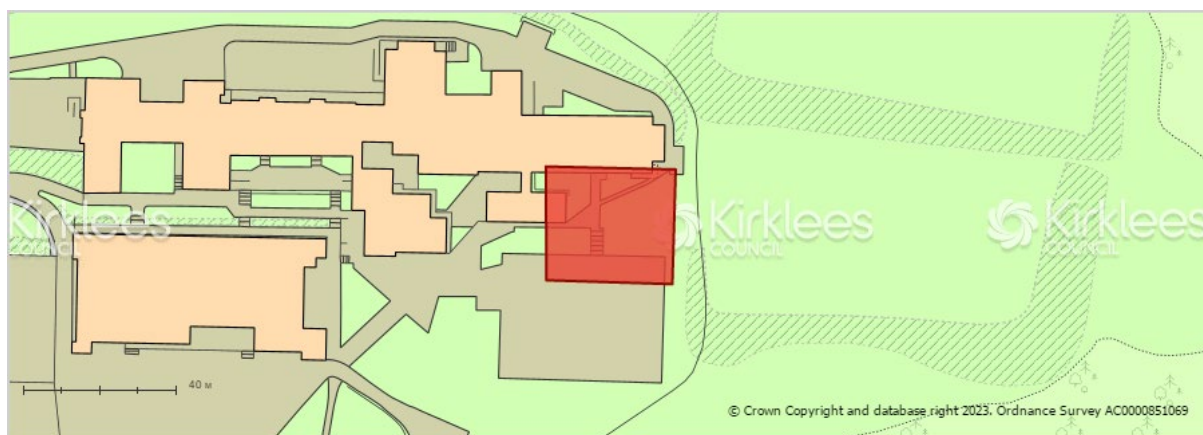
#### EXTENSION EXPIRY DATE

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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: Ashbrow**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

1. Off-site highway works for junction improvements to Woodhouse Hill junction – contribution of £50,000.

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

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission (reference 2023/90509) for the erection of a 2 storey 5 classroom teaching block including toilet facilities and staff / storerooms at North Huddersfield Trust School, Woodhouse Hall Road, Fartown, Huddersfield, HD2 1DJ.
- 1.2 The application is brought to Strategic Committee for determination as the proposal seeks a departure from the Local Plan, in accordance with the requirements of the Scheme of Delegation to Officers as the site is within a designated area of Urban Green Space (UGS) within the Local Plan.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site relates to North Huddersfield Trust School, Woodhouse Hall Road, Fartown, Huddersfield, HD2 1DJ.
- 2.2 The application site relates to the North Huddersfield Trust high school, the site is made up of a number of buildings and structures used to support this education facility. The site is accessed from Woodhouse Hall Road to the west. To the north, east and south of the school is open undeveloped land identified as urban green space. To the west are residential properties/Astley Grange Care Home.
- 2.3 The application site is not located within a Conservation Area or in close proximity to any Listed Buildings.

### **3.0 PROPOSAL:**

- 3.1 The application seeks planning permission for the erection of a 2 storey 5 classroom teaching block including toilet facilities and staff / store rooms.
- 3.2 The proposed teaching block is to be located to the south of the existing school and is to measure approximately 16.4m x 13.8m, with a ridge height of 8m. The block will appear as a two-storey building when viewed from east, west and south. When viewed from the north, the block will appear as a single storey structure, this is due to the differences in ground levels at the site.
- 3.3 The materials proposed within the new teaching block include red brickwork to closely match the existing buildings, areas of rendered walling (to the first floor) and a grassed (blue roof system) to aid drainage and water collection on site. Windows and doors are to be made from PPC aluminium.

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

- 4.1 2014/94019 – Erection of trampoline centre. Approved 18<sup>th</sup> March 2015.
- 4.2 2011/92237 – Erection of signs. Approved 31<sup>st</sup> October 2011.
- 4.3 2008/90289 – Erection of perimeter fence. Approved 14<sup>th</sup> March 2008.
- 4.4 2000/92899 – Erection of extensions to dining hall and sports hall and external alterations. Approved 11<sup>th</sup> December 2000.
- 4.5 89/00782 – Erection of satellite dish receiver. Approved 31<sup>st</sup> March 1989.
- 4.6 87/05345 – Reinstatement of fire damaged areas of school. Approved 31<sup>st</sup> December 1987.

#### Pre-application Advice

- 4.7 2022/21388 – Pre-application for classroom/staffroom/storerooms. Comments made 28<sup>th</sup> March 2023 to close the pre-app due to a full planning application being submitted to the Council.

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

- 5.1 Additional information has been requested in respect of air quality, following on from comments received from the Council's Environmental Health Officers. The applicant's agent sought to submit an Air Quality Assessment on the 26<sup>th</sup> June 2023.

### **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).
- 6.2 The application site is located within Urban Green Space, Coal Referral Area and a Bat Alert Area.

### 6.3 Kirklees Local Plan (2019):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP24 – Design**
- **LP30 – Biodiversity & Geodiversity**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP49 – Educational and Healthcare Needs**
- **LP50 – Sport and Physical Activity**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – Contaminated and Unstable Land**
- **LP61 – Urban Green Space**

### 6.4 Supplementary Planning Guidance / Documents:

- Kirklees Highways Design Guide (2019)

### 6.5 National Planning Guidance:

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

### 6.6 Climate change

6.7 The council approved Climate Emergency measures at its meeting of full Council on 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.

6.8 On 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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

## 7.0 PUBLIC/LOCAL RESPONSE:

### Parish/Town Council

7.1 N/A.

### Local Ward Members

7.2 None.

### Representations

7.3 Final publicity date expires:

Neighbour Letters – Expired 18<sup>th</sup> April 2023.

Site Notice – Expired 21<sup>st</sup> April 2023.

Press Notice – Expired 14<sup>th</sup> April 2023.

No representations have been received to date.

**Officer note:** This application has been advertised by site notice and press notice in line with the legal statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. This is due to the site being a departure from the Kirklees Local Plan.

## 8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

**The Coal Authority** – Comments received 3<sup>rd</sup> April 2023. The Planning team at the Coal Authority considers that the content and conclusions of Phase 1 Environmental Desk Study Report (C1349/22/E/3839, June 2022) are sufficient for the purposes of the planning system in demonstrating (based on the professional opinion of Rogers Geotechnical Services Ltd) that the application site is safe and stable for the proposed development (NPPF paras. 183 and 1884). The Coal Authority has no objection to the proposed development but does recommend the inclusion of informatives which relate to any unexpected encounters of coal mining features and SUDS.

**Health and Safety Executive** – Comments received 27<sup>th</sup> June 2023. HSE do not advise on safety grounds, against the granting of planning permission in this case.

**Sport England** – Comments received 30<sup>th</sup> March 2023. No objections.

**KC Highways Development Management** – Comments received 11<sup>th</sup> April 2023. Highways officers did raise initial concerns relating to the existing Woodhouse Hill junction and considered there to be a link between the school and the pupils and the collisions that have occurred at this location therefore deeming the submitted Transport Statement to be unacceptable and that mitigation works to try and improve this junction are considered to be appropriate.

**Officer note:** Following on from the above comments, the applicant has confirmed that they will pay a £35000 contribution to a scheme of mitigation works at the Woodhouse Hill junction. Therefore, the proposals are considered to be acceptable to highways Officers subject to conditions relating to mitigation works, the submission of a construction management plan and a travel plan.

**Officer note:** Following discussions with the highway safety team it was noted that the original suggested contribution of £35,000 was an error and the actual contribution was to be £50,000, this was due to changes to a couple of features which included a small amount of additional work and down to the increase in the cost of materials and plant. Officers are awaiting confirmation from the applicant in regards to this increased contribution.

## 8.2 **Non-statutory:**

**DOCO** – Comments received 24<sup>th</sup> May 2023. No objection to the principle of development however concerns and comments were made in regard to lighting, windows and glazing, doors and their locking systems, CCTV and alarms and cycle and motorcycle storage facilities.

**Officer note:** Following receipt of the above comments the applicant's agent provided updated information to overcome Officers concerns, this includes the below documents:

- Response Letter dated 26<sup>th</sup> May 2023 – ref RB/BC.HUD.2022.00040.005/05.
- Proposed Gen & Emer Lighting Layout East & West Elevations – Drawing No. 6304 Rev T1.
- Proposed Gen & Emer Lighting Layout North & South Elevations - Drawing No. 6202 Rev T1.
- Pure Commercial Door System – Section L20 (NBS).
- Pure Top Hung Open Out Casement Windows – Section L10 (NBS).
- Proposed Security Systems Installation Lower Floor – Drawing No. 6901 Rev T2.
- Proposed Security Systems Installation Upper Floor – Drawing No. 6902 Rev T1.
- H11/L40 – NBS Spec Clause – Project Reference – North Huddersfield Trust School – AHR.

DOCO Officers have reviewed the above documents and proposed security measures and agree that they are proportionate and satisfactory and therefore they have no further comments to add to this application for the security of the premises.

**KC Ecology Unit** – Comments received 5<sup>th</sup> April 2023. Whilst a Preliminary Ecological Appraisal Report (PEAR) has been submitted, alongside a Biodiversity Net Gain calculation Officers require the submission of the applicants preferred option to deliver the net gain, whether this be on site through updating the landscaping scheme in accordance with the recommendations within the PEAR or through an off-site contribution.



**Officer note:** The applicant has submitted an updated site plan which shows a green roof system to the teaching block, the installation of 2 bat boxes and the inclusion of additional planting to the south. They have also provided a supporting biodiversity net gain statement. These documents are currently under review by the Council's Ecology Officer, their comments will be outlined within the committee update.

**KC Environmental Health** – Comments received 30<sup>th</sup> March 2023. No objections subject to the submission of an air quality screening assessment which is to be submitted prior to a decision being made on the application. Conditions and informatives are also recommended in respect of contaminated land, noise impact assessment and a Construction Environmental Management Plan.

**Officer note:** Following receipt of the above comments the applicant's agent sought to submit an Air Quality Assessment. The Council's ENVH team assessed this report and concluded that they agree with the methodology and conclusions of the report for both the construction and operational phases and therefore raise no objections subject to a revised Construction Environmental Management Plan condition.

**KC Trees (informal)** – Comments received 18<sup>th</sup> July 2023. Officers objected to the proposals due to a lack of information provided in respect to the trees located to the east of the proposed building. The proposals potentially impacted upon these trees both directly and indirectly and therefore further information was required in the form of an Arboricultural Impact Assessment.

**Officer note:** Following discussions between the applicant's agent and trees officer it has been concluded that with the provision of conditions relating to the submission of an Arboricultural Method Statement and a detailed planting scheme the proposals are, on balance, acceptable and therefore the trees officer removes their objection.

**KC Policy** – Comments received 3<sup>rd</sup> April 2023.

*"The application site is located within the North Huddersfield Trust School complex. The school buildings associated school grounds and playing pitches are allocated as urban greenspace on the Kirklees Local Plan site (site UG48).*

*The proposal is for the erection of a 2 storey, 5 classroom teaching block including toilet facilities and staff store rooms to accommodate an increase in pupil numbers and is to be developed adjacent to the existing school building within the school grounds. The application compromises part of a grassed banking with paved footpaths which provide links between school buildings.*

*Local Plan Policy LP61 (Urban Green Space) does not allow for development proposals which would result in the loss of urban green space unless specific exceptions can be met. The policy states that:*

*"Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:*

- a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*
- c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.*

*The protection set out in this policy also applies to smaller valuable green spaces not identified on the Policies Map.”*

*The proposal would result in the minor loss of an existing green space within the school grounds and when assessed against the criteria set out in Local Plan policy LP61 it does not accord with this policy as the land is not surplus to requirements nor is the proposal providing replacement green space or for an alternative open space use. Whilst the loss of green space is not significant it nevertheless represents a departure from the development plan.*

*In addition, Local plan policy LP49 states that proposals for new or enhanced education facilities will be permitted where ‘the scale, range, quality and accessibility of education facilities are improved’. It is considered that the proposal is in accordance with LP49 in that the new building would enhance the education facilities at the school.*

*Consideration will need to be given to whether the circumstances of the proposed development constitute material considerations and what weight can be attached to those, given the UGS allocation in the development plan. The proposed building is providing additional teaching facilities for the school to be able to accommodate an additional 150 students. The development is to be located on amenity space and would not result in the loss of or have a detrimental impact on sport provision or recreational space at the school.*

*The loss of green space needs to be weighed against the benefits of the proposal. The NPPF (para 95), which is a material consideration, states it is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting the requirement, and to development that will widen choice in education. As set out in point (a) of para 95, Local Planning Authorities should give great weight to the need to create, expand or alter schools through decisions on planning applications.*

*In this case, the benefits of providing new teaching accommodation will facilitate the continued operation of the school providing expanded and enhanced educational provision to accommodate an increase in pupil numbers which will significantly outweigh the minor loss of some amenity green space”.*

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Other matters
- Conclusion

## 10.0 APPRAISAL

### Principle of development

#### *Sustainable Development*

10.1 Paragraph 7 of the National Planning Policy Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 goes on to note that achieving sustainable development has three overarching objectives (social, environment and economic), and these are interdependent and need to be pursued on mutually supportive ways.

10.2 In line with the National Planning Policy Framework, Policy LP1 of the Kirklees Local Plan declares that:

*“...the council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF”.*

10.3 Policy LP2 of the Kirklees Local Plan states: *“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 boxes set out in the Local Plan”.*

10.4 The site is within the Huddersfield sub-area. The listed qualities will be considered where relevant later in the assessment.

