

# Public Document Pack



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

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Wednesday 31 January 2024

## Notice of Meeting

Dear Member

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

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 8 February 2024**.

(A coach will depart the Town Hall, at 10.45am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Tow Hall.)

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

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

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

**Julie Muscroft**

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

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

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

### **Member**

Councillor Eric Firth (Chair)  
Councillor Timothy Bamford  
Councillor Gwen Lowe  
Councillor Adam Gregg  
Councillor Steve Hall  
Councillor John Lawson  
Councillor Mussarat Pervaiz  
Councillor Andrew Pinnock  
Councillor Jackie Ramsay  
Councillor Joshua Sheard  
Councillor Shabir Pandor  
Labour Group Vacancy (1)  
Labour Group Vacancy (2)

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

### **Substitutes Panel**

#### **Conservative**

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

#### **Green**

K Allison  
A Cooper  
S Lee-Richards

#### **Labour**

B Addy  
P Moore  
M Sokhal  
T Hawkins  
H Zaman

#### **Liberal Democrat**

PA Davies  
A Munro  
A Marchington  
A Smith

# Agenda

## Reports or Explanatory Notes Attached

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Pages

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

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

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the Meeting of the Sub-Committee held on 9 November 2023.

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**3: Declaration of Interests and Lobbying**

5 - 6

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

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**4: Admission of the Public**

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

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**5: Deputations/Petitions**

The Sub-Committee will receive any petitions and/or deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

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

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heard at any one meeting.

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## **6: Public Question Time**

To receive any public questions.

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

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

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## **7: Site Visit - Application No: 2023/90116**

Outline application for erection of residential development at the rear of 135 Heckmondwike Road, Dewsbury Moor.

Ward affected: Dewsbury West

Contact: Nina Sayers, Planning Services

Estimated time of arrival at site: 10.55am

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## **8: Site Visit - Application No: 2023/92327**

Erection of six dwellings, including associated parking, landscaping, open space and ball stop netting (modified proposal) at Green Acres Close, Emley.

Ward affected: Denby Dale

Contact: Ellie Thornhill, Planning Services

Estimated time of arrival at site: 11.30am

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## **Planning Applications**

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 5 February 2024.

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

**9: Planning Application - Application No: 2023/90116** 9 - 30

Outline application for erection of residential development at the rear of 135 Heckmondwike Road, Dewsbury Moor.

Ward affected: Dewsbury West

Contact: Nina Sayers, Planning Services

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**10: Planning Application - Application No: 2023/92327** 31 - 60

Erection of six dwellings, including associated parking, landscaping, open space and ball stop netting (modified proposal) at Green Acres Close, Emley.

Ward affected: Denby Dale

Contact: Ellie Thornhill, Planning Services

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### **Planning Update Report**

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

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Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

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

**Thursday 9th November 2023**

Present: Councillor Eric Firth (Chair)  
Councillor Ammar Anwar  
Councillor Adam Gregg  
Councillor Steve Hall  
Councillor John Lawson  
Councillor Gwen Lowe  
Councillor Andrew Pinnock  
Councillor Jackie Ramsay  
Councillor Joshua Sheard  
Councillor Mohan Sokhal

Apologies: Councillor Timothy Bamford  
Councillor Mussarat Pervaiz

- 1 Membership of the Sub-Committee**  
Apologies for absence were received from Councillors Bamford and Pervaiz.  
  
Councillor Sokhal substituted for Councillor Pandor.
- 2 Minutes of Previous Meeting**  
**RESOLVED** – That the Minutes of the Meeting held on 21 September 2023 be approved as a correct record.
- 3 Declaration of Interests and Lobbying**  
No interests were declared.
- 4 Admission of the Public**  
It was noted that all agenda items would be considered in public session.
- 5 Deputations/Petitions**  
No deputations or petitions were received.
- 6 Public Question Time**  
No questions were asked.
- 7 Site Visit - Application No: 2023/90434**  
Site visit undertaken.
- 8 Site Visit - Application No: 2022/92616**  
Site visit undertaken.

**9 Application to record Moor Lane, Farnley Tyas, as a public footpath/bridleway on the Definitive Map and Statement**

The Sub Committee gave consideration to an application to record Moor Lane, Farnley Tyas, as a public footpath/bridleway on the Definitive Map and Statement.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Susan Taylor (Kirklees Bridleway Group) and Helen Leitch (Huddersfield Rucksack Group).

**RESOLVED** That approval be given to make a Definitive Map Modification Order under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to record Moor Lane, between Farnley Road and Manor Road, Farnley Tyas, as a restricted Byway on the Definitive Map and Statement, and that a further report be submitted to a future meeting to consider the Council's position on confirmation of the Order.

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

For: Councillors Anwar, E Firth, Gregg, S Hall, Lowe, A Pinnock, Ramsay and Sokhal (8 votes)

Against: Councillor Gregg (1 vote)

**10 Application for a Definitive Map Modification Order (DMMO) to record a Public Right of Way from Definitive Public Footpath at Upper High Fields to Woodsome Road at Farnley Tyas, Kirkburton on the Definitive Map and Statement**

The Sub Committee gave consideration to an application for a Definitive Map Modification Order to record a Public Right of Way from Definitive Public Footpath at Upper High Fields to Woodsome Road at Farnley Tyas, Kirkburton, on the Definitive Map and Statement.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Frances Holmes (Farnley Tyas Action Group) and Jane Faulkner (Farnley Tyas Action Group).

**RESOLVED** - That approval be given to make a Definitive Map Modification Order under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to record a public footpath on the Definitive Map and Statement from Definitive Public Footpath 55/10 at Upper High Fields to Woodsome Road at Farnley Tyas, Kirkburton on the Definitive Map and Statement and to confirm the order if unopposed, or support confirmation of the Order if opposed.

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

For: Councillors Anwar, E Firth, Gregg, S Hall, J Lawson, Lowe, A Pinnock, Ramsay and Sokhal (9 votes)

Against: (no votes)



**11 Planning Application - Application No: 2022/92619**

The Sub Committee gave consideration to Application 2022/92619 – Change of use of land and formation of skate park at Royds Park, Bradford Road, Rawfolds, Cleckheaton.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Jordan Saville (local resident), Simon Fagg (on behalf of the applicant) and Ed Atkinson (on behalf of the applicant).