#### *Urban Green Space/Education Facility*

10.5 The application site is located within an area defined as Urban Green Space within the Kirklees Local Plan. As such, Chapter 8 of the NPPF and Policy LP61 of the Kirklees Local Plan applies. Policy LP61 of the KLP states the following:

*“Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where:*

- a) An assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or*
- b) Replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or*

- c) *The proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space”.*
- 10.6 The text supporting this policy outlines that: *“Green spaces close to where people live provide opportunities for sport, recreation and play providing enjoyment, encouraging healthy lifestyles and benefiting mental well-being. They are also an essential component of the quality and local character of areas, providing visual amenity and wildlife value”.*
- 10.7 Paragraph 98 of the NPPF, which recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of local communities. Furthermore, within paragraph 99 of the NPPF, it is clear that existing open space, sport and recreational facilities should not be built on unless:
- A) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
  - B) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a sustainable location; or
  - C) The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
- 10.8 In light of the above, no further information has been provided as to how the proposal would specifically address the criteria as set out within Policy LP61 of the Kirklees Local Plan and Paragraph 98 of the NPPF. However, within the submitted Design and Access Statement the agent has set out that the school has been chosen to provide additional pupil places and as a result there is now a requirement to provide an additional 5 no. classrooms and associated toilet and staff departmental provisions. It is also highlighted that this scheme has been deemed a high priority by the Local Authority and has been indicatively programmed for delivery required by summer 2024. Whilst the proposals would be located across a small area of grassland, the Design and Access Statement does outline that due to the steep banking this area is currently unused and that there would be no loss to any sports or recreation space.
- 10.9 From a site visit undertaken by Officers on the 28<sup>th</sup> March 2023 it was clear to see that this site relates to a portion of steep embankment, which whilst partially grassed over would not, and is not used for sport or recreation, and therefore the proposal is not considered to result in the loss of land for such activities. Of note, Sport England were also consulted on the proposals and raised no objections as the proposed development affects land which is incapable of forming part of a playing pitch and therefore does not reduce the size of any playing pitch or result in the inability to use any playing pitch, prejudice the use of any remaining areas of playing field on the site, result in the loss of other sporting provision or ancillary facilities on the site, or reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality in future.

- 10.10 Furthermore, Policy LP49 of the Kirklees Local Plan states that proposals for new or enhance educational facilities will be permitted where they (a) meet an identified deficiency in provision and (b) the scale, range, quality and accessibility of education facilities are improved. This policy coincides with Paragraph 95 criteria (a) of the NPPF which states that Local Planning Authorities should attach great weight to the need to create, expand or alter schools through the decisions on applications. Therefore, as outlined above, it has been considered that there is a sufficient need for this new teaching block at the site, which would in turn provide additional space for the anticipated influx in new students, improve existing education facilities at the school and support the development of an established school use. Therefore, it has been considered that the enhancement of the provision of an existing education facility would comply with LP49 of the Kirklees Local Plan and Government guidance with the NPPF and outweighs any impact upon Urban Green Space. Thus, this material consideration justifies a departure from the Local Plan.
- 10.11 Having taken into account the above, it has been considered that the proposal in principle would be acceptable, subject to there being no detrimental impact on the other material planning considerations in which will be assessed within more detail below.

#### Urban Design issues

- 10.12 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 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.”*

- 10.13 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.

- 10.14 Policy 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”.*

- 10.15 The proposals seek to construct a new two-storey teaching block to the south of the existing main school building. This block is to be somewhat simple in design, having a flat roof which reflects the existing buildings on the site. The teaching block is to be constructed using traditional brick/block cavity walls with red facing brick and rendered finish. Whilst the proposed red facing brick is considered to be similar in appearance to those used on the existing school and therefore deemed to be acceptable. Officers do consider the proposed render to be an inferior material as it does not tend to weather well, and the existing school campus has a consistent palette of brick. Nevertheless, officers consider on balance, given the limited public views of the site, that this material choice is acceptable on this occasion.

- 10.16 The building, as demonstrated on the proposed plans would be relatively small in size and scale when compared against the backdrop of the main school buildings. The new teaching block is to have a footprint of 16.4m x 13.8m, and an overall height of 8m. The proposed flat roof will also ensure that some of the bulk and massing of the building is reduced and in keeping with the existing built form. Officers acknowledge the high parapets which bound the teaching block and whilst it would be preferable for these to be reduced in their height, following discussions with the applicant's agent they have stated that they believe that there is a requirement for them to provide safe access for staff/contractors to the roof. However, Officers consider that there may be other solutions that might enable safe access without the need for such high structures. However, on balance, Officers accept the proposals as submitted.
- 10.17 Officers consider the proposed location and layout of the new teaching block to be suitable as it would be read amongst the existing school complex and is to be set away from the public highway and would be sufficiently screened by existing planting at the site, posing no detrimental impact on the wider streetscene. In addition, whilst large openings are proposed within the building, these are balanced in appearance and will aid in natural light penetration. Therefore, given the buildings proposed use, Officers have no concerns from a visual perspective.
- 10.18 It is therefore concluded that the proposal would not cause detrimental harm to the visual amenities of the locality and therefore is considered to accord with Policies LP1, LP2 and LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Residential Amenity

- 10.19 Sections B & C of the Kirklees Local Plan Policy LP24 which states that alterations to existing buildings should:
- “Maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers’.*
- 10.20 Further to this, paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future occupiers.
- 10.21 Due to the context and location of the proposed teaching block, the nearest residential properties (outside of the school complex) relate to the Astley Grange Nursing Home, which is located to the west of the school, approximately 200m away from the proposed development. Given this large separation distance, and the nature of the site as existing, Officers have no concerns with regards to the proposals appearing overbearing or causing harm in terms of overlooking or overshadowing on this neighbouring building.
- 10.22 Moving on to noise, Paragraph 185 of the NPPF, contained within Chapter 15, sets out that proposals should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development Policy LP52 of the Kirklees Local Plan seeks to ensure that, amongst other things, the impact from noise for new development is acceptable.

- 10.23 Policy LP52 is considered to be of relevance and sets out that development which has the potential to increase pollution from noise 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.
- 10.24 The Council's Environmental Health Officers were consulted on the proposals who note that as the site is adjacent to existing residential properties all reasonable steps must be taken to minimise and mitigate adverse effects arising from construction-related activities which may lead to a loss of amenity, therefore they recommend that a Construction Environmental Management Plan is submitted prior to works commencing on the site. In addition, as there is limited information provided to confirm the presence of any fixed plant and equipment associated with the new building, a condition is also requested to secure a noise impact assessment, these are both required in the interests of protecting residential amenity.
- 10.25 In conclusion, taking the above into account it is considered that subject to conditions, the proposals would not result in significant and detrimental impacts on the privacy and amenity of any neighbouring occupants, complying with LP24(b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

#### Highway issues

- 10.26 Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact to highway safety and provide sufficient parking. Furthermore, paragraph 111 of the NPPF 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.
- 10.27 The proposals are to utilise the existing access and parking arrangements at the site which are currently taken from Woodhouse Hall Road to the west of the site. No changes are proposed to the onsite parking arrangements. Woodhouse Hall Road is a single carriageway which serves the school and a number of residential properties. Double yellow line restrictions are present along its length, preventing loading and parking, with a turning head provided at its eastern end before the access to the school to enable vehicles to turn and exit the road in forward gear.
- 10.28 Given the nature of the application the Council's Highways officers were consulted on the proposals, the Highway Safety Section were also consulted and raised concerns regarding the safety of Woodhouse Hill Junction which is located to the west of the site and adjoins the main site entrance Woodhouse Hall Road. Whilst a Transport Statement is submitted alongside the application, Highways Officers conclude that the findings of this statement are not acceptable and that there are highway related objections to the proposed development whereby mitigation works will be required to improve the Woodhouse Hill junction which will result in a financial contribution of £50,000. This contribution is required to be used towards the supporting and match funding of road safety improvements on Woodhouse Hill Road within the vicinity of the school, including, but not limited to changes to the existing traffic calming and the installation of informal crossing locations on key pedestrian desire lines.

It is noted that works to this junction are already under consideration and are due to take place in the near future therefore, the contribution requested under this current application would support these upgrades whilst also mitigating any impact arising from the uplift in students at the site.

10.29 Subject to the above, the proposals are considered to be acceptable to Highways Development Management.

10.30 For the aforementioned reasons it is concluded that subject to the proposed contributions and conditions recommended, the scheme would not represent any additional harm in terms of highway safety and as such complies with Local Plan Policies LP21 and LP22 and Chapter 9 of the National Planning Policy Framework.

### Other Matters

#### *Contaminated Land*

10.31 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.

10.32 The following documents have been submitted in support of the application:

- Phase 1 Environmental Desk Study by Rogers Geotechnical Ltd dated June 2022 (ref: C1349/22/EE/3839)
- Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated July 2022 (ref: C1349/22/E/3843)
- Gas Monitoring Report by Rogers Geotechnical Services dated September 2022 (ref: C1349/21/E/GM)

10.33 Given the above, the Council's Environmental Health (ENVH) Officers were consulted, they raise no objections in respect of the submitted reports which confirm that soils at the site are generally uncontaminated with respect to the proposed end use. It is specified that site-won or imported material will be screened in accordance with the Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG) guidance. In terms of ground gases, the site has been assigned as a CS2 site, i.e. it is considered that gas protection measures are necessary (CS2 for a Type B development). The report advises that the finalised designs for ground gas protection measures will be provided on technical drawings and included in a Phase 3 Remediation Statement report.

10.34 ENVH Officers accept the Phase 1 Environmental Desk Study by Rogers Geotechnical Ltd dated June 2022 (ref: C1349/22/EE/3839), Phase 2 Geo-Environmental Report by Rogers Geotechnical Services Ltd, dated July 2022 (ref: C1349/22/E/3843) and Gas Monitoring Report by Rogers Geotechnical Services dated September 2022 (ref: C1349/21/E/GM), they therefore consider that should planning permission be granted conditions relating to the submission of a Remediation Strategy/Verification Report be applied.

10.35 The implementation of these conditions is deemed to be sufficient to comply with the aims of LP53 of the Kirklees Local Plan and Chapter 15 of the NPPF.

#### *Biodiversity*



- 10.36 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.
- 10.37 Policy LP30 of the Kirklees Local Plan requires that proposals protect Habitats and Species of Principal Importance. Through LP30, development proposals are expected to:
- (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement;
  - (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;
  - (iii) safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;
  - (iv) establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and
  - (v) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.
- 10.38 A Preliminary Ecological Appraisal Report (PEAR) including a Biodiversity Net Gain calculation has been submitted with the application. The Council's Ecologist notes that the submitted reports provide a comprehensive assessment of the site and lay out the potential impacts on ecological receptors, brought about by the proposed development. Overall, the site is of limited ecological value, comprising of species poor modified grassland and areas of built form, with limited opportunities for protected species.
- 10.39 A Biodiversity Net Gain calculation has been submitted with the EclA, using the Biodiversity Metric 3.1 calculator tool. The construction of the proposed development is predicted to result in a loss of 0.09 Habitat Units (HU), a net percentage change of -21.90 percent (%). This decrease in biodiversity value is due to the loss of grassland - modified grassland and its replacement with predominantly urban - developed land; sealed surface and urban - artificial unvegetated, unsealed surface, which have a lower biodiversity value. The construction of the proposed development is predicted to result in a no net loss of 0.03 Hedgerow Units (HeU), a net percentage change of 0%.
- 10.40 The Council's Ecology Officer notes that the development proposals in their current form will result in a significant reduction in the biodiversity value of the site and therefore amendments have been made, taking into consideration the recommendations outlined within the PEAR to increase the biodiversity net gain at the site. These alterations include the provision of 2 bat boxes, a green roof system and the provision of additional new planting to the south of the site. A biodiversity net gain statement has also been provided, this outlines that the spoil resulting from the development would not be placed in the area included in the Ecus PEA and that alternative habitat creation/enhancement would be required to offset to deliver a 10% net gain in HU. The enhancement of an area of existing modified grassland located to the north of the proposed

development, has been agreed as an area for enhancement whereby a 0.02 ha area will be enhanced to other neutral grassland. This will be created through the sowing of an appropriate wildflower grassland seed mix on a section of the south-facing bank which will be managed appropriately to achieve a moderate condition. The Council's Ecologist has been consulted on this updated information; their comments will be included within the committee update once received.

- 10.41 In terms of the green roof system, limited details have been provided in regard to this element of the scheme. Officers requested the submission of section plans and details of the depth of the proposed substrate, as well as further information in terms of the types of species to be planted here. No plans were provided although the applicant's agent did note that the roof and structure has been designed for the loads of a green roof and that a building control application has been submitted to the Council which will form part of confirmation with compliance.
- 10.42 Whilst the above is noted, Officers would state that an inferior sedum mat would not be considered acceptable and that a growing substrate of at least 80mm would be necessary. Conditions are therefore recommended to ensure that full, detailed sections and loading information is provided prior to its installation, as well as outlining the species to be used within the roof and details of its maintenance. In the absence of full sections and details of the substrate depth, there is a possibility that the building may end up being higher than the currently proposed after a detailed design has been worked up, therefore conditions are considered necessary on this occasion.

#### *Climate Change*

- 10.43 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.
- 10.44 The applicant has submitted a Climate Change Statement, this document outlines that the proposals are to seek the installation of PV panels, air source heat pumps, and the use of low energy lighting and hybrid ventilation systems in classrooms. PIR sensors are also proposed to reduce the energy used when rooms are unoccupied, energy efficient whitegoods in staffrooms and the use of increase insulation thickness to improve u-values above Building Regulations requirements. Numerous other changes are also outlined within this statement, this can be viewed in full on the Council's website.
- 10.45 Taking the above into consideration, the proposed development is deemed to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

#### *Trees*

- 10.46 Policy LP33 of the Kirklees Local Plan highlights that Local Planning Authorities should not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. This Policy sets also out that where trees loss is deemed to be accepted, developments will be required to submit a detailed mitigation scheme.
- 10.47 Whilst it is acknowledged that no trees within the application site are subject to a Tree Preservation Order, the Council's Trees Officer has raised concerns in respect of trees located to the east of the proposed teaching block, these trees are of moderate amenity value and would be impacted upon by the proposals both directly and indirectly. This is due to activities such as facilitation pruning, disturbance to the extremities of the rooting systems and changes in site levels and grading.
- 10.48 An Arboricultural Impact Assessment has not been carried out or provided alongside the submission and therefore trees directly adjacent to the proposed building (such as T5 and parts of G18) have not been given due consideration. Nevertheless, conditions could be attached which require the submission of an Arboricultural Method Statement prior to works commencing on site, and the submission of a detailed planting scheme/proposal for the new planting that is shown indicatively within submitted plans. Officers therefore consider that, the proposed conditions would provide sufficient mitigation, should planning permission be granted for the proposed teaching block in this location.

## **11.0 CONCLUSION**

- 11.1 The application site is designated as an Urban Green Space in Local Plan and therefore development would be contrary to Policy LP61. However, it is considered that there are material considerations, which would outweigh the harm and justify a departure from the Local Plan. These material considerations consist of a recognised need for a modular classroom and improved educational facilities at the site, which accord with Policy LP49 of the KLP and Paragraph 95 of the NPPF.
- 11.2 Furthermore, 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. In such circumstances it is considered that there are no adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole, or that specific NPPF policies indicate development should be restricted. In such circumstances the application is recommended for approval.

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

- 1. Time Limit (three years)**
- 2. Development in accordance with approved plans**
- 3. Contaminated land investigation conditions**
- 4. Noise Assessment**
- 5. Construction Environmental Management Plan**
- 6. Travel Plan**
- 7. Scheme of mitigation works at Woodhouse Hill Junction**
- 8. Submission of an Arboricultural Method Statement prior to works commencing on site**
- 9. Submission of a detailed planting scheme/proposal for the new planting shown to the south**
- 10. Full, detailed sections of the proposed green roof should be submitted prior to its installation, this should also include loading information, species to be planted and details of its maintenance.**

Advisory notes as requested by consultees.

**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=2023/90509>

Certificate of Ownership – Certificate A signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

**Date: 03-Aug-2023**

**Subject: Planning Application 2023/91093 Construction of permanent vehicular access track and the erection of fencing (within a site of special scientific interest) Land adj, March Haigh Reservoir, Off Blake Lea Lane, Marsden, Huddersfield, HD7 6NJ**

#### **APPLICANT**

Nick Wild, Canal & River  
Trust

#### **DATE VALID**

11-Apr-2023

#### **TARGET DATE**

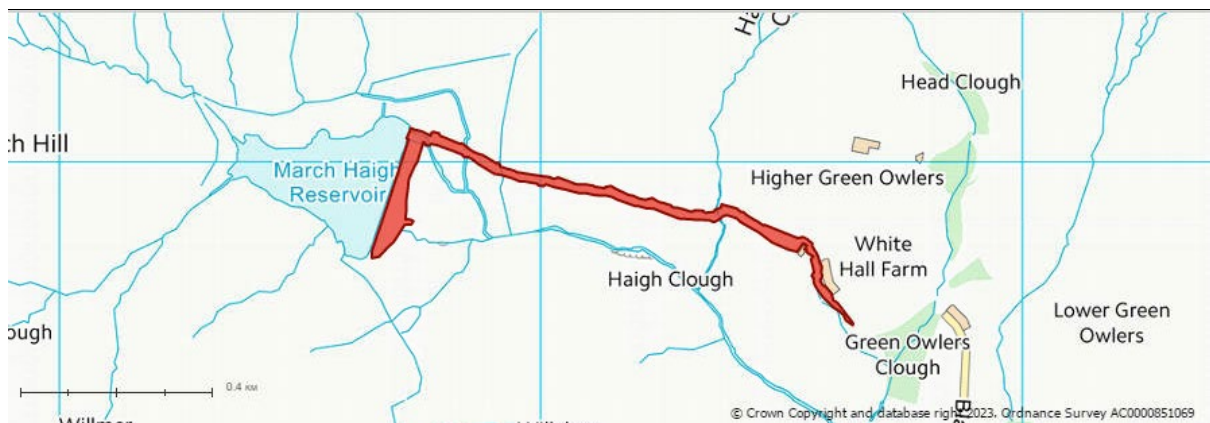
01-Aug-2023

#### **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.

#### **LOCATION PLAN**



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

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**Electoral wards affected:** Colne Valley

**Ward Councillors consulted:** Yes

**Public or private:** Public

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**RECOMMENDATION:**

DELEGATE approval of the application, subject to the response of the Secretary of State, under Regulation 64(5) of The Conservation of Habitats and Species Regulations 2017.

If no objection is received, delegation of the approval of the application will proceed 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. Ecological compensatory measures – To provide a financial contribution to compensate for the ecological impacts of the development (likely to be relayed to the National Trust in order to diversify at least 3.5 ha of purple moor grass dominated vegetation at the plateau areas around Round Hill – east of Ellen Clough and north of Deer Hill Conduit, within Holme Moor).

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

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission for the construction of a permanent vehicular access track and the erection of fencing. The track is legally required as a 'Measure in the Interest of Safety' under the Reservoirs Act for essential safety works, ongoing inspection and emergency access. The site is within a Site of Special Scientific Interest).
- 1.2 The application is presented to the Strategic Planning Committee as the proposal is a non-residential development on a site larger than 0.5 hectares. This is in accordance with the Council's Scheme of Delegation.
- 1.3 A Habitat Regulation Appraisal has been attached as an appendix to this application. This document details the likely significant effects on internationally-important protected habitats and species under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the proposed development. The document details the mitigation and compensatory measures required to ensure that the impacts on the designated sites are accounted for, allowing the proposed development to proceed in line with Kirklees statutory duties.

## Procedural matter

- 1.4 Given the nature of this development, the Secretary of State has been notified under Regulation 64(5) of the Conservation of Habitats and Species Regulations 2017.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site comprises an area of approximately 2.8 hectares between March Haigh Reservoir and Blake Lea Lane, Marsden. The site incorporates a linear route of a proposed access track from Blake Lea Lane through White Hall Farm towards the spillway of March Haigh and includes land across the face of the reservoir embankment.
- 2.2 The site is situated within the Green Belt on the Kirklees Local Plan and also falls within European-level protected sites, namely the South Pennines Moors Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and the South Pennine Moors Phase 2 Special Protection Area (SPA).
- 2.3 A number of Public Rights of Way (PROW) surround the site, with COL/195/40 intercepting the proposed vehicular route. To the south-east of the site are two Grade II listed buildings, White Hall Barn and Farm.

## **3.0 PROPOSAL:**

- 3.1 The application seeks full planning permission for the Construction of permanent vehicular access track legally required as a 'Measure in the Interest of Safety' under the Reservoirs Act 1975 for essential safety works, ongoing inspection and emergency access and the erection of fencing.
- 3.2 The proposed vehicular access track would facilitate ongoing inspection and maintenance, as well as providing a direct route for emergency responses. The track would be used by an inspection vehicle (a 4x4 or medium sized van) three times per week, with weekly maintenance visits using vehicles such as welfare vans and tippers. The track would also facilitate infrequent major construction works.
- 3.3 The proposed track would follow the route of the previous vehicular access track, which was constructed in 1999 and later re-instated as moorland habitat. The track would be constructed from local stone and there would be several gates restricting unauthorised access along it.
- 3.4 New stock fencing is proposed to the bottom of the embankment to the reservoir, and to fix the existing fencing around the trees. This would be approximately 4 to 5m from the toe of the embankment. The fencing would be a maximum of 2.1m in height.

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

##### **4.1 At the application site:**

1999/91144 Variation of Condition 3 relating to period of works to be carried out on previous permission 98/62/91631 for formation of access track (within Site of Special Scientific Interest) – Granted.

1998/91631 Formation of access track (within Site of Special Scientific Interest) – Granted.

##### **4.2 Pre application:**

2022/21648 Pre application for reservoir works – Comments made.

2022/21665 EIA Scoping Opinion – EIA required.

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

5.1 Amended/additional information has been required during the course of this application. These are as follows:

- An update to the HRA.
- Additional information to demonstrate the tracks relationship with the PROW, including cross sections.
- A written Scheme of Archaeological Investigation.
- A full Construction Environmental Management Plan.
- A full Construction Traffic Management Plan.
- An update to the Biodiversity Net Gain Assessment.
- Confirmation regarding the amount of peatland to be lost.

#### **6.0 PLANNING POLICY:**

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

6.2 The site is situated within the Green Belt on the Kirklees Local Plan and also falls within the European protected sites, such as the South Pennines Moors Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) and South Pennine Moors Phase 2 Special Protection Area (SPA).

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

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking



- LP23 – Core walking and cycling network
- LP24 – Design
- LP27 – Flood risk
- LP28 – Drainage
- LP29 – Management of water bodies
- LP30 – Biodiversity & Geodiversity
- LP31 – Strategic Green Infrastructure Network
- LP32 – Landscape
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP36 – Proposals for mineral extraction
- LP37 – Site restoration and aftercare
- LP38 – Minerals safeguarding
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvements of environmental quality
- LP53 – Contaminated and unstable land

#### 6.4 Supplementary Planning Guidance / Documents:

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

#### 6.5 National Planning Guidance:

- 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 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of minerals

#### Climate change

- 6.6 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.

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

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

7.1 The application has been advertised as major development, affecting the setting of public rights of way and listed buildings and as an Environmental Impact Assessment development (EIA). The site has been advertised via site notices, neighbour notification letters and the press. Final publicity expired on the 27<sup>th</sup> May 2023. In response to the above publicity, no representations have been received.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

KC Highways DM: In support of the application, subject to conditions regarding a Construction Access Management Plan, a Defects Survey and details of any Remedial works being attached to the decision, in the case of an approval.

KC Lead Local Flood Authority: Officers accept the conclusion of the Flood Risk Assessment and that the proposed works will not increase off-site flood risk.

Natural England: Objects to the proposal, as the development is considered to have an adverse impact on the integrity of South Pennine Moors Phase 2 Special Protection Area (SPA) and South Pennine Moors Special Area of Conservation (SAC) and damage or destroy the interest features for which South Pennine Moors Site of Special Scientific Interest (SSSI) has been notified.

The Environment Agency: The site is within Flood Zone 1 and is not within 20m of a main river, therefore we have no comments to make in relation to flood risk. However, informative advice in relation to reservoirs has been provided.

Peak District National Park: Given the distance of the development from the National Park, the lack of reasonable alternatives, the delivery of compensatory habitat enhancement and the overall public interest of the delivery of the scheme; the Peak District National Park Authority are broadly supportive of the proposals.

Yorkshire Water: We have no observation comments to make as there is no public infrastructure recorded in the area.

## 8.2 **Non-statutory:**

KC Trees: No objection to the proposal, as no trees would be affected.

KC Public Rights of Way (PROW): Additional information would be required via condition in the case of an approval. This should include additional details to where the access road would cross the existing public footpath (COL/195/40) and the protection and safety measures for the footpath during construction.

KC Landscape: The submitted proposals are acceptable and Officers have noted that work has been done to ensure that the visual impact of the track is kept to a minimum. Provided the development is undertaken in accordance with the submitted information, Officers have no objection to the scheme.

KC Highways Structures: There does not appear to be any proposed retaining structures next to the existing PROWs.

KC Environmental Health: Officers do not consider there to be any significant environmental health impacts with this development. However, there is a potential for loss of amenity to the occupiers of the nearby properties from noise from the construction phase of the development. Therefore, a note recommending the appropriate hours for noisy construction work will be attached to the decision notice in the case of an approval.

KC Conservation and Design: No objection to the proposal.

KC Crime Prevention: No comments on the proposal.

KC Ecology: Having reviewed the submitted documents and the Habitats Regulation Assessment, it is anticipated that the proposed mitigation and compensatory measures will ensure that the development proposed will result in a long-term biodiversity net gain. However, to ensure this, a number of conditions are proposed.

KC Emergency Planning: No response received.

West Yorkshire Archaeology (WYAAS): The Written Scheme of Investigation has been considered acceptable.

KC Minerals: Given the justification provided as to why some peat needs removing from the site "due to it being highly unconsolidated, have contamination from underlying stone from the previous temporary track and/or have significant amounts of Molinia and Juncus vegetation/roots", no further comments are made.

RSPB: No response received.

West Yorkshire Fire and Rescue: No response received.

Yorkshire Wildlife Trust: No response received.

West Yorkshire Ecology: No response received.

Oldham Council: No response received.

National Trust: No response received.

## 9.0 MAIN ISSUES

- Background
- Environmental Impact Assessment
- Land use and principle of development (including Green Belt Assessment)
- Visual amenity and landscape
- Ecological considerations
- Heritage and Archaeology
- Residential amenity
- Highway issues
- Drainage issues
- Minerals
- Other matters
- Representations
- Planning obligations
- Conclusion
- Appendices – Habitats Regulation Assessment (HRA)

## 10.0 APPRAISAL

### Background and justification and need for the need of the track

10.1 The Canal & River Trust ('the Trust') seeks planning permission to construct an essential permanent access track from Blake Lee Lane to the spillway of March Haigh Reservoir. The track will be used for surveillance, operation, maintenance and emergency response.

10.2 A summary of the Trusts position and requirement for the proposal is as follows:

*"The Trust owns and operates 72 large raised reservoirs in England which fall under the ambit of the Reservoirs Act 1975 ('The Act'). 68 of these reservoirs are classed as high-risk structures, with likely loss of life in the event of a breach.*

*The Trust owns several reservoirs located high on the moorland above and around the Standedge Tunnel, built to supply water to the Huddersfield Narrow Canal. The reservoirs were built in the late eighteenth and early nineteenth centuries, and now require constant monitoring and repair works to maintain their safe operation. This presents difficulty in terms of harsh weather, remote location and difficult terrain. Until recently, several of the reservoirs were not served by permanent access tracks, making routine monitoring difficult. Following the construction of access tracks to Swellands and Black Moss reservoirs in 2022, March Haigh is now the only reservoir owned by the Trust which does not have a permanent access track.*

*In 2019, an emergency event occurred at Toddbrook Reservoir, where the face of the spillway began to break up during high flows. The weather was clear enough to allow Chinook helicopters to be deployed, and they were able to drop sand/cement bags to improve the stability the spillway face. However, the pumps and pipes to enable critical fast dewatering had to be brought in by road as they were too large and heavy for the helicopters. Without road access the*

*situation at Toddbrook could have escalated, and this incident demonstrates the importance of rapid implementation of emergency procedures. The government has since issued advice tightening requirements for safe reservoir management, and more onerous legislation is under preparation. Any emergency response at March Haigh Reservoir would require vehicular access for delivery of pumps, bulk materials, temporary structures and personnel. The installation of a permanent access track is essential to the safe operation of the reservoir.*

*March Haigh Reservoir was inspected under Section 10 of The Act in February 2021. The purpose of the statutory inspection is to assess the safety of the dam and maintain the safety of the downstream population. The Inspecting Engineer, a member of the All Reservoirs Panel of Engineers, has the authority to raise issues as Matters in the Interest of Safety (MIOS), which then become statutory obligations for the Undertaker to rectify within a set timescale. Eight measures were required to maintain the safe operation of the dam, including the provision of a permanent access track to the dam:*

*6. (a)\_ Provide a permanent access track to assure vehicular access to the dam at all times to facilitate surveillance, maintenance and emergency activities. - To be completed within 3 years from the date of this report, subject to (b) temporary arrangements to facilitate safety measures being reinstated without undue delay and no later than 9 months from the date of this report*

*The Trust is therefore under a strict legal obligation to undertake the necessary works to implement this measure, and to do so by the time stipulated by the independent engineer”.*

- 10.3 Within paragraph 5.1 of the ‘Justification for a Permanent Access Track’ document, consideration of alternatives to a permanent access track has been undertaken. This includes:

*Alternative routes:*

- 10.4 In this case, it has been concluded that there are no alternative routes which would provide appropriate access required for the vehicles and equipment needed during an emergency or for maintenance. Using the same alignment as the temporary track reduces the need to construct on undisturbed land.