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

- standard timescale for implementation of permission
- development to be carried out in accordance with the approved plans
- planting schedule to be submitted comprising native species
- submission of construction management plan
- erection of protective fencing in accordance with British Standard BS 5837 shall be erected around the canopy extent of adjacent trees
- the installation of CCTV (additional condition requested by Sub-Committee)

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

For: Councillors E Firth, Gregg, S Hall, J Lawson, Lowe, Ramsay, A Pinnock and Sokhal (8 votes)

Against: Councillor Anwar (1 vote)

**12 Planning Application - Application No: 2023/90434**

The Sub Committee gave consideration to Application 2023/90434 – change of use of ground floor of vacant public house (Sui Generis – drinking establishment) to community centre with a small prayer room (Class F1) at Babes in the Wood, 1039 Leeds Road, Woodkirk, Dewsbury.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Jeremy Parkinson (local resident) and Haris Kasuji (applicant's agent).

Under the provisions of Council Procedure Rule 36(3), the Sub-Committee received a representation from Councillor H Zaman (local member).

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

- timeframe for commencement of development
- development to be carried out in accordance with the submitted plans and information

## Planning Sub-Committee (Heavy Woollen Area) - 9 November 2023

- development to be completed in accordance with the submitted sounds attention scheme specified in the noise breakthrough assessment authored by Nova Acoustics (6 April 2023 Ref NP-009258)
- submission of a noise management plan before the development is first brought into use and thereafter implemented before the use commences, reviewed periodically and retained thereafter
- bollards to be erected in accordance with plan 22265-D02-C before the development is first brought into use and thereafter detained
- hours of use restriction and restriction on permitted use (additional condition requested by the Sub-Committee)

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

For: Councillors Anwar, E Firth, S Hall, J Lawson, A Pinnock and Sokhal (6 votes)

Against: (no votes)

Abstained: Councillors Gregg and Lowe

**KIRKLEES COUNCIL**

**DECLARATION OF INTERESTS AND LOBBYING**

Planning Sub-Committee/Strategic Planning Committee

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

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

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 08-Feb-2024

Subject: Planning Application 2023/90116 Outline application for erection of residential development rear of, 135, Heckmondwike Road, Dewsbury Moor, Dewsbury, WF13 3NT

#### APPLICANT

Abdul Ali

#### DATE VALID

03-Feb-2023

#### TARGET DATE

31-Mar-2023

#### EXTENSION EXPIRY DATE

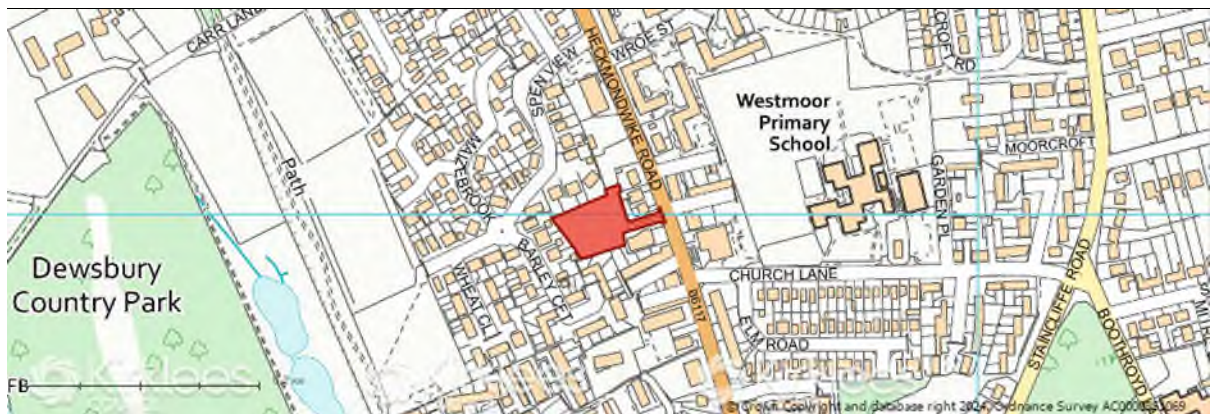
12-Feb-2024

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Dewsbury West**

**Ward Councillors consulted: No**

**Public or private: PUBLIC**

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION**

1.1 The application is brought to the Heavy Woollen Planning Sub-Committee for decision due to the significant volume of local opinion received over the lifetime of the application (26 public comments received). This is in accordance with the Council's Scheme of Delegation.

**2.0 SITE AND SURROUNDINGS**

2.1 The application relates to an irregularly-shaped parcel of land approximately 0.25ha in size, located to the rear of 135, Heckmondwike Road, Dewsbury Moor, Dewsbury. The site is surfaced in hardstanding and permission was granted in 2021 for the use of the site for parking commercial vehicles (minibuses). The site slopes downhill to the west. The existing site access from Heckmondwike Road (B6117) runs between 125 Heckmondwike Road (St Johns Under 5s Pre School) and 135 Heckmondwike Road.

2.2 The site is located in a predominantly residential area and is surrounded by residential properties on all sides. The surrounding dwellings are predominantly brick-built two-storey semi-detached dwellings, although there is some variation. St Johns Under 5s Pre School is directly to the south of the site access. There are commercial uses to the south and southeast of the site.

2.3 The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way within close proximity to the site.

**3.0 THE PROPOSAL**

3.1 The applicant is seeking outline permission for the erection of residential development. The only matter to be determined at this stage is access. All other matters are reserved.

3.2 The application form and indicative site layout plan show seven dwellings (two pairs of semi-detached dwellings and one terrace of three dwellings). This, however, is not subject to determination at this stage.



3.3 Access, which is to be considered at this stage, would be provided from the existing access between nos. 125 and 135 Heckmondwike Road which serves the existing commercial vehicle (minibus) parking area.

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

4.1 At the application site:

87/00169 – Outline application for residential and retail development. Granted conditionally.