*Reservoir Discontinuance:*

- 10.5 Discontinuing the reservoir has been considered; however, it would potentially put the water supply to the Huddersfield Narrow Canal at risk. Therefore, the justification document sets out why the discontinuation of the reservoir would not be in the public interest summarised as follows:

*“- Failure to act upon the legally binding Recommendations as to Measures in the Interest of Safety by the statutory deadline;  
- Loss of public water supply via both reservoir storage and catchment area under the Scammonden Agreement;  
- Potential for loss of reservoir water attenuation and the increased risk of flooding, due to flows from the 3.1km<sup>2</sup> catchment area;  
- A significant reduction in the security of supply of water to the Huddersfield Narrow Canal, with navigational and environmental impacts;*

- *Direct impact on the South Pennines SSSI, SPA and SAC, where the reservoirs are located. In particular, mitigation would be required for reduction in water table and the potential for peat drying out, with consequences for climate change and possible increased wildfire hazard in the susceptible area (two large wildfires happened in 2020, one being on Black Moss).*
- *The requirement to construct a substantial temporary access track given the significant scale of the discontinuance works;*
- *Future access required to allow the Trust to fulfil any ongoing inspection, and maintenance obligations;*
- *Impact on the landscape and visual receptors”.*

*Alternatives methods if the access track were not a measure in the interest of safety (MIOS):*

#### *Low Ground Pressure All-terrain Vehicles*

- 10.6 The Trust have considered the regular use of alternative vehicles such as a Hagglund/Softrack, which would form informal irregular tracks and impact on the moorland habitats, with informal tracks likely to evolve and widen over time in an unmanaged way as vehicles sought to avoid ruts and damaged areas, thereby likely causing greater damage over the long term than a well-designed access track. All-terrain vehicles do not satisfy all access requirements, nor can they carry the pumps and plant required to provide maintenance or emergency access.

#### *Helicopter Access*

- 10.7 The Trust have considered the use of helicopters for the major civil engineering works, emergency access and ongoing operation and maintenance. It has been concluded that it would not be *“possible to use helicopters in bad weather, when access would be more likely to be required in an emergency. Helicopters have insufficient load capacity for the equipment required. Also, the altitude and location of the reservoir can mean that helicopter access is prevented by wind or cloud and cannot be relied upon as the primary means of emergency response. The method is also not feasible for the regular small scale maintenance that is necessary and does not resolve safety concerns with the surveillance visits require two times per week as a minimum”.*
- 10.8 It has also been noted that the landing area required would need to be large and be sited within the SAC/SPA which in itself may require a planning application, and/or a Habitat Regulations Assessment.

#### *Temporary Access Track*

- 10.9 The proposed route would be the same as the temporary access track used previously at March Haigh in order to complete major maintenance at the reservoir in 1999. If a similar approach was to be adopted it would not address the access requirements for regular inspection and maintenance. Therefore, failure to complete regular routine maintenance can lead to defects developing with an increased risk of dam failure. A temporary track would also not be a practicable means of access in case of an emergency.

10.10 Therefore, having taken into account the above, Officers consider the current proposal to be the most appropriate solution for providing the regular inspection and maintenance and in the case of an emergency, subject to the impact on the green belt, landscape, ecology, visual amenity and all other material planning considerations below.

### Environmental Impact Assessment

10.11 An Environmental Impact Assessment (EIA) Screening Opinion was sought by the applicant in relation to the proposed development. It was concluded that the proposed development of the application site constitutes EIA development for which an EIA Environmental Statement (ES) would need to be submitted. As such, an ES has been submitted with this application, in order to ensure the assessment of the proposed development is thorough and robust.

10.12 The ES has been submitted in the form of:

- Volume 1: Main Text
- Volume 2: Technical Appendices to include:
  - 1.1 EIA Scoping Report
  - 1.2 Kirklees Council Scoping Opinion
  - 3.1 General Arrangement Plan
  - 3.1a General Arrangement Sheet 1
  - 3.1b General Arrangement Sheet 2
  - 3.1c General Arrangement Sheet 3
  - 6.1 Representative Viewpoint Photos and Photomontages
  - 6.2 Accurate Visual Representation Methodology
  - 7.1 Phase 1 Habitats and National Vegetation Classification Survey
  - 7.2 Breeding Bird Survey Report
  - 7.3 Water Vole and Notable Species;
  - 7.4 Fungi Survey
  - 7.5 Desk Review
  - 8.1 Hydrology Assessment and Peat Depth Mapping
  - 9.1 Location of Public Rights of Way
- Volume 3: Non-Technical Summary

10.13 The matters considered in the ES are:

- Chapter 6 – Landscape and visual impact
- Chapter 7 – Ecology and Biodiversity assessment
- Chapter 8 – Peat soils and Hydrology
- Chapter 9 – Access and Recreation

10.14 Table 1.1 of the applicants ES (Volume 1) states that air quality, climate change, highways and transport, noise and vibration, socio-economic, soils, geology and agricultural land quality and water, resources, surface water and ground water hydrology are not included (i.e were “scoped out” of) the ES.

10.15 The ES is cross-referenced to other application documents, where necessary.

10.16 The Planning Casework Unit of the Department for Levelling Up, Housing and Communities (DLUHC) were notified on the 18/04/2023 that an application accompanied by an ES had been received by the council. No comments on the proposals were received from the DLUHC in response.

- 10.17 Officers' assessment of the submitted ES is set out throughout this committee report.

### Land use and principle of development

#### Spatial strategy

- 10.18 Policy LP1 addresses the Council's presumption in favour of sustainable development, in line with Paragraph 11 (c) of the NPPF (Chapter 2). The site lies in the Huddersfield Rural area under Policy LP2. This identifies the strengths/opportunities for growth and challenges to growth facing the defined area. This notes the difficulties of providing new development within European protected sites, such as the South Pennines Moors SAC and SSSI and South Pennine Moors Phase 2 SPA. Policy LP3 states that proposals should reflect the specific considerations of the Council's Spatial Strategy under Policies LP1 and LP2.
- 10.19 The proposal would form works under the legislative requirements of the Reservoirs Act 1975, as a Measure in the Interest of Safety (MIOS), to allow vehicular access to March Haigh Reservoir to facilitate necessary safety works to be undertaken.

#### Green Belt

- 10.20 The application site is situated within the Green Belt on the Kirklees Local Plan. As such, the proposal has been assessed against Chapter 13 of the NPPF.
- 10.21 Paragraph 147 of the NPPF states inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, paragraph 148 advises that planning authorities should ensure that "substantial weight" is given to any harm to the Green Belt. It also states that "very special circumstances will not exist unless the substantial harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations".
- 10.22 The application is seeking planning permission for the erection of a permanent access track legally required as a 'Measure in the Interest of Safety' under the Reservoirs Act for essential safety works for March Haigh Reservoir.
- 10.23 Paragraph 150 of the NPPF states that Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:
- (a) mineral extraction;
  - (b) engineering operations;
  - (c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
  - (d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
  - (e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
  - (f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.



10.24 In this case, the development is considered to fall under sub paragraphs (b) engineering operations and (c) local transport infrastructure, which can demonstrate a requirement for a green belt location, subject to the works preserving the openness of the Green Belt and not conflict with the purposes of including land within it.

10.25 Paragraph 001 of the PPG on Green Belt development states that:

*“When assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:*

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation”.*

10.26 The applicants have proposed a number of measures in order to mitigate the impact to which the access track and stock fencing would have on the openness of the Green Belt. The proposed track would largely follow the route of the previous track (approved under application 1998/91631), however, Officers note that the track now proposed would need to be widened to 4m to allow for standard vehicle use and for cranes and dumpers when the transportation of equipment and material is required. The 4m ‘running’ width would allow for vehicles to utilise the track without detriment to the edges. It would allow natural edges to be formed with no kerb line or retained edge softening the edges over time. The peat excavated from the temporary track would be utilised to obscure the edges of the track.

10.27 Three passing places have been proposed on the plans submitted, due to the number of construction vehicles using the track during planned maintenance or in an emergency. These have been positioned in strategic locations to aim to give optimal sight distance between them. The passing places have been designed so that they are of an adequate size for vehicles to pull over, however, have been kept to a minimum in order to mitigate any visual harm to the landscape.

10.28 With regards to materials, these have been carefully selected to minimise the impact upon the landscape. This would include local stone as this is a characteristic of the local area. As set out within the justification document, the depth of the stone would vary across the track dependent on the condition of the existing stone, the strength of the sub-strata and horizontal alignment. Minor earthwork improvements have been shown throughout the northern edge of the track to re-profile the proposed pavement to be a grade with the existing ground level to promote a natural drainage slope for surface water run off and reduce degradation of the track. The stone usage would however, be reduced as far as possible, by the use of geogrid and geotextile layers.

- 10.29 Along the track, four gates are proposed to restrict unauthorised access, two of which are already in situ at White Hall Barn. The two new gates (along with the two gates to be replaced) would be located relatively close to the beginning of the track and therefore, unlikely to impede in the longer distance views of reservoir and moorland and its openness. The gates would be of an agricultural design (a tubular street gate with hanging post) and are considered acceptable for their location. The existing fence line to the north of the track would be retained.
- 10.30 New stock fencing is proposed 5m to the base of the embankment of the reservoir. This is proposed in order to prevent cattle access and to prevent damage to the dam, whilst still allowing the continued maintenance activities. The fencing would be a maximum of 2.1m in overall height. Existing damaged fencing would be replaced. Therefore, having taken into account the style and overall height of the fencing, this is not considered to give rise to any detrimental impacts to visual amenity, the landscape and the openness of the Green Belt.
- 10.31 In light of the above, Officers are satisfied that the development would meet exemptions (b) and (c) of Paragraph 150 of the NPPF and would not have a detrimental impact on openness. This is to accord with Chapter 13 of the NPPF.

#### Landscape

- 10.32 The site lies within several European and national habitat sites and lies within areas designated for their scenic properties, including the Southern Pennines National Character Area. Therefore, Policy LP32 of the Kirklees Local Plan is important as it sets out that proposals should be designed to take into account and seek and enhance the landscape character of the area. This is also reiterated within Chapter 15 of the NPPF, which states that “planning policy decisions should contribute to and enhance the natural and local environment by:

*“a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the Development plan);*

*b) Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*

*c) Maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*

*d) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

*e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*

*f) Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate”.*

10.33 Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by – inter alia – protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

10.34 To assess the impacts of the proposal on the character of the surrounding landscape, an assessment has been undertaken within Chapter 6 of the ES to include a Landscape and Visual Impact Assessment (LIVA) with support from the technical appendix 6.1 which consists of maps, representative viewpoint photographs and accurate visual representation, photomontages of the proposed development taken from a number of selected and agreed viewpoints. It has been agreed with Officers that a selection of 14 representative viewpoints are acceptable to assess the effects of the proposed works and operation on views and the surrounding landscape. These have been selected to cover a number of different elevations and angles of view, and are located on the most commonly used footpaths, as set out within table 6.8 of the ES.

**Table 6.8 Representative Viewpoints**

No.	Viewpoint Location	Receptor Category	View Type	Distance from Proposed Development (m)
1	Buckstones Public Car Park	Visitors in vehicles, walkers or people engaged in recreation	Panoramic	530
2	Start of footpath on A640	Road users, walkers or people engaged in recreation, residents of Buckstones House	Panoramic	910
3	A640	Road users	Panoramic	1130
4	A640	Road users	Panoramic	1340
5	Public footpath	Walkers. people engaged in recreation and residents in White Hall Farm	Panoramic	0
6	Public footpath	Walkers. people engaged in recreation	Panoramic	100
7	Reservoir	Walkers or people engaged in recreation	Panoramic	300
8	Reservoir	Walkers or people engaged in recreation	Panoramic	50
9	Footpath	Walkers or people engaged in recreation	Panoramic	520
10	Road user	Road users	Panoramic	1000
11	Public footpath	Walkers or people engaged in recreation	Panoramic	450
12	Public footpath	Walkers or people engaged in recreation	Panoramic	310
13	Public footpath	Walkers or people engaged in recreation	Panoramic	305
14	Public footpath	Walkers or people engaged in recreation	Panoramic	275

10.35 Photographs to show the aforementioned viewpoints have been submitted within appendix 6.1.

- 10.36 A summary of the visual effects from all 14 selected representative view points in relation to the sections of the track concerned can be found within Table 6.9 in the ES. In most cases the effects are judged to be minor to negligible adverse but in two cases, effects are judged to be moderate adverse. These are viewpoints 5 and 6 which were taken from public footpaths. However, it is noted within the ES that *“the very nature of the Proposed Development infers that there is little scope for mitigation measures to reduce the level of impact in terms of route. Any significant tree planting, for instance, apart from being an uncharacteristic feature of this landscape, would only serve to draw attention to it. Similarly, earth mounding would only make the Proposed Development more prominent and disturb more land. However, as the design has progressed, various features have been employed to reduce the effects of the Proposed Development as far as possible. These include restricting the width to 4.0m (using excavated peat on the embankments to the track, using 1.0m high snow poles painted invisible green, using fencing painted invisible green and ensuring the track matches the local topography and follows the route of the former track as closely as possible”*.
- 10.37 It has also been outlined that *“in terms of the cumulative effect, the most significant scheme one which affects Haigh Clough. This will involve the planting of c.50ha of native broadleaved woodland and successional scrub by combined parties such as the National Trust, the Woodland Trust, Yorkshire Water etc. This, over time, will have a dramatic effect on the landscape as the Clough becomes woodland. It will also have an equally dramatic cumulative effect on the effects of the Proposed Development, which will become much less prominent as the trees mature and (from some viewpoints) views of the proposed access track are likely to be obscured entirely. The effect is assessed as being of a moderate beneficial level which will be significant in EIA Regulations terms”*.
- 10.38 In summary, Officers have considered that there would be some impact on the landscape character of the area, through the introduction of a permanent track within an open moorland setting, however, agree with the findings of the ES that the effects would be ‘minor adverse’ (i.e the proposal would result in a small change in the key characteristics of landscape character; would introduce elements that are not uncharacteristic to the attributes of the receiving landscape; and/or would result in a minor loss, alteration or addition of elements/features/characteristics). Nonetheless, a number of measures have been set out and proposed to include the restriction of the tracks with to 4m, using 1.0m high snow poles painted invisible green, using fencing painted invisible green, ensuring the track matches the local topography and follows the route of the former track as closely as possible.