2021/90635 - Engineering works to level site and change of use to park commercial vehicles (Minibuses). Conditional full permission.

4.2 At neighbouring properties:

89/03209 – Erection of 134 no. dwellings and associated garages. Granted conditionally. (Heckmondwike Road).

90/03088 – Revised layout in respect of Plots 6-10 inclusive and 81-122 inclusive. Reserved Matters approved. (Heckmondwike Road).

2001/92369 – Change of use of vacant land to domestic garden. Full permission unconditional.

2001/93871 – Change of use of vacant land to domestic gardens. Conditional full permission. (Land to rear and side of 135-141 Heckmondwike Road).

2008/92597 – Erection of 5 no dwellings. Withdrawn, (Land adj. The Woolpack).

2008/93892 – Erection of 4 dwellings. Conditional full permission. (Land adj. The Woolpack).

2017/92271 – Erection of 6 no. dwellings with associated roadway and parking, demolition of existing bungalow. Conditional full permission. (151 Heckmondwike Road).

2020/92309 – Erection of 6 dwellings with associated parking. Conditional full permission. (151 Heckmondwike Road).

2021/91801 – Outline application for erection of petrol filling station. Conditional outline permission. (151 Heckmondwike Road).

2022/92230 – Reserved matters application pursuant to outline permission 2021/91801 for erection of petrol filling station. Not yet determined.

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

- Description of proposal changed to reflect minibus operation and then removed following amended plans.
- Noise assessment requested and received – assessed by KC Environmental Health and considered acceptable subject to condition.

- Following initial KC Highways Development Management (HDM) response – amended indicative layout and location plan received. Re advertised. Secondary KC HDM response given.
- Following secondary KC HDM response – Technical Note and Access Proposals plan submitted.

## **6.0 PLANNING LEGISLATION AND POLICY**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Kirklees Local Plan. The Kirklees Local Plan was adopted on 27 February 2019 and comprises the strategy and policies document, allocations and designations document and associated proposals map.

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

### Kirklees Local Plan (February 2019)

The site is unallocated on the Kirklees Local Plan.

- Policy LP1 – Presumption in favour of sustainable development
- Policy LP2 – Place Shaping
- Policy LP3 – Location of new development
- Policy LP7 – Efficient and effective use of land and buildings
- Policy LP20 – Sustainable travel
- Policy LP21 – Highways and access
- Policy LP22 – Parking
- Policy LP24 – Design
- Policy LP30 – Biodiversity & Geodiversity
- Policy LP51 – Protection and improvement of air quality
- Policy LP52 – Protection and improvements of environmental quality
- Policy LP53 – Contaminated and unstable land

### Supplementary Planning Documents

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

### National Policies and Guidance

6.3 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in 2012 and updated most latterly in December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for Local Planning Authorities and is a material consideration in determining planning applications.

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

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

### Climate Change

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

## **7.0 REPRESENTATIONS (PUBLIC)**

- 7.1 We are currently undertaking statutory publicity requirements, as set out at Table 1 in the Kirklees Development Management Charter. As such, we have publicised this application via neighbour notification letters which expired on 21<sup>st</sup> March 2023.
- 7.2 As a result of the above publicity, a total of 26 representations have been received from 12 individuals (all in objection).
- 7.3 15 representations were initially received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:
- Site is not in a sustainable location.
  - Noise
  - Artificial lighting
  - Air quality

- Highway safety
- Contaminated land
- Trees
- Ecology
- Overshadowing
- Overlooking / loss of privacy
- Proximity of proposed dwellings to existing dwellings
- Drainage / flooding
- Loss of green space

7.4 Amended plans were advertised by neighbour notification letters giving until 1<sup>st</sup> June 2023 to comment. 7 further representations were received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:

- Overbearing
- Loss of minibus parking

7.5 Five additional comments (all in objection) were raised following the close of public consultation period, submitted by 2 individuals. Under Paragraph 034 of the National Planning Policy Guidance (NPPG) on Consultation and Pre-Decision Matters, dated 23/07/2019 (Reference ID: 15- 026-20190722), the Council has – at its discretion – accepted public comments made after the close of the consultation period for due consideration. The following is a summary of the material planning considerations which were raised as concerns:

- Overshadowing
- Overlooking
- Highway safety
- Drainage concerns
- Impact on operation of adjacent pre-school
- Prevention of vehicle access for pre-school students, particularly those who have limited mobility.
- Bus stop has previously been moved, causing overlooking to the adjacent pre-school

## **8.0 CONSULTATION RESPONSES**

8.1 A summary of consultee responses is set out below. Where appropriate, these are expanded on within the main appraisal:

## 8.2 **Statutory:**

KC Highways Development Management (HDM) – object to the proposal (detailed further within the report) for seven dwellings (as this would result in an intensification of the access). Residential development could however be submitted provided that there would be no intensification in the use of the access to the site.

KC LLFA – no objection subject to conditions and a S106 agreement (to be detailed within the report).

The Coal Authority – no objection subject to conditions (to be detailed within the report).

## 8.3 **Non-Statutory.**

KC Ecology – no objection subject to conditions (to be detailed within the report).

KC Environmental Health – no objection subject to conditions (to be detailed within the report).

## 9.0 **MAIN ISSUES**

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

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

## 10.0 **OFFICER ASSESSMENT**

### **Principle of Development**

10.1 The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

10.2 The proposal is required to accord with Policy LP3 of the Kirklees Local Plan, which requires new development to be situated in a sustainable location that provides access to arrange of transport choices and access to local services. This site is within walking distance of bus stops on Heckmondwike Road and Church Lane. There is a convenience store, pharmacy, childcare facilities, and a café/bakery adjacent to the site entrance. Therefore, the site is considered to be in a sustainable location close to public transport and local services. Officers consider the site is in a sustainable location for residential development.