#### *Setting of the Peak District National Park*

- 10.39 The site is situated approximately 2.5km at its closest part to the Peak District National Park and therefore the proposal has been assessed as to whether it would have an impact upon its setting. The Peak District National Park (PDNP) have been formally consulted, as a Statutory Consultee.

- 10.40 In this case, given aforementioned distance to the park, it has been considered that the track is unlikely to have any visual impact on the National Park or its setting. Whilst the PDNP are keen to ensure the maintenance of the health of the moorlands and their designations (site of Special Scientific Interest, Special Protection Area and Special Area of Conservation); which extend beyond the boundary of the Peak District National Park to include the proposed development site. However, the PDNP recognise the value of the proposed compensatory measures and agree that these will offset the loss of environmentally designated land to the development.
- 10.41 Therefore, given the distance from the National Park, the lack of reasonable alternative, the delivery of compensatory habitat enhancement and the overall public interest of the delivery of the scheme, the PDNP are broadly supportive of the proposal.

*South Pennine Moors SPA/South Pennine Moors SAC Strategic Green Infrastructure Network*

- 10.42 As identified above, the site is situated within the South Pennine Moors SPA/South Pennine Moors SAC Strategic Green Infrastructure Network. Therefore, Policy LP31 of the Kirklees Local Plan is relevant, which states the following:

Within the Strategic Green Infrastructure Network identified on the Policies Map, priority will be given to safeguarding and enhancing green infrastructure networks, green infrastructure assets and the range of functions they provide.

Development proposals within and adjacent to the Strategic Green Infrastructure Network should ensure:-

- (i) the function and connectivity of green infrastructure networks and assets are retained or replaced;
- (ii) new or enhanced green infrastructure is designed and integrated into the development scheme where appropriate, including natural greenspace, woodland and street trees;
- (iii) the scheme integrates into existing and proposed cycling, bridleway and walking routes, particularly the Core Walking and Cycling Network, by providing new connecting links where opportunities exist;
- (iv) the protection and enhancement of biodiversity and ecological links, particularly within and connecting to the Kirklees Wildlife Habitat Network.

The council will support proposals for the creation of new or enhanced green infrastructure provided these do not conflict with other Local Plan policies.

- 10.43 In this instance, it is considered that the development would protect and enhance biodiversity and ecological links, as the application has been submitted with a Habitats Regulation Assessment, whereby appropriate mitigation/compensation measures have been provided. This would accord with Policy LP31 (iv) and more information on this can be found below.
- 10.44 KC Landscape have been formally consulted as part of this application, raising no objection, as the proposals are acceptable and it is recognised that reasonable effort has been made to keep the visual impact to a minimum.

## Ecology

10.45 LP30 of the Kirklees Local Plan, states that:

*“The council will seek to protect and enhance the biodiversity and geodiversity of Kirklees, including the range of international, national and locally designated wildlife and geological sites, Habitats and Species of Principal Importance and the Kirklees Wildlife Habitat Network”.*

10.46 This explicitly includes the South Pennine Moors, Statutory Designated sites including South Pennine Moors Special Protection Area (SPA) and Special Area for Conservation (SAC) and Sites of Special Scientific Interest.

10.47 The policy further goes on to state:

*“Development proposed within or outside a designated Site of Special Scientific Interest, likely to have an adverse effect on the site’s special nature conservation features, will not normally be permitted. Exceptionally development will be allowed where the benefits of the development clearly outweigh the impacts on the site’s special conservation features and measures are provided to mitigate harmful impacts”.* This is further supported by Chapter 15 of the NPPF.

10.48 Due to the highly sensitive location of the site, a separate document detailing the likely significant effects on the internationally important protected habitats and species under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the construction of a permanent access track to facilitate essential safety works, ongoing inspection, maintenance, and emergency access to March Haigh Reservoir has been prepared, and provides detail on the competent authorities statutory requirements regarding the internationally designated sites, as required by the above legislation. This can be found within appendix A, below the committee report. The document details the mitigation and compensatory measures required to ensure that the impacts on these designated sites is accounted for, allowing the proposed development to proceed in line with Kirklees statutory duties. The document has been prepared by KC Ecology.

10.49 The following documents have been submitted with the application, pertinent to biodiversity:

- Environmental Statement (ES)
- Shadow Habitat Regulations Assessment (sHRA)
- Construction Environmental Management Plan (CEMP)
- Biodiversity Net Gain Assessment (BNGA)
- Baseline Breeding Bird Survey Report

10.50 The ES deals with the assessment of the effects of the development on ecology and biodiversity, including the peat resource. This involved consideration of the effects on the South Pennine Moors Site of Special Scientific Interest (SSSI), as well as forming part of the South Pennine Moors Special Area for Conservation (SAC) and South Pennine Moors Phase 2 Special Protection Area (SPA), and on habitats and protected species.

- 10.51 The ES concludes that the development would result in the permanent loss of 0.42ha of habitat overlying peat, an internationally important habitat associated with areas of peatland and often supporting vegetation such as heather and cotton grasses. In addition, the development will result in the modification of 0.076ha of peatland habitat due to peat re-use, and indirect effects on peat hydrology at the construction stage which cannot be fully mitigated, it will be necessary to provide habitat compensation.
- 10.52 All relevant peat management and hydrological measures detailed in the March Haigh Reservoir Access Track Construction Environment Management Plan (CEMP) (dated June 2023), including (but not limited to) peat handling measures; reinstatement and restoration measures; presence of a suitably experienced Ecological Clerk of Works (ECoW); and pollution protection measures, in addition to other measures specified in the HRA, will mitigate some adverse impacts. In addition to the above, measures to avoid long term disturbance to SPA qualifying species from increased recreational use have been embedded in the scheme design and will comprise use of locked gates to deter access. The Applicant is also committed to on-going monitoring of recreational use and the implementation of additional mitigation measures including extra signage and contribution of funding to the National Trust to assist with increased visitor management, footpath repairs and fire breaks, if required.
- 10.53 The Biodiversity Net Gain Assessment details there will be a 18.72% increase in habitat biodiversity units (area-based), which is largely achieved by an off-site habitat compensation scheme, which is calculated to provide a 5.9 net gain in area biodiversity units. In addition, creating new areas of upland acid grassland on site provides 1.81 biodiversity units. The streams and ditches are retained under the scheme with only minor encroachment to the riparian zone where replacement culverts are to be installed. Therefore, there is no overall change for watercourses under the Metric. The compensation scheme would have a suitable Habitat Management Plan to establish and maintain habitats over the required 30-year period, which is to be detailed within a suitably worded S106 agreement.
- 10.54 Notwithstanding the above measures, the ES concludes that there would be a significant effect due to the unavoidable loss of 0.42ha of habitat overlying peat, which cannot be mitigated. Off-site habitat compensation is proposed to off-set this loss and details are presented in a 'Report to Inform a Habitat Regulations Assessment', which accompanies the planning application. The Canal and River Trust have been in discussion with the National Trust, who own the adjacent Marsden Estate to agree conservation works to off-set and compensate for this loss of habitat on Holme Moor. The area of Holme Moor close to Round Hill and east of Ellen Clough, is not designated as SSSI nor is it included within any SAC/SPA designations. It is within the same locality as March Haigh, being on the edge of the town of Marsden. It, therefore, offers a suitable site for compensatory measures in relation to the unavoidable impacts of the proposed access track at March Haigh Reservoir on the South Pennines Moors SAC and SPA designated features. The compensation proposals focus on diversification of at least 3.5 ha of purple moor-grass dominated vegetation of the plateau areas around Round Hill – east of Ellen Clough and north of Deer Hill Conduit, part of Holme Moor. A financial contribution from the application via a S106 agreement would enable these habitat enhancements to proceed, which would otherwise be unlikely to happen without the Proposed

Development going ahead. In order to secure these conservation works the section 106 agreement would have to be signed before the decision notice can be issued.

- 10.55 The use of compensatory works elsewhere is acknowledged to be a last resort when harm cannot be avoided, but the principle of biodiversity net gain, carrying out works to achieve benefit over and above that loss, is now an accepted principle in the planning system, having been introduced in the Environment Act 2021. Appendix 5 of the submitted sHRA details the compensation scheme to be undertaken at the off-site location.
- 10.56 Through consultation with Natural England, they accept that the mitigation and monitoring measures detailed within the submitted sHRA are suitable and in the event that planning permission is granted, the mitigation measures outlined above be secured through appropriately worded conditions.
- 10.57 KC Ecology's advice is that the measures proposed provide sufficient habitat enhancement to offset the loss of the habitats overlying peat, provided they are secured through planning conditions/S106 agreement. In this instance, the overall environmental benefit of the proposed compensation work at Holme Moor, is considered to be acceptable in the circumstances where the track is considered to be essential and in the public interest.
- 10.58 Upon completion, there is a risk of long-term changes to the flow of water through the blanket bog habitat and underlying peat as a result of the track. These effects will be mitigated by regular monitoring and track maintenance to address any impacts as they arise. This will avoid any significant environmental effect in the long-term. Once construction has finished, the ES says that the risk of disturbance to moorland birds and their nests is considered to be negligible, as it is expected that birds will become accustomed to the infrequent vehicle movements along the track. A locked gate and low barrier will be provided on the track to prevent unauthorised vehicle use and to discourage pedestrian access, to ensure that disturbance to moorland birds is minimised. The report concludes that overall, there would be no significant effect on ecology in the long-term. Officers agree with this conclusion.
- 10.59 In summary, it is anticipated that the proposed mitigation and compensatory measures will ensure that the proposed development will result in a long-term biodiversity net gain. In order to ensure this, conditions requiring the development to be completed in accordance with the CEMP and the Operation and Maintenance Plan are necessary, along with the submission of a Biodiversity Mitigation and Management Plan. This is to accord with the aforementioned policy and guidance.

#### Heritage

- 10.60 Section 66 of the Planning (Listed Buildings & Conservation Areas) Act (1990) states that for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.61 Section 66 of the Planning (Listed Building & Conservation Areas) Act (1990) are mirrored in Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.



- 10.62 Furthermore, Policy LP35 of the KLP states that: “development 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”.
- 10.63 Paragraph 199 of the NPPF states: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation...”.
- 10.64 The proposed track leads from Blake Lea Lane and passes along an existing track which runs close to the curtilage of the Grade II listed White Hall Farmhouse and White Hall Barn, then towards the reservoir where there are no designated heritage assets. As such, KC Conservation and Design have been formally consulted as part of the application process.
- 10.65 In this case, given the nature of the development and the track being laid in local gritstone, it would have a very low impact on the setting of the Listed Buildings. More so, the public benefits of providing the improved access to the reservoir for essential safety works would clearly outweigh the slight harm caused by the re-introduction of a track in this location, along with associated works and landscaping.
- 10.66 Officers have considered that the scheme would have a neutral impact on heritage and would accord with the aforementioned local and national policy and legislation.

#### Archaeology

- 10.67 Further to the above, where an application site includes or has the potential to include heritage assets with archaeological interest, an appropriate desk-based assessment, and where necessary, a field evaluation, should be provided to inform the planning authority's decision making. In this instance, the application has been supported by a Heritage Impact Assessment and by an Archaeological Desk-based Assessment. West Yorkshire Archaeology Advisory Service (WYAAS) have been submitted.
- 10.68 The findings of the report outline that evidence of activity from the Mesolithic to the post-medieval period. The Mesolithic remains includes the well-studied area around March Hill, a nationally important site. There is one recorded lithic working area that overlaps with the western end of the proposed development site while other possible lithic scatters may also be present. A Roman road also crosses the study area, possibly near the west end but the exact route of the road is unknown. There is however the potential for Roman remains to survive. Post-medieval remains, in particular drystone walls, are likely to be impacted by the proposed access track.
- 10.69 The lack of development within the moorland landscape and the absence of intensive agriculture may have led to the survival of prehistoric and Roman remains. Based on the known archaeology there is the potential for the survival of archaeological remains from many periods within the proposed trackway route.

10.70 A Written Scheme of Investigation has been submitted as part of the application process to set out the programme and methodology for site investigation and recording and a programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This has been reviewed by WYAAS and is considered to be acceptable. As such, an appropriate condition would be attached to the decision to ensure the works are carried out with the approved Scheme of Investigation.

#### Residential Amenity

10.71 Sub paragraph b of Policy LP24 of the KLP states that development should “provide a high standard of amenity for future and neighbouring occupiers”. This is also reiterated within paragraph 130 of the NPPF.

10.72 In this case, given the remote location of the site, type of development proposed and the sporadic nature of nearby residential dwellings/farmsteads, it is considered unlikely that the proposal would have adverse impacts on the residential amenities of neighbouring occupiers in terms of overbearing, overlooking, overshadowing, and loss of outlook.

10.73 Once operational, Officers consider the proposal to not have a significant adverse effect on local air quality, noise levels, odour, external lighting, and vibration due to the proposed frequency of use. A Construction Environmental Management Plan has been submitted as part of this application, to demonstrate how the development would be managed to mitigate the effects of construction working practise on neighbouring occupiers. Environmental Health Officers have been formally consulted as part of this application process and have reviewed the supporting documents and do not consider there to be any significant environmental health impacts, however, an advisory note would be attached on the decision notice in the case of an approval, to set out the appropriate hours for construction in order to protect residential amenity.

10.74 Given the above, Officers are satisfied that the proposed development would not cause significant material harm to the amenity of neighbouring residents, in accordance with the aims and objectives of LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

#### Highway issues

10.75 Turning to highway safety, Local Plan Policies LP21 and LP22 are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety. Paragraph 111 of the NPPF 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.

10.76 KC Highways DM have been formally consulted as part of the application process. It has been noted that, the site lies in a relatively remote area with access being taken from the existing local highway, which is a single-track road to the junction of Blake Lea Lane and Waters Road.