- 10.3 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.
- 10.4 The NPPF was updated on 20th December, paragraph 76 states:
- Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:*
- a) their adopted plan is less than five years old; and*
  - b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.*
- 10.5 The Council's Local Plan was adopted in February 2019 and is currently less than 5 years old.
- 10.6 Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 70 of the NPPF recognises that:
- "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should... support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes".*
- 10.7 Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. Policy LP7 of the Kirklees Local Plan establishes a desired target density of 35 dwellings per hectare. By that standard, this site (measuring ~0.25ha gross), in theory, could accommodate 8 to 9 dwellings.
- 10.8 Policy LP7 states the target density of 35 dwellings per hectare should be "where appropriate" and in the policy justification set out in paragraph 6.40 notes that the policy allows for lower "densities where a site would not be compatible with its surroundings". Should outline planning permission be granted, consideration should be given to the density of development to ensure that it sympathetically integrates with existing development in the locality.
- 10.9 In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring *inter alia* that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

10.10 In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

### **Impact on Visual Amenity**

10.11 The National Planning Policy Framework offers guidance relating to design in Chapter 12 (achieving well designed and beautiful places), whereby paragraph 126 provides a principal consideration concerning design which states:

*“The creation of high quality, beautiful and sustainable 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.”*

10.12 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.

10.13 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...”*

10.14 Paragraph 134 of the National Planning Policy Framework sets out that design guides and codes carry weight in decision making. Of note, paragraph 139 of the National Planning Policy Framework states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD, which aims to ensure future housing development is of high-quality design.

10.15 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

- 10.16 Further to this, Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.
- 10.17 The application is submitted in outline form, with access being the only matter to be determined at this stage. The indicative site layout plan shows seven dwellings, comprising two pairs of semi-detached dwellings and one terrace of three dwellings, laid out in a roughly linear form, along with a private driveway and parking to the northern part of the site. The size, design, and layout are purely indicative; thus, the details are not being assessed or determined at this time. The indicative site plan also shows two parking spaces for each dwelling to the front, along with two parking spaces for the existing dwellings (nos. 135 – 141 Heckmondwike Road), and gardens for all proposed dwellings to the rear. However, these details are also purely indicative, given this is an outline application.
- 10.18 In this instance, the application site is within an established residential area surrounded by dwellings on all sides. The surrounding dwellings are predominantly brick-built two-storey semi-detached dwellings, although there is some variation. Whilst all matters other than access are reserved, the size, shape and location of the development indicatively proposed would be in keeping with the formation of existing development. It is noted that there is no defined street pattern in the surrounding area. As such, the indicative “backland” cul-de-sac development would not appear out of character with the street scene or townscape.
- 10.19 No details have been submitted in respect of the proposed design or materials, it is acknowledged that care would need to be taken at reserved matters stage to reflect the local vernacular and use materials that are currently present within the local area, in accordance with Principles 13, 14, and 15 of the Council’s Housebuilder’s Design Guide SPD.
- 10.20 Consideration should also be given at reserved matters stage to ensuring adequate soft landscaping is provided throughout the site in the interest of visual amenity and to comply with Principle 7 and 8 of the Housebuilders Design Guide SPD.
- 10.21 In conclusion, it is considered that, subject to the details provided within the reserved matters application, the site could be designed so as to contribute positively to the local character of the area. As scale, layout and landscaping are reserved matters, care would need to be taken to ensure that any future development does not appear overbearing in relation to neighbouring residential dwellings or to constitute overdevelopment of the site. Appropriate landscaping should also be provided to enhance the area and not detract from its character and appearance. As such, it is considered that the development would meet the aims of Chapter 12 of the NPPF by contributing positively to the surrounding area and would be in accordance with Kirklees Local Plan Policy LP24 and the Housebuilder’s Design Guide SPD.



## Impact on Residential Amenity

10.22 Section B and C of Policy LP24 state that alterations to existing buildings should:

*“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

10.23 Further to this, Paragraph 135 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.24 Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”* The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- for a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

10.25 The current submission is an outline application with all matters reserved (other than access), therefore the impact the proposed development would have on the amenities of the occupants of the neighbouring properties cannot be fully assessed at this stage. However, an indicative layout has been provided. This layout is considered to provide a reasonable indication as to how the site might be developed, should it be proposed that seven dwellings (along with a private driveway) are provided on the site.

10.26 The indicative site plan shows the following separation distances would be maintained:

- ~25.4m between the rear elevation of 10 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 10 George Street would not have a direct relationship to this new dwelling.
- ~23.4m between the rear elevation of 12 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 12 George Street would not have a direct relationship to this new dwelling
- ~22m between the rear elevation of 14 George Street (two-storey dwelling) and the indicative Plot 1. The indicative proposed layout shows 14 George Street would not have a direct relationship to this new dwelling.

- ~8.6m between the rear elevation of 25 Barley Croft (two-storey dwelling) and the indicative Plot 1. However, the indicative proposed layout shows 25 Barley Croft would not have a direct relationship to this new dwelling.
- ~10.9m between the rear elevation of 23 Barley Croft (two-storey dwelling) and the indicative Plot 1. 23 Barley Croft would look over the garden area of Plot 1. As such, there would not be a direct relationship to this new dwelling.
- ~25.7m between the rear elevation of 11 Barley Croft (two-storey dwelling) and indicative Plot 1.
- ~27.3m between the rear elevation of 9 Barley Croft (two-storey dwelling) and indicative Plots 1, 2 & 3.
- ~27.5m between the rear elevation of 7 Barley Croft (two-storey dwelling) and indicative Plots 3 & 4.
- ~29.2m between the rear elevation of 5 Barley Croft (bungalow) and indicative Plots 4 & 5.
- ~28.7m between the rear elevation of 3 Barley Croft (bungalow) and indicative Plot 6.
- ~32.8m between the rear elevation of 1 Barley Croft (bungalow) and indicative Plot 7.
- ~28.7m between 35 Spen View (bungalow) and indicative Plot 7 (between corners of dwellings).
- ~19.6m between the rear elevation of 33 Spen View (two-storey dwelling) and the indicative Plot 7. 33 Spen View would look over the garden area of Plot 7. As such, there would not be a direct relationship to this new dwelling.
- ~17.7m between the rear elevation of 31 Spen View (two-storey dwelling) and the indicative Plot 7. 31 Spen View would look over the garden area of Plot 7. As such, there would not be a direct relationship to this new dwelling.
- ~15.2m between the rear elevation of 29 Spen View (two-storey dwelling) and the indicative Plot 7. This is acceptable for windows of habitable rooms that face onto windows of a non-habitable room.
- ~15.2m between the rear elevation of 27 Spen View (two-storey dwelling) and the indicative Plot 7. This is acceptable for windows of habitable rooms that face onto windows of a non-habitable room.
- ~16m between 25 Spen View (bungalow) and indicative Plot 7 (between corners of dwellings).
- ~41.5m between 143 Heckmondwike Road (bungalow) and indicative Plot 7.
- ~39.3m between 139 & 141 Heckmondwike Road (two storeys to front/three storeys to rear) and indicative Plots 5, 6 & 7.
- ~38.5m 135 & 137 Heckmondwike Road (two storeys to front/three storeys to rear) and indicative Plots 3 & 4.
- ~24.5m to St Johns Under 5s Pre School. However, this is not a residential property.