- 10.77 The proposal would likely introduce approximately 3 inspection trips per week plus weekly trips for maintenance vehicles. In this instance, the proposed number of trips are considered to be low and would not impact upon highway safety in the area. Passing places on the track have been proposed and are acceptable, along with parking and turning areas to enable a vehicle to turn and leave the site in a forward gear.
- 10.78 Highways Officers have however noted that a comprehensive Construction Traffic Management plan will be required prior to the start of the works to minimise any highway safety impact during the construction phase of the track. The Construction Management Plan (CMP) submitted read along with the Construction Environmental Plan (CEMP), fails to provide adequate detail for the site compound which will be provided to store materials and provide off-site parking and space for staff parking at the bottom of Blake Lane. As such, a condition requiring a Construction access Management Plan will be attached to the decision notice in the case of an approval.
- 10.79 The CMP outlines further issues that will need to be resolved before works can commence. This would require a defects survey and a remedial works condition to assess any remedial works required to the Highway on Blake Lea Lane (including any highway retaining walls) and the public footpath known as COL/195/10. Any remedial work carried out on the adopted highway to accommodate the construction traffic being able to access the site will require an agreement between the applicant and the highway authority under Section 278 of the Highways Act 1980.

#### Drainage issues

##### *Flood risk assessment*

- 10.80 Local Plan Policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is Chapter 14 of the NPPF.
- 10.81 NPPF paragraph 159 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 10.82 The site is within Flood Zone 1 but is over 1ha in size and therefore a Flood Risk Assessment (FRA) has been submitted in support of the application. The FRA outlines that site has been categorised as being 'low risk' of flooding. The flood risk from the ordinary watercourse that cross the access track is not represented on this EA flood map, however, following a review of all available information, these watercourses are considered to pose a low risk of flooding.

- 10.83 The FRA further outlines that the majority of the site is at very low risk of surface water flooding, except local to two watercourse crossings, where the risk is categorized as low to medium. These two watercourses will be culverted under the access track using appropriately sized structures to ensure there is no increased flood risk to the access track and that third-party flood risk is not increased as a result of the proposals. The predicted impacts of climate change over the lifetime of the development are not expected increase the fluvial flood risk. Any potential increase in surface water flood risk will be accommodated in the design by using appropriately sized culverts for the predicted future flows over the design lifetime.
- 10.84 This FRA demonstrates that the proposed access track would be safe from flooding and would not increase off-site flood risk from any source. The development proposals, therefore, comply with the requirements of the NPPF.
- 10.85 The Environment Agency have been formally consulted as part of this application, raising no objection given the sites location within flood zone 1. However, informative advice has been provided in relation to reservoir flooding.

#### *Existing culverts*

- 10.86 Alongside the above, the track passes over two existing culverted watercourses which have an established headwall construction to the southern elevations. It is proposed that the two existing culverts would either be retained in situ or replaced on a like for like basis. At this stage, the applicants Planning Statement outlines that the existing culverts are expected to be replaced, including new concrete culverts and headwalls, but it is possible upon further detailed inspections at the construction phase that the existing may be satisfactory and do not need replacing.
- 10.87 As such, indicative details for a potential design solution for the new culvers have been submitted as part of this application. However, full details have not been provided until the further works to ensure the replacement is necessary has been undertaken and therefore, in the case of an approval an appropriate condition would be attached to the decision notice.
- 10.88 In light of the above, KC Lead Local Flood Authority (LLFA) have confirmed their support for the application, as the FRA concludes that the proposed works would no increase off-site flood risk and the proposal set out in the Drainage Strategy to drain the track “over the edge” onto the surrounding ground or through the permeable surfacing (except for the first 10m which will be positively drained). It is advised that any new culverts should be as short as possible, of sufficient capacity and of pre-cast concrete construction. This is to accord with Local Plan Policies LP24, LP27 and LP28 and Chapter 14 of the NPPF.
- 10.89 Yorkshire Water have confirmed that they have no observations to make on the proposal, as there is no public infrastructure (i.e sewers or water mains) recorded in the area.

## Minerals

- 10.90 The application site is situated within a Mineral Safeguarding Area for Sandstone and Surface Coal Resource (SCR). Peat soils are known to be present in the vicinity of the site. The proposal is to construct a permanent track to March Haigh Reservoir, which would mostly follow the route of a previously installed temporary track. Where the proposed track diverts south along the reservoir embankment, there is no buried stone surface as the previous temporary track finished at the spillway. As such, this track will be constructed across an area requiring new excavation, and while largely expected to be on the managed grassland present on the toe of the embankment there is likely to be some infringement onto an area of marshy grassland/moorland over shallow peat.
- 10.91 Planning permission was granted for the installation of temporary track to aid necessary maintenance and repair works at the reservoir in 1999. A restoration method statement was prepared at the time, to cover over and revegetate the route after use.
- 10.92 From the submitted information it is acknowledged, that peat was removed along the route of the temporary track, to expose the underlying basal material, onto which stone material was laid to form a suitable surface for vehicle movements. The removed peat and turf material was stockpiled nearby and upon completion of works, it is stated that the stone track was buried using the original excavated peat and the turf re-laid, leaving the stone foundations in situ.
- 10.93 In this case, Policy LP38 if relevant, whereby the policy states that:
- 1. Surface development will only be permitted within a Mineral Safeguarded Area where it has been demonstrated that:
    - a. the mineral concerned is proven to be of no economic value as a result of the undertaking of a Mineral Resource Assessment; or*
    - b. the development will not inhibit mineral extraction if required in the future; or*
    - c. there is an overriding need for the development; or*
    - d. the mineral can be extracted prior to the development taking place**
  - 2. This policy will not apply to the following classes of surface development as they are unlikely to lead to the long term sterilisation of viable mineral resources:
    - a. extension to existing buildings and the erection of ancillary buildings within their curtilages;*
    - b. developments on sites of less than 1000 sq. meters except for proposals within 250 metres of an existing planning permission for mineral extraction;*
    - c. minor development (such as walls, gates and access);*
    - d. temporary uses of sites for periods of less than 5 years;*
    - e. amendments to previously approved developments;*
    - f. applications for Listed Building Consent;*
    - g. reserved matters;*
    - h. applications for advertisement consent**

10.94 Due to the proposed methods of works (involving no deep foundations/works) the development is unlikely to inhibit mineral extraction, as the proposed track could be easily removed, if required in the future. Therefore, the development can be justified by the need for the proposed track and would accord with sub paragraphs b and c of Policy LP38.

10.95 The accompanied 'Planning statement with Design and Access Details' makes reference to Chapter 17, paragraph 211 of the NPPF. This applies specifically to proposals for mineral extraction, stating:

*"In considering proposals for mineral extraction, minerals planning authorities should:*

*d) not grant planning permission for peat extraction from new and extended sites".*

10.96 Chapter 8 of the ES also considers the effect of the development on peat resources and hydrology along with detailed breakdown of the overall quantities of peat that would be disturbed and reused on site. It is acknowledged, that a significant proportion of this peat has previously been removed and then replaced in the formation of the former temporary track, and only a small proportion will be from undisturbed peatland areas. To be specific, the ES states that the proposal would result in the loss of 0.42 ha of peatland habitat.

10.97 Further justification regarding the loss of peatland has been requested as part of the application process and therefore this has been summarised as follows:

The initial intention was to retain all peat material on site. Please see information provided in the Scoping report statement submitted with the planning application.

*"A potential location for peat re-use was identified along the southern edge of the new track where it crosses the moorland. This involved extending the existing 'batter' design to accommodate mote peat material. There was a need to balance the re-use of the peat at this location with the additional impact the creation of this extended 'batter' would have on the habitats at this location. The project engineers assessed three separate draft options for retaining peat material on site:*

- Extend batter to a continuous 1:3 slope – minor reprofiling and minor loss of existing habitat.*
- Extend batter to a 1in4 slope – moderate reprofiling and increased loss of existing habitat.*
- Extend batter to a 1in5 slope – constructability issues and likely to require change to application site boundary, significant loss of additional habitat.*

*The first option was therefore selected as preferential, with 1:4 and 1:5 slopes assessed as likely to lead to additional undesirable impacts on the protected site and its features.*

*The remaining peat was assessed for potential re-use in positive habitat creation works on the adjacent March Haigh moorland, however the structure of the peat was deemed unsuitable for works such as grip blocking or re-profiling. This is because the peat structure was already significantly compromised/weakened by the previous work to remove and re-lay the peat during the temporary track construction. It is unlikely that this peat, once re-excavated, will be able to form stable 'bunds' of peat in gullies/grips and would be a risk of wash out in an uncontrolled manner. This would lead to significant impacts on watercourses and potential initiate greater erosion risk.*

*The compound area is to be re-instated after construction is complete, and re-use of a proportion of peat soil on this area during restoration was considered viable. A depth of no more than 0.5m of peat material was recommended by the project engineers, to limit the perceived change in landform and to avoid risk of erosion/instability.*

*The two approaches above will target the 'better quality' peat deposits that are of a firmer structure".*

- 10.98 Given the justification provided above it has been concluded that the remaining peat would be those excavated peat deposits that are highly unconsolidated, have contamination from underlying stone from the previous temporary track and/or have significant amounts of Molinia and Juncus vegetation/roots. These peat deposits are considered less desirable/suitable for successful re-use in habitat restoration around the site. This material is targeted for removal off site.
- 10.99 Having taken into account the above, the proposals would result in an unavoidable impact and disturbance to peatland and it has been considered that on balance, the decision can be supported in relation to Minerals safeguarding (LP 38) given the overarching need for the access track. As such, the development would accord with sub paragraph c of Policy LP38 of the KLP.

#### Other matters

##### *Public Right of Way*

- 10.100 Paragraph 10.103 of the Local Plan (Strategies and Policies document) states that, where a new development affects an existing public right of way (PROW), for example by changing the alignment, levels, surface, drainage arrangements, provision of new structures, or obstruction, full details will be required within the planning application with appropriate mitigation measures to ensure the protection of the PROW for users.
- 10.101 Paragraph 100 of the NPPF further states that "Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails".
- 10.102 The site lies in close proximity to a number of Public Rights of Way (PROWs) and is located close to the Pennine Way National Trail. The site is also located in an area of designated Registered Common Land and Open Access/Section 15 Land under the Countryside and Rights of Way Act 2000 and is within the defined South Pennine Moors SPA / SAC Strategic Green Infrastructure Network area.

- 10.103 Of particular note, public footpath COL/195/40 would intercept with the proposed access track which is located to the north east and would cross at Point C, passing place 1. The site also falls within the South Pennine Moors SPA/SAC Strategic Green Infrastructure Network. As such, the Council's Public Rights of Way Team have been consulted.
- 10.104 In this case, the ES sets out that the current levels of recreation use are low and limited to mainly walking and dog-walking with some running and mountain biking.
- 10.105 A number of documents have been submitted to demonstrate how the PROW would be protected during construction and afterwards. This includes some cross sections and details within the ES, Planning Statement and CEMP. Notwithstanding the submitted information, additional details regarding a cross section and the gradients of the track with the PROW and the detail of the signage and their location to be used to manage public access during construction. Therefore, in the absence of the additional information conditions have been requested in the case of an approval, to include the above information.

*Climate change and sustainability*

- 10.106 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.
- 10.107 This application has been supported by a Climate Change Statement which sets out the use of the land, whereby the reservoir provides drinking water for Yorkshire Water. The track is therefore designed to improve the management of March Haigh Reservoir, which is important for public water supply.
- 10.108 The use of energy associated with the proposed safety works would only be required during construction. Once construction is complete the track would not have any ongoing energy requirements.
- 10.109 The statement also sets out the importance of the development given the pressure from climate change on ageing critical infrastructure. As increasing extremes in weather patterns are bringing consideration challenges for the management of such infrastructure which need to be overcome to maintain resilience and protect public safety.
- 10.1010 Overall, given the nature of the development proposed and its overarching needs for public safety, officers consider the development to provide sufficient mitigation measures in order to combat climate change.



## Representations

10.1011 As a result of the above publicity, no representations have been received.

## Planning obligations

### *Ecology*

10.1012 The Environmental Statement submitted with the application concludes that there would be a significant effect due to the unavoidable loss of 0.42ha of habitat overlying peat, which cannot be mitigated. Off-site habitat compensation is proposed to off-set this loss and details are presented in a 'Report to Inform a Habitat Regulations Assessment', which accompanies the planning application.

10.1013 Therefore, the applicants (The Canal and River Trust) are in discussion with the National Trust, who own the adjacent Marsden Estate to agree conservation works to off-set and compensate for this loss of habitat on Holme Moor. The area of Holme Moor close to Round Hill and east of Ellen Clough, is not designated as SSSI nor is it included within any SAC/SPA designations. It is within the same locality as March Haigh, being on the edge of the town of Marsden.

10.1014 For these reasons, Officers feel that this would be a suitable site, to provide the compensatory measures and a 10% biodiversity net gain in relation to the unavoidable impacts of the proposed access track at March Haigh Reservoir on the South Pennines Moors SAC and SPA designated features. The compensation proposals focus on diversification of at least 3.5 ha of purple moor-grass dominated vegetation of the plateau areas around Round Hill – east of Ellen Clough and north of Deer Hill Conduit, part of Holme Moor. A financial contribution from the applicant via a S106 agreement would enable these habitat enhancements to proceed, which would otherwise be unlikely to happen without the proposed development going ahead.

## **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 proposal seeks permission for the Construction of permanent vehicular access track legally required as a 'Measure in the Interest of Safety' under the Reservoirs Act for essential safety works, ongoing inspection and emergency access and the erection of fencing, within a highly sensitive location/landscape.