10.27 Whilst the site plan is indicative, this demonstrates that appropriate separation distances can be maintained when design and layout is agreed at reserved matters stage. Site sections should be submitted at reserved matters stage, due to elevation differences, in order to assess scale and height within context.

- 10.28 The site access would run past 135 Heckmondwike Road and St Johns Under 5s Pre School. The latter property is not a residential property. However, the impact of the site access on the residential amenity of no.135 can and should be assessed at this stage.
- 10.29 The proposed access road runs approximately 1.6m from the side elevation of no.135. There are no windows in this side elevation, although there is an entrance door (not the main access to the dwelling. The boundary treatment is currently partly timber fencing with concrete posts and partly brick wall (between 1m and 1.5m high). A 0.6m footway would be provided between the boundary of no.135 and the proposed access road.
- 10.30 Officers note the existing use of the site for minibus parking (for up to seven vehicles), which would result in some vehicle movements (although a condition was included restricting vehicle movements to 7.30 – 17.30 Mon-Fri and 8.00-13.00 Sat). Seven dwellings are indicatively proposed, with the indicative plan showing two parking spaces per dwelling as well as formalised parking for nos. 135 – 141 Heckmondwike Road (two spaces each). As such, there would be an increase in trips generated as a result of the proposal, as well as a lack of restriction on the hours in which those trips could take place (it would not be reasonable to restrict by condition the hours of vehicle movements on this type of application).
- 10.31 Given the lack of windows to the southern elevation of no.135 and the existing approved use of the site, it is likely at reserved matters, that impact on residential amenity is considered acceptable on balance.

#### *Noise*

- 10.32 KC Environmental Health were consulted. Their response highlights that noise from existing sources such as the nearby road, the children's nursery and the minibus operation could affect the amenity of the proposed residential properties. It is noted that since the response, the minibus operation has been removed from the scheme.
- 10.33 A noise assessment report was requested prior to determination. The applicant chose to submit a Noise Impact Assessment (NIA) authored by Clover Acoustics dated 8th July 2021 (ref: 4570-R1), which was used to support application 2021/90635. KC Environmental Health reviewed this submitted information report and consider that the findings of the submitted report are accepted in relation to the impact upon the existing residential properties. However, it does not consider the occupiers of the proposed development and whilst it is possible there would be a similar impact upon them, a condition for an addendum report to be submitted is recommended (should planning permission be granted) to ensure there is no loss of amenity to future occupiers. A condition is also recommended for a noise assessment report and mitigation scheme to be submitted (should planning permission be granted), specifying the measures to be taken (if any) to protect the proposed residential development from noise from all significant noise sources by which it is likely to be affected. These would be pre-commencement conditions which are considered necessary to ensure measures to protect the existing and proposed residential properties from noise pollution are incorporated at an appropriate time.

- 10.34 It is noted that application 2021/90635 was conditioned to limit the maximum number of minibuses and to control the hours of use. KC Environmental Health therefore recommended these conditions are carried over (should planning permission be granted). As the minibus operation has been removed from the scheme following the submission of revised plans, this is not considered necessary in this instance.

#### *Artificial lighting*

- 10.35 The KC Environmental Health response notes that no information has been provided regarding external lighting to the minibus compound. Due to the close proximity of nearby existing residential dwellings and the new residential properties proposed KC Environmental Health recommended a condition (should planning permission be granted) to protect the amenity of nearby sensitive receptors from stray light and glare associated with external artificial lighting. As the minibus operation has been removed from the scheme following revised plans, this is not considered necessary in this instance.

#### *Construction*

- 10.36 The KC Environmental Health response indicates that there is a potential for loss of amenity to the occupiers of nearby properties from noise, vibration, dust and artificial light from the construction phase of the development. KC Environmental Health therefore recommend a condition for a Construction Environmental Management Plan (should planning permission be granted).
- 10.37 Given the above, it is possible that something of a different design, layout or smaller in scale may be required to minimise impact of residential amenities on neighbouring and future occupiers. The proposal in outline form, does not give rise to any significant adverse impacts upon neighbouring residential amenity, as such, this aspect of the proposal is considered to be acceptable on balance. It is therefore concluded that the proposals comply with Policies LP24 and LP52 of the Kirklees Local Plan, Principles 6, 16, and 17 in the Council's Housebuilders Design Guide SPD, and Paragraphs 130 (f), 174 (e), and 185 (a) of the National Planning Policy Framework.

#### **Impact on Highway Safety**

- 10.38 Paragraph 115 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.”*
- 10.39 Policy LP21 of the Kirklees Local Plan states that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users.
- 10.40 The proposal initially included an indicative site layout for 7 dwellings and the retention of the existing minibus parking within this site. The proposal would therefore result in significant intensification in the use of the site. KC HDM were consulted. Their initial response indicated that they had several concerns regarding this application which are as follows:

1. The application site is located along Heckmondwike Road next to a pre-school nursery and pharmacy and opposite a convenience store and children's centre. Nearby housing has no off-street parking provision and there is an existing bus stop between the site and pre-school nurse. All the above are likely to generate on-street parking along Heckmondwike Road at this location which will obstruct visibility and at times reduce the available road width to one lane.
2. Adoptable standards.
3. Swept paths.
4. Kerb radii.
5. Footways.
6. Sight lines from the proposed access onto Heckmondwike.
7. Parking and access to the existing house numbers 135 to 141.