- 11.3 Officers have considered the cumulative impacts and acknowledge that the development would impact upon the Protected Area designations of the South Pennines, which carries both Special Area of Conservation (SAC) and Special Protection Area (SPA) designations, as well as Site of Special Scientific Interest (SSSI), however, compensatory measures have been proposed and accepted within the Habitats Regulation Assessment (HRA). These include a financial contribution to the National Trust in order to diversify at least 3.5 ha of purple moor-grass dominated vegetation of the plateau areas around Round Hill – east of Ellen Clough and north of Deer Hill Conduit, within Holme Moor. Such measures would be secured via a S106.
- 11.4 The track design will be developed to reduce long term operational safety risk, reduce the risk to public safety, to comply with Section 10 of the Reservoirs Act.
- 11.5 Taking the above into account, it is 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 to commence development (3 years)
2. Development to be carried out in accordance with the approved plans and specifications.
3. Prior to their use, details of the stone to be used for the access track shall be submitted to and approved in writing by the LPA.
4. Prior to construction commencing, a schedule of the means of access to the site for construction traffic shall be submitted to and approved in writing by the LPA. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and the provision, use and retention of adequate wheel washing facilities within the site.
5. Prior to the commencement of the development (including ground works), a survey (including photographic evidence) of the existing condition of the highway on Blake Lea Lane (the extent of highway to be surveyed to be agreed in writing by the Local Planning Authority in advance) and the Public Footpath COL/195/10 (from Blake Lea Lane to the proposed access track) shall be carried out jointly with the Local Highway Authority and submitted to and approved in writing by the Local Planning Authority. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining. The submission made pursuant to this condition shall also include a timetable of works and a commitment (with responsibilities assigned to named parties) to undertake remedial works (the details of which shall be submitted to and approved in writing by the Local Planning Authority) to maintain the highway during the entirety of the construction phase to the condition documented in the pre-commencement highway condition survey. The final highway remediation works so approved shall be completed within one month of completion of construction phase.

6. Prior to the installation of the track at point C, details of the existing definitive public footpath Col/195/40 to be retained on site where crossed by the proposed access track, as detailed on the approved site layout plan, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
  - a) A large scale plan showing the location, design and landscape of this section of the definitive public footpath;
  - b) Existing and proposed full cross and long sections, including gradients;
  - c) Construction specifications, signing and surfacing materials;
  - d) An independent Safety Audit covering all aspects of the work;
  - e) Pedestrian safety measures in respect of where the public footpath crosses the proposed track; and
  - f) A timescale for its implementation.The definitive public footpath shall then be provided in accordance with the approved timescale and thereafter retained.
7. Prior to the installation of the track at point C, a detailed scheme shall be submitted to and approved in writing by the Local Planning Authority for the protection of the public safety of Col/195/40 (Colne Valley public footpath 195) in relation to all aspects of construction works within and including areas to or from the site. Unless otherwise agreed in writing, the approved scheme shall be implemented throughout the construction period of the development.
8. The development shall be carried out in complete accordance with the Written Scheme of Investigation dated June 2023, unless otherwise agreed in writing with the Local Planning Authority.
9. The gates to restrict unauthorised access shall be installed before the track is first brought into use and kept locked at all times, other than when the track is in use. The gates shall thereafter be retained for the lifetime of the development.
10. The development shall not be carried out other than in strict accordance with the Construction Environmental Management Plan (CEMP). All relevant measures detailed in the CEMP (dated June 2023), including (but not limited to) monitoring of breeding bird location and activity by a suitably qualified ECoW; ECoW toolbox talk; maintenance of a stripped vegetation corridor along the construction route; and temporary visual screening should be strictly adhered to at the site.
11. The development shall not be carried out other than in strict accordance with the Operation and Maintenance (O&M) Manual.
12. Prior to the commencement of development, a Biodiversity Mitigation and Management Plan shall be submitted and approved by the LPA. The plan shall detail all mitigation measures required to avoid adverse effects on site integrity, as fully detailed within the HRA. Additional mitigation measures for construction/operational impacts on the SSSI should be included within the BMMP, including:
  - Creation of acid grassland along track edges (within the designated site); and
  - Inclusion of suitable seed mix for twite in acid grassland creation areas.
13. A restoration scheme to be submitted and agreed in writing with the LPA in the event that any part of the track is removed/no longer required.

14. Before the development commences, a full structural dilapidation survey of the existing highway retaining walls along Blake Lea Lane shall be undertaken by a suitably qualified and experienced structural engineer and a copy of the report submitted to the Highway Structures team for record purposes. A further structural dilapidation survey of the retaining walls shall also be required following the completion of the works and any defects arising in the highway retaining walls due to heavy traffic associated with the proposed development shall be made good to the satisfaction of the Council's' structures team, within one month of completion of the construction phase.

### **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=2023/91093>.

Certificate of Ownership – Certificate B signed,

## Appendix 1 – Habitat Regulation Appraisal

### Summary

This report relates to the application which proposes the construction of a track in open moorland, with most of the route being within an area designated for its habitat and biodiversity interest as a Special Protection Area (SPA) and Special Area of Conservation (SAC).

SPAs are areas which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds, SACs are also areas which have been given special protection, and they provide increased protection to a variety of wild animals, plants and habitats. If a proposed plan or project is considered likely to have a significant effect on an SAC or SPA (known as a “European site”), either individually or in combination with other plans or projects, then an appropriate assessment of the implications for the site, in view of the site’s conservation objectives, must be undertaken. For the reasons set out in this report, an Appropriate Assessment is considered necessary.

### Site and Surroundings

The application proposes to construct a permanent access track and fencing to facilitate ongoing inspection, maintenance and emergency access at March Haigh Reservoir, located approximately 1.6km north-west of the town of Marsden, in the Metropolitan Borough of Kirklees, West Yorkshire and centred on grid reference SE 016 093. The Site falls within the South Pennine Moors Site of Special Scientific Interest, as well as forming part of the South Pennine Moors Special Area for Conservation and South Pennine Moors Phase 2 Special Protection Area.

The proposed access track begins on an existing track just off Blake Lea Lane (grid reference SE 0259 1272) and runs towards the reservoir spillway (grid reference SE 0172 1305) and in part crosses the open moorland area that forms part of the South Pennines.

After this point, the Site then diverts south over the spillway and along the base of the existing reservoir embankment for approximately 180m (grid reference SE 0171 1287 401717, 412878). The associated permanent stock fencing only is proposed along this section, to provide protection of the dam embankment from grazing cattle on the wider moorland.

### Proposals

Construction of a permanent access track legally required as a measure in the interests of safety under the reservoirs act for essential safety works and ongoing inspection, maintenance, and emergency access to March Haigh reservoir.

The access track will be installed ahead of a proposed project to address a number of other measures in the interests of safety at March Haigh Reservoir, legally required to be completed by the applicant before the end of February 2024, which would have been otherwise inaccessible without an access track.

To avoid repeated information, additional information regarding the proposals can be found in additional detail within the planning application report.

**RECOMMENDATION: That this report be adopted as the Authority’s assessment of likely significant effects on internationally important protected habitats and species under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) in relation to the construction of a permanent access track to facilitate essential safety works, ongoing inspection, maintenance, and emergency access to March Haigh Reservoir.**

## Key Issues

Under Section 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) any development that has the potential to result in a Likely Significant Effect (LSE) on a European site and is not directly connected with the management of the site for nature conservation reasons, must be subject to a Habitat Regulations Assessment (HRA). Where it is confirmed that there will be a likely significant effect, the competent authority must carry out an Appropriate Assessment of those impacts.

All planning applications which are not directly connected with, or necessary for, the conservation management of a European site, require consideration of whether the proposed development is likely to have significant effects on that site. This consideration, typically referred to as the 'Habitats Regulations Assessment screening', should take into account the potential effects both of the development itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority, in this planning case Kirklees Council, must make an appropriate assessment of the implications of the development for that site, in view of the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the European site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.

Natural England has advised the Authority that, as a competent authority under the provisions of the Habitats Regulations, it should have regard for any potential impacts that a plan or project may have on a European site.

In this case, the designated site is the South Pennine Moors Special Area for Conservation (SAC) and Peak District Moors Special Protection Area (SPA).

## Assessment

The Habitat Regulation Assessment Process involves several stages which can be summarised as follows:

- Stage 1 – Likely Significant Effect Test (Habitats Regulations Assessment screening)
- Stage 2 – Appropriate Assessment
- Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test.

**Stage 1 (Screening):** This is essentially a risk assessment utilising existing data, records and specialist knowledge. This stage identifies the likely impacts of a project upon a European Site and considers whether the impacts are likely to be significant. The purpose of the test is to screen in or screen out whether a full appropriate assessment is required. Where likely significant effects cannot be excluded, assessing them in more detail through an appropriate assessment is required to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out.

**Stage 2 (Appropriate Assessment):** This is the "appropriate assessment" and this involves consideration of the impacts on the integrity of the European Site with regard to the conservation site's structure and function and its conservation objectives. Where there are adverse effects, an assessment of mitigation options is carried out. If the mitigation cannot avoid any adverse effect or cannot mitigate it to the extent that it is no longer significant, then development consent can only be given if an assessment of alternative solutions is successfully carried out or the Imperative Reasons of Overriding Public Interest (IROPI) test is satisfied.

**Stages 3 and 4:** If a project will have a significant adverse effect and this cannot be either avoided or mitigated, the project cannot go ahead unless it passes the IROPI test. In order to pass the test, it must be objectively concluded that no alternative solutions exist. The project must be referred to the Secretary of State on the grounds that there are Imperative Reasons of Overriding Public Interest as to why the project must proceed. Compensatory measures needed to maintain the overall coherence of the site or integrity of the national site network must be taken.

## Stage 1: Likely Significant Effect Test

A “Report to inform a habitat regulations assessment” has been submitted with the application. This was prepared by Penny Anderson Associates on behalf of the applicants, the Canal and River Trust and is hereafter referred to as the PAA report. The PAA report was commissioned by the applicants to inform a Habitat Regulation Assessment in relation to the proposed permanent access track application. The purpose of this report is to set out the information needed to enable Kirklees Council, as competent authority, to undertake a Habitat Regulations Assessment (HRA) with regard to the features of international importance for which the European sites (SAC and SPA) were designated. The effects of the development on the South Pennine Moors SSSI and other, non-designated, ecological features are addressed in the Environmental Statement (ES) which accompanied the planning application for the proposed access track installation.

The report produced by Penny Anderson Associates Ltd contains the following information:

- Details of the European Sites and their qualifying features (Chapter 2);
- Consideration of alternatives to the proposed track including 'do-nothing', decommissioning of the reservoir(s), alternative routes, construction methodology and programme (Chapter 3);
- A description of the selected route including habitat descriptions for each section of the route (Chapter 4);
- A summary of the results of a breeding bird survey undertaken in spring 2021 with particular reference to the SPA qualifying species (Chapter 5);
- A description of the possible direct and indirect effects on the qualifying features of the European Sites (Chapter 6);
- Proposed mitigation measures, compensation strategy and monitoring to address effects on the integrity of the European Sites (Chapter 7); and
- Concluding statement on the assessment of LSE, effects on integrity of European Sites and consideration of Imperative Reasons of Over-riding Public Interest<sup>10</sup> (Chapter 8).

In relation to the site and its characteristics, and in consultation with the Authority and Natural England, the key features that are addressed in the PAA report are the vegetation/habitats and botany, the breeding bird assemblage and the hydrology of the peat resource (as fundamental to its quality). The report sets out this information as far as it is needed to understand the potential effects on the qualifying features of the European Sites. It is a lengthy and detailed document so only the key conclusions are included in this report; a full copy can be seen on the Authority’s website under planning application 2023/62/91093/W.

**Conclusion on Stage 1:** Given the findings and conclusions set out in the PAA report, officers have considered that significant impacts of the project on the designated sites cannot be excluded, so it is necessary to assess them in more detail through an Appropriate Assessment in order to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out.

## Stage 2 – Appropriate Assessment

The PAA report sets out their analysis of the likely impact of the proposed permanent track on the interest of the designated sites and assesses the significance of these, their likely impact on the features of interest and possible mitigation.

### Effects of Proposed Development on the South Pennine Moors SAC

**Loss of Peat Resource and Hydrological Function:** The only affected habitat feature for which the SAC was designated, and which therefore requires assessment under the Habitats Regulations, is blanket bog. The PAA report concludes that the construction of the permanent stone track and associated passing places would result in the loss of 0.42ha of habitat overlying peat, modification of a small amount of 0.076ha peatland habitat where the peat would be re-used on site, to minimise removal off Site and indirect effects on peat hydrology during construction which cannot be avoided. There will be an impact on blanket bog at the operational stage of development due to embedded mitigation that will allow for water to flow through the track, with no adverse effect on peat hydrology.

Without embedded mitigation being built into track design and construction approach, the Proposed Development would likely to lead to further disruption of peat hydrology and function along the route resulting from impeded drainage on the upstream (north) side of the permanent track leading to the retention of water within the peat mass and possible formation of ponded water along the trackside and/or potential washout of the track structure due to altered flowlines/regimes.

The extent of indirect effects on the peat resource below (on the south side) of the track is difficult to quantify precisely but impeded drainage following the Proposed Development could potentially result in drying of the peat in this area, with risk of peat loss through increased erosion and oxidation. To avoid these potential effects are far as possible, embedded mitigation has been designed in from the outset.

Nevertheless, there will be a permanent loss of approximately 0.42ha of habitat(s) with underlying peat within the Proposed Development footprint and a risk of changes to peat hydrology which cannot be fully mitigated. The loss of peat has been calculated by overlaying the footprint of the road (see the General Arrangement drawings – Technical Appendices of the Environmental Statement, 3.1 to 3.1c) comprising the final stone track, any edges of the track (that will be made up of stone and covered with peat and resown with an acid grassland/heather mix) and any area of minor earthworks to enable the track design to be achieved (these areas will also be sown with acid grassland/heather mix).

**Impacts on Water Quality:** The proposed track construction also introduces the risk of changes to water quality resulting from accidental spillage/pollution of the water environment during construction, surface-run off during construction, and the introduction of a permanent stone track of a higher pH than the surrounding peat mass resulting in localised changes in vegetation. Best practice pollution control measures will be incorporated as an integral part of scheme implementation to avoid any impact on water quality through accidental pollution and surface run-off during construction.



### **Effects of Proposed Development on the South Pennine Moors SPA: Disturbance to Qualifying Bird Species During Construction**

At the construction stage, the Proposed Development would be highly unlikely to impact on the SPA qualifying feature, merlin, which are not likely to be breeding in the vicinity. Golden plover and curlew are possible/probable breeding species within 100m to the north of the track, but construction is anticipated to take place outside of the bird breeding season. Similarly, snipe are a probable breeding species within 100m of the proposed compound area, but again would not be affected by disturbance in this area unless works went beyond the scheduled end of February 2024 completion date. Dunlin and common sandpiper are restricted to the reservoir edges away from any construction impacts. Wheatear are associated with Hard Head Clough and the open moorland as a possible breeding species and would similarly be potentially impacted only if the construction schedule did not meet its target completion date of end February 2024.

### **Increased Disturbance to SPA Qualifying Bird Species During Operational Phase**

At the operational phase of Proposed Development the introduction of a permanent access track into the moorland environment could result in the following activities, which may result in disturbance to or displacement of SPA qualifying species:

- Recreational use of the track by e.g. walkers and dog walkers to link up with existing Public Right(s) of Way and informal paths;
- Unauthorised off-road vehicles use; and
- Authorised vehicle use for operational purposes with at least two visits per week.

To address the risk of increased disturbance, a number of mitigation measures will be adopted from the outset. Unauthorised vehicle use of the track is highly un-desirable for the Applicant as this could lead to erosion, fire damage, pollution and vandalism.

These built-in measures comprise the existing gate at White Hall Farm on Blake Lea Lane to be replaced with a new padlocked gate, and a second padlocked gate to replace the existing gate at Hard Head Clough. The Applicants O&M Manual for the completed development sets out the requirement for twice weekly inspection of these gates by the Applicant's operatives, who will carry suitable equipment for on-the-spot repairs and maintenance of these gates as required - this is relatively low level and is likely to cause less disturbance to birds than pedestrian access, but contributes to cumulative disturbance.

It is understood that there is already an issue with unauthorised off-road vehicles leaving the A640 and entering the moorland from the north. The Proposed Development could potentially encourage greater access from the north, and it is proposed to closely monitor this situation, with a number of mitigation measures in place to avoid this.

Consequently, it is reasonable to conclude that there is unlikely to be a significant impact on SPA bird species during the operational phase.

## **Stages 3 & 4 – Assessment of Alternative Solutions and Imperative Reasons of Overriding Public Interest Test**

The report assesses several alternative options to the proposed permanent track. These are set out in detail below given the importance of this issue (taken directly from the PAA report).

**Do-nothing Option:** A permanent access track is considered by the Defra-appointed Inspecting Engineer to be an essential requirement to ensure the safety of the reservoir, and to enable the further 24 safety-critical works to be undertaken, under Section 10 of the Reservoirs Act. To 'do-nothing' would result in a failure to meet the legal requirement for the Applicant to have carried out these changes in the interest of safety, by February 2024.

**Alternative Routes:** A thorough assessment of alternative routes was completed for the temporary track constructed in 1999 and the proposed permanent track will largely follow the same alignment. The appropriateness of this route was considered in the assessment of the planning application for that temporary track. It was acknowledged in the planning assessment for the temporary track that the alternative routes would require longer tracks and the crossing of blanket bog areas adjacent to steep ravines. There are, therefore, no alternative routes which would provide appropriate access for the required vehicles and equipment needed during an emergency or for maintenance. Using the same alignment as the temporary track reduces the need to construct on undisturbed land.

**Reservoir Discontinuation:** If the reservoir was discontinued and drained, with the dam removed so that no substantive residual risk remained, this would preclude the practical need for a permanent access track. It should be noted that a substantial temporary access track would be required to facilitate the significant physical works associated with discontinuance. The Applicant has reviewed the need for March Haigh Reservoir and the high-level issues around discontinuance. The conclusion of this work is that discontinuance of the reservoir is not considered to be a viable or desirable alternative, for reasons explained in detail in Section 5.1.2. of the separate justification document (Canal & River Trust 2023) that accompanies the planning application.

**Alternative Methods if the Track Were not a Legal Requirement:** Prior to the access track becoming a legal requirement, the Applicant investigated alternative options for access for maintenance works at the reservoir, all of which had been discounted as not feasible. None of these previously explored options are now available to the Canal & River Trust as an alternative way of overcoming the safety issues that have been identified.

Pursuant to the Section 10 report, the Trust is under a strict legal obligation to provide a permanent access track. The options considered, but no longer available, were:

- Use of low ground pressure all-terrain vehicles;
- Helicopter access; and
- Temporary access track for the planned major civil engineering works.

**Required for Use of Low Ground Pressure All-Terrain Vehicles:** Regular use of alternative vehicles such as a Hagglund/Softack, would form informal, irregular tracks and impact on the moorland habitats, with informal tracks likely to evolve and widen over time in an unmanaged way as vehicles sought to avoid ruts and damaged areas, thereby likely causing greater damage over the long term than a well-designed access track. All-terrain vehicles do not satisfy all access requirements, nor can they carry the pumps and plant required to provide maintenance or emergency access.

**Helicopter Access:** It would not be possible to utilise helicopters in poor weather when access would be more likely to be required in an emergency. Helicopters have insufficient load capacity for the equipment required. In addition, the altitude and location of the reservoir can mean that helicopter access is prevented by wind or cloud and cannot be relied upon as the primary means of emergency response. The method is also not feasible for the regular small-scale maintenance that is necessary and does not resolve safety concerns with the surveillance visits require two times per week, as a minimum. It is also worth noting that the landing area required would need to be large and be sited within the SAC/SPA, which in itself may require work requiring a planning application, and/or an HRA. In addition, equipment required for use in an emergency would still need to be bought in by road, with helicopters being used to transport sandbags only, so this would not be acceptable from a reservoir safety emergency planning point of view.

**Temporary access track for the planned major civil engineering works:** A temporary access track has been used previously at March Haigh in order to complete major maintenance at the reservoir in 1999. Using a similar approach going forward would not address access requirements for regular inspection and maintenance and the failure to complete regular routine maintenance can lead to defects developing with an increased risk of dam failure. A temporary track would also not be a practicable means of access in case of an emergency.

### **Mitigation measures and compensation strategy**

**Mitigation Measures:** In order to avoid any adverse effects on the integrity of the South Pennine Moors SAC/SPA the PAA report acknowledges that it will be necessary to incorporate mitigation measures. The adoption of mitigation has been undertaken in accordance with the mitigation hierarchy to avoid impacts in the first instance and then, where impacts are unavoidable, to minimise or restore the potential impacts.

In the case of the permanent track construction across blanket bog it will not be possible to avoid, minimise or restore impacts on the blanket bog habitat, so there will be an unavoidable effect on the integrity of the SAC which must be off-set through compensation measures. In addition, where there are unavoidable effects on the integrity of a European site, it is a requirement of the Habitat Regulations that the HRA must demonstrate that there are IROPI regarding any impact to the SAC. The need for the development is covered in the report on the planning application and the consideration of alternatives is set out above.

**Habitat Mitigation During Construction:** The proposed track has been designed to minimise effects on the habitats of the South Pennine Moors SAC. The Supporting documents make the case that a temporary track solution will not address the current need for permanent access for vital reservoir inspection and maintenance. The track will be the minimum width possible to accommodate the type of vehicles required for construction and operational purposes, with a running width of 4m plus additional width to allow for earthworks, where needed. Passing passes and compounds have been located within the footprint of the earlier temporary track to avoid impacting on new areas. The stone to be used for track construction has been selected for as low a pH as possible whilst maintaining structural stability. The track has been designed to be free-draining as far as possible to avoid the need for additional drainage features to be installed.

Construction within and close to the protected area will be closely supervised by an experienced ECoW with expertise in the peat environment. Best practice measures will be implemented throughout the Proposed Development to safeguard the peat resource from accidental spillage and pollution.

**Habitat Mitigation during Operation:** The stone track design across the protected area comprises free draining stone to minimise the long-term disruption of peat hydrology. Nevertheless, there is the potential for localised pooling of water on the upslope (north) side of the track, potentially increasing erosion over time, which would need to be addressed through a programme of monitoring and maintenance. On the downslope (southern) side of the track localised scour may occur at culvert and pipe outfalls, again requiring monitoring and maintenance to prevent erosion from occurring.

A programme of regular monitoring and maintenance would be implemented by the Applicant to be set out within the O&M Plan to identify and address localised issues to prevent any long-term disruption to the peat mass, in particular accelerated scour and erosion. Monitoring and maintenance activities to be included in the O&M plan will comprise frequent visual inspection of the track at least one a year, and more frequently as needed e.g. following storm events. Remedial measures will range from small scale filling of pot-holes and replacement of erosion protected (coir rolls, heather bales etc), to more significant works such as replacement of drainage pipes or topping up of the track surface. As a result of embedded mitigation, it is anticipated that there would be no long-term effect on the peat resource and peat hydrology during the operational phase of the development.

In respect of the South Pennine Moors Phase 2 SPA it is anticipated that any adverse effects on the integrity of the SPA can be overcome with the proposed mitigation measures.

**Construction Phase:** Whilst the PAA report says that the construction of the track is highly unlikely to impact directly or indirectly on nest site of SPA qualifying species, and propose some mitigation measures, officers consider that it should not be necessary to carry out the work during the bird breeding season if the works are required to be completed by the end of February 2024. Consequently, the timing of the construction works could be conditioned and further mitigation work will not be required.

**Operational Phase:** To avoid unauthorised vehicular and pedestrian access, the existing gate at White Hall Farm on Blake Lea Lane is to be replaced with a new padlocked gate, and a second padlocked gate to replace the existing gate at Hard Head Clough. The Applicants O&M Manual for the completed development sets out the requirement for twice weekly inspection of these gates by the Applicant's operatives, who will carry suitable equipment for on-the-spot repairs and maintenance of these gates as required.

**Compensation Strategy:** Due to the impacts on the degraded blanket bog habitat, which cannot be mitigated and will comprise the permanent loss of 0.42ha of peatland habitat, modification of 0.076ha of peatland habitat due to peat re-use, and indirect effects on peat hydrology at the construction stage which cannot be fully mitigated, it will be necessary to provide habitat compensation.

In addition, there will be a permanent loss of habitat of approximately 0.5ha for SPA qualifying bird species namely golden plover, curlew, snipe and wheatear which cannot be mitigated in situ. The majority of this habitat loss is within the SPA, but there are also very small areas of acid grassland loss immediately adjacent to the track edges on functional land outside of the SPA. The permanent habitat loss would result in the loss in extent and distribution of habitat that could be used for nesting as well as foraging/feeding by these species. It is, therefore, proposed that the habitat compensation area is also managed to provide compensatory habitat for golden plover, curlew, snipe and wheatear.

Habitat compensation proposals have been designed to provide a significant area of enhanced moorland habitat within close proximity to the Site, while also being situated on land outside of any designated areas (SSSI/SAC/SPA) where habitat enhancement and long-term management is unlikely to have otherwise been brought forward. The compensation scheme will deliver habitat enhancement to compensate for the permanent loss of blanket bog habitat as well as increasing the structural diversity of a currently *Molinia*-dominated moorland to provide habitat for SPA qualifying bird species.

The Applicant has agreed, in principle with the National Trust, that the habitat compensation works will be implemented across at least 3.5ha of purple moor-grass-dominated moorland owned by the National Trust at Holme Moor (Round Hill), located approximately 4km south-east of the site. Given the location of Holme Moor, outside any SSSI/SAC/SPA designation, it is not a priority for the National Trust to undertake habitat restoration works on this area. Therefore, a financial contribution from the application via a S106 agreement would enable these habitat enhancements to proceed, which would otherwise be unlikely to happen without the Proposed Development going ahead. The close proximity of Holme Moor to the SSSI would add to the value of the habitat enhancement.

The selected area conforms to tests of appropriateness due to

- Restoration will be off the protected site and will affect habitat that might not otherwise be restored.
- The area for restoration is close to the protected site (it is contiguous with the site).
- The selected area is currently in unfavourable condition.
- Restoration proposed using the methods described is technically feasible in part, the survey suggests bunding may be inappropriate due to peat depth.

**Habitat and Bird Monitoring:** A programme of habitat and bird monitoring at both the Proposed Development Site and the compensation area is proposed with reports provided to Kirklees Council and NE to provide evidence of the success of the proposed mitigation and habitat re-instatement measures at the Proposed Development site, and habitat compensation measures at Holme Moor (Round Hill). The reports will include recommendations for any remedial measures required.

## Conclusions

The HRA considers the effects of the proposed development on the South Pennine Moors SAC and South Pennine Moors Phase 2 SPA and concludes that due to the location of the development partially within the SAC and SPA there will be a Likely Significant Effect (LSE) on the qualifying features and an Appropriate Assessment is required.

Desk-based assessments and field surveys have been completed to provide a baseline for the proposed development.

The track route has been selected as the least environmentally damaging that fulfils the need to undertake the legally required Safety Measures identified in the most recent Reservoirs Act, Section 10 Inspector's report, by the required completion date of February 2024 for the completion of the dam safety works, as well as facilitating on-going reservoir maintenance.

Nevertheless, there would be a permanent loss of a small amount of habitat overlying peat within the footprint (0.42ha), modification of a small amount of (0.076ha) peatland habitat where the peat would be re-used on site to minimise removal off Site and indirect effects on peat hydrology during construction which cannot be avoided. To meet the requirements of the Habitat Regulations it is necessary to demonstrate that there are imperative reasons of overriding public interest (IROPI) for the Proposed Development to proceed and that compensatory measures will be provided. The case for IROPI is set out in the separate document entitled March Haigh Reservoir. Justification for a Permanent Access Track (Canal & River Trust 2023). Habitat compensation will be delivered on land owned by the National Trust at Holme Moor (Round Hill), under a legally binding S106 agreement. The habitat compensation will be provided in perpetuity.

The PAA report concludes that the proposed development would meet the requirements of the Habitat Regulations. Having considered the report, officers agree that the report makes a thorough assessment of the likely environmental effects on the designated area and that it provides a justification for the proposed scheme, setting out suitable mitigation and compensation.

Direct effects on SPA qualifying bird species are considered unlikely as there is no evidence of nest sites along the route. However, there may be some habituation or temporary avoidance of functional habitat along the route due to construction activities and use of bird disturbance measures targeted primarily at non-SPA qualifying species. Embedded mitigation measures are incorporated into scheme design to avoid any adverse effect on site integrity as far as possible.

The permanent sections of track would result in the unavoidable loss of blanket bog habitat within the SAC which cannot be mitigated. This will result in an adverse effect on site integrity. To meet the requirements of the Habitat Regulations it has been necessary to demonstrate that there are Imperative Reasons of Over-riding Public Interest (IROPI) for the development to proceed and that compensatory measures will be provided. Habitat compensation will be delivered under a legally binding S106 agreement. A programme of habitat and bird monitoring is proposed, with reports provided to the Authority and Natural England to provide evidence of the effectiveness of the proposed mitigation measures. The reports will include recommendations for any remedial measures required.

### **Natural England Consultation**

Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Natural England accept that the mitigation and monitoring measures detailed within the PPA report are suitable and in the event that planning permission is granted, the mitigation measures outlined above be secured through appropriately worded conditions.