10.41 KC Highway Safety comments were included in this initial KC HDM response, which are as follows:

*"We have previously received several complaints about double parking at this location (hence the Keep Clears on both sides of the road). The parking is associated with the local businesses and the chemist and taking into consideration that some parents going to the nearby school (up Church Lane) also choose to park here along with the proximity of the crossing and the bus stop at the top of this road, it is especially busy at school times and peak times and any additional traffic would add to these issues, Highway Safety wouldn't support any further traffic here. The owner has already put up some signs always requesting access which suggests that other drivers would also park on the access road leading to the development blocking access and we would receive more complaints. These proposals could also put bus passengers at risk of they are waiting for a bus here".*

10.42 Following these initial comments, a revised plan was received showing 6.0m kerb radii, footways, a traffic calming ramp at the site access, a turning head, parking for the existing dwellings (nos. 135 to 141) and removing the minibus parking area. The location plan has been amended to accommodate the changes to the access onto Heckmondwike Road.

10.43 KC HDM have assessed this submitted amended plan. They consider that, whilst the applicants have addressed some of the concerns raised in the previous consultation response, there are still outstanding concerns regarding servicing and the access from Heckmondwike Road. Officers note that the proposed removal of the minibus parking significantly reduces the number of trips made in and out of the site. However, the applicant had failed to demonstrate whether the proposed indicative 7 dwellings would result in less trips, into and out of the site, in comparison to the existing commercial use.

10.44 Following the additional comments from KC HDM, a technical note and plan detailing access proposal were submitted. The technical note provided trip generation of both the existing commercial use and the indicatively proposed 7 dwellings. KC HDM comment that the traffic generation from the proposed 7 dwellings can be verified using the TRICs data base and is considered reasonable. No evidence or surveys are provided to justify the traffic generation by the 7 mini-buses and the comment that this change is expected to positively impact the traffic flow and network efficiency in the area cannot therefore be accepted.

- 10.45 This is an outline application taking into consideration access only. The layout, scale, landscaping and appearance are reserved matters to be dealt with by a separate application.
- 10.46 On balance, given the indicative 7 dwellings would result in an intensification in the use of the site, and the highway safety concerns discussed above, it is considered that a proposal for 7 dwellings would not be acceptable from a highway perspective. Officers do however note that this application is an outline application for residential development, and the number of dwellings is indicative at this stage. Officers must take into consideration the existing use on the site for minibus parking. It is considered, on balance, that the principle of residential development could be acceptable, subject to the scheme proposing a reduced number of dwellings, which would not result in an intensification in the use of the access to the site.
- 10.47 The applicant would need to demonstrate at reserved matters stage that the proposed number of dwellings would result in less trips than the existing arrangements on site, and as such would cause no additional harm to highway safety, over and above the existing arrangements on site. As such, on balance, the proposal for an outline application for residential development is considered acceptable subject to the number of dwellings being reduced at reserved matters stage.
- 10.48 It is noted that the applicant has demonstrated the addition of a traffic regulation order. KC HDM have concerns that a proposed TRO is unlikely to be successful in this location as it is likely to receive representation. This element has been removed from the scheme by the applicant.
- 10.49 It is therefore considered, on balance, that subject to a reduced number of dwellings at reserved matters stage, the harm to the safe and efficient operation of the highway network would be no greater than the existing use on site. As such, the scheme would accord with policies LP21 and LP22 of the Kirklees Local Plan, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

### **Other Matters**

#### *Coal Mining Legacy*

- 10.50 The Coal Authority were formally consulted. Their response highlights that the application site falls within the defined Development High Risk Area and notes that the planning application is accompanied by a Coal Mining Risk Assessment report (February 2023) prepared for the proposed development by RB Geotechnical. The report has been informed by geological and coal mining information. Having carried out a review of the available information, the report author considers that currently there is potential risk to the site from unrecorded shallow coal mining and recommendations have been made that intrusive ground investigations are required in order to confirm the exact ground conditions beneath the site. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment report that coal mining legacy potentially poses a risk to the proposed development, and that intrusive

site investigation works should be undertaken prior to development in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary. Conditions are recommended to be imposed to this effect, should planning permission be granted.

#### *Contaminated land*

- 10.51 The property has been highlighted as on potentially contaminated land due to its previous use as a Woollen Mill (our site ref: 383/5). Additionally, the Coal Authority response dated 20<sup>th</sup> February 2023 highlights that there is coal at or close to the surface, which may have been worked at some time in the past. Whilst geotechnical information is outside the remit of KC Environmental Health, they consider that possible ground gas and the contaminated land legacy at the proposed site must be considered and therefore recommend contaminated land conditions (should planning permission be granted). It is also recommended to add a condition (should planning permission be granted) requiring a verification report to be submitted for imported materials to demonstrate they are safe and suitable for use. With these conditions inserted into the decision notice, the development would comply with LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

#### *Drainage*

- 10.52 The LLFA were formally consulted on the proposed scheme. The development, consisting of 7 dwellings and associated driveways and access road is sited on land that is currently mostly undeveloped. The surface water run-off from the new roof and hardstanding areas should be restricted to 3.5 l/s (subject to a minimum flow control device outlet of 75mm) and attenuation storage provided to ensure that the critical 1 in 100 year rainfall event (plus climate change allowance) is contained within the site such that no flood water leaves the development into the surrounding properties and adopted highway. The attenuated flow should be connected to the Yorkshire Water Surface Water sewer in Heckmondwike Road (subject to YW acceptance). Conditions are recommended relating to drainage details, overland flow routing and a Construction Phase Surface Water Flood Risk and Pollution prevention plan should approval be recommended.
- 10.53 The LLFA have commented that in order for the LPA to fulfil their obligation to ensure the maintenance and management of surface water drainage systems for the lifetime of the site, a unilateral undertaking to set up a management company to carry out an approved maintenance and management scheme; including access to and into any structure in accordance with CDM regulations 2015; and an itinerary and schedule of maintenance and management tasks. Such an undertaking can cease if and when the infrastructure is formally adopted by the Statutory Undertaker and/or Highways Authority.
- 10.54 Officers have considered the LLFAs comments and consider on balance, given the scale of the application, the request for a S106 agreement is not proportionate or necessary in this instance. Particularly when, as discussed above, the application at reserved matters stage would need to be for a reduced number of dwellings.

### *Biodiversity*

- 10.55 The application site is not located within a Bat Alert layer. The site is predominantly hardstanding, so it is considered that this site is likely to have low potential for ecological or protected species. Policy LP30 of the Kirklees Local Plan and Principle 9 of the Kirklees Housebuilders Design SPD set out that proposals should provide net gains in biodiversity. Given this, the provision of a bird boxes on the proposed dwellings is to be recommended as a condition should permission be granted.

### *Protected Trees*

- 10.56 A number of representations make reference to the loss of trees as part of a site clearance that took place between 2018 and 2021. This site is not in a Conservation Area and from our records there were no trees covered by a Tree Preservation Order on this site. As such, although the loss of trees is unfortunate, in this instance the Council has no powers to prevent this.

### *Carbon Budget*

- 10.57 This is an outline application for the erection of residential development. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric vehicle charging point is recommended, should planning permission be granted. The proposal therefore complies with Policies LP20, LP21, LP24, LP47, LP51, and LP52 of the Kirklees Local Plan, Principle 18 of the Housebuilders Design Guide SPD, Chapter 9 of the National Planning Policy Framework, and the West Yorkshire Low Emission Strategy (WYLES).
- 10.58 There are no other matters considered relevant to the determination of this application.

### *Pre-Commencement Conditions*

- 10.59 The recommendation proposes the inclusion of pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority have made the agent aware of the recommended pre-commencement conditions and would ensure, if applicable, the agent agrees to the imposition of the relevant pre-commencement conditions prior to determination.

### **Representation**

- 10.60 As a result of the publication of this application, a total of 26 representations have been received from 12 individuals (all in objection).



10.61 Initially 15 objections were received from 10 addresses. The following is a summary of the material planning considerations which were raised as concerns:

- Site is not in a sustainable location

*Response: the principle of development has been carefully considered in the principle of development section of this report.*

- Noise
- Artificial lighting
- Air quality
- Overshadowing
- Overlooking / loss of privacy
- Proximity of proposed dwellings to existing dwellings

*Response: this has been carefully considered in the residential amenity section of this report.*

- Highway safety

*Response: this has been carefully considered in the highway safety section of this report.*

- Contaminated land
- Trees
- Drainage

*Response: this has been carefully considered in the other matters section of this report.*

10.62 Following the amended plans publicity period, 7 further representations were received (all in objection). The following is a summary of the material planning considerations which were raised as concerns:

- Overbearing

*Response: this has been carefully considered in the highway safety section of this report.*

- Loss of minibus parking

*Response: this was removed to address highway safety concerns and has been carefully considered in the highway safety section of this report.*

10.63 Five additional comments (all in objection) were raised following the close of public consultation period, submitted by 2 individuals.

- Overshadowing
- Overlooking

*Response: this has been carefully considered in the residential amenity section of this report.*

- Prevention of vehicle access for pre-school students, particularly those who have limited mobility.
- Highway safety

*Response: this has been carefully considered in the highway safety section of this report.*

- Drainage concerns

*Response: this has been carefully considered in the other matters section of this report.*

- Impact on operation of adjacent pre-school
- Bus stop has previously been moved, causing overlooking to the adjacent pre-school

*Response: this has been carefully considered during the assessment of this application.*

## **11.0 CONCLUSION AND RECOMMENDATION**

11.1 This application for outline permission for the erection of residential development to the rear of 135 Heckmondwike Road has been assessed against relevant policies in the development plan as listed in the policy section of the report, the National Planning Policy Framework and other material considerations.

11.2 The National Planning Policy Framework has introduced a presumption in favour of sustainable development. The policies set out in the National Planning Policy Framework taken as a whole constitute the Government's view of what sustainable development means in practice.

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

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

It is considered appropriate to recommend the inclusion of the following conditions:

1. Approval of the details of appearance, landscaping, layout, and scale to be approved at reserved matters stage
2. Timescale for submission of reserved matters
3. Implementation following reserved matters
4. In accordance with submitted plans
5. Submission and approval of further noise assessment (pre-commencement)
6. Noise Assessment Report and Mitigation Scheme (pre-commencement)
7. Submission of a lighting scheme
8. Construction Environmental Management Plan (pre-commencement)
9. Intrusive site investigations and necessary remediation – coal mining (pre-commencement)

10. Submission of a statement or declaration confirming that the site is safe and stable for the approved development.
11. Submission of Phase 1 Preliminary Risk Assessment Report in relation to contaminated land (pre-commencement)
12. Submission of Phase 2 Intrusive Site Investigation Report in relation to contaminated land (pre-commencement)
13. Submission of Remediation Strategy in relation to contaminated land (pre-commencement)
14. Implementation of Remediation Strategy in relation to contaminated land
15. Verification Report in relation to contaminated land
16. Imported materials in relation to contaminated land
17. Provision of electric vehicle charging points
18. Provision of bird boxes
19. Removal of any obstruction within the visibility splay
20. Drainage details (pre-commencement)
21. Overland Flow Routing in relation to drainage (pre-commencement)
22. Construction Phase Surface Water Flood Risk and Pollution prevention plan (pre-commencement)

### **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%2f90116>

### **Certificate of Ownership:**

Certificate B signed.



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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 08-Feb-2024

**Subject: Planning Application 2023/92327 Erection of 6 dwellings, including associated parking, landscaping, open space and ball stop netting (modified proposal) Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA**

#### APPLICANT

Project Emley Ltd

#### DATE VALID

02-Aug-2023

#### TARGET DATE

27-Sep-2023

#### EXTENSION EXPIRY DATE

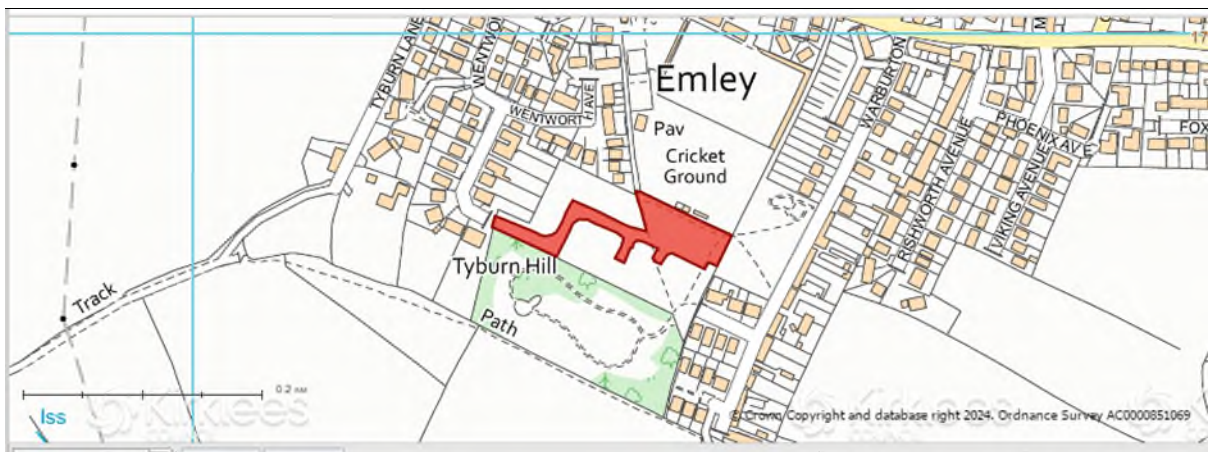
16-Feb-2024

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:**

**1. Secure a Section 106 Deed of Variation, linking this approval to the previous Section 106 agreement dated 23/06/2021, Deed of Variation dated 03/03/2023 and the S73 application (2023/92255) Deed of Variation (currently being processed).**

**2. Complete the list of conditions including those contained within this report and issue the planning permission. 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 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 Outline planning permission was granted at the application site for residential development (no number of units specified) under application 2020/91215. Access was a consideration as part of that application, with appearance, layout, scale and landscaping being Reserved Matters. As the quantum of development was unknown at outline stage, a Section 106 agreement (dated 23/06/2021) secured appropriate planning obligations and contributions in principle, subject to details being determined upon submission of a Reserved Matters application. The Section 106 agreement secured affordable housing, financial contributions (if triggered) towards education, highways and transport improvements (including a TRO order), open space, biodiversity and the provision of management and maintenance arrangements for land not within private curtilages and for infrastructure (until adoption).
- 1.2 Reserved Matters application 2021/93286 (for 41 dwellings) was subsequently submitted covering all of the outstanding matters. A Section 106 agreement was not attached to the Reserved Matters approval at the time of the decision, as all relevant obligations were governed by the conditions attached to the outline planning application.
- 1.3 Subsequent to that Reserved Matters approval, a Section 106 Deed of Variation (dated 03/03/2023) reduced the financial contribution for the off-site Public Open Space provision, which was calculated at outline stage based on the then-indicative plan. Therefore, the correct contribution has now been secured taking into account the layout approved as part of the detailed Reserved Matters application.

- 1.4 The Variation of Condition (S73 application) relating to conditions 1 (plans), 2 (crime prevention) and 15 (restriction of permitted development) of the previous reserved matters approval 2021/93286, was approved by Strategic Planning Committee on the 25/01/2024. This application is currently awaiting approval of the Deed of Variation in order for the decision to be issued. The application sought approval to update the design of house types approved from the Barratt and David Wilson Homes design to the Newett Homes house types. Given the layout changes, the landscape masterplan has been amended, as has the associated biodiversity net gain assessment and ecological design strategy. A larger contribution of £79,810 has been secured in order to provide a 10% biodiversity net gain.
- 1.5 This proposal seeks planning permission for a modified scheme for 6 dwellings in place of the 7 that have been previously consented.
- 1.6 The application has been brought to Heavy Woollen Planning Committee due to the number of representations received in objection to the application. This is in accordance with the Council's Scheme of Delegation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site red boundary extends to around 0.44 hectares of land within a wider housing allocation site. The wider site extends to 1.18 hectares and forms housing allocation HS137 within the Kirklees Local Plan, however a small part of the site (approximately 60sqm, at the terminus of Wentworth Drive) is outside the site allocation. At the time the case officer's site visit was undertaken, ground works had begun and an entrance from Wentworth Drive had been created.
- 2.2 To the north of the application site are residential properties on Wentworth Avenue and a cricket ground which is designated as urban green space in the Kirklees Local Plan. To the east is a recreation field and residential properties on Green Acres Close. To the south is Emley's Millennium Green, most of which is in the green belt. To the west are residential properties on Wentworth Drive.
- 2.3 Public footpath DEN/21/20 runs diagonally across the site from North to South, connecting Wentworth Drive to the Millennium Green and Green Acres Close. DEN/96/10 also runs adjacent to the eastern boundary.
- 2.4 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site.
- 2.5 The application site is not within or close to a conservation area. The site includes no listed buildings, however two Scheduled Ancient Monuments (Emley Standing Cross, which is also Grade II listed, and Emley Day Holes) are within walking distance of the site. The site also has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding public open space, and from public footpaths.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of 6 dwellings in place of the 7 that have been previously approved. Thus, there would be an overall reduction in 1 dwelling within the housing development as a whole. The reason for this is to allow sufficient space for the claimed Public Right of Way to be provided, if approved, which is currently pending consideration with the Council's Public Footpaths Team (application ref: DEN/dmno app311/10).
- 3.2 The house types would be updated from the approved Barratt and David Wilson Homes design to the Newett Homes house types, as approved under the Variation of Condition application (S73) ref: 2023/92255. The design and appearance of the dwellings proposed would be similar to those approved. The most noticeable change would be that all the dwellings would benefit from gable roofs.
- 3.3 Each dwelling would benefit from off street parking either on a driveway or within an integral garage. Given the layout changes proposed, the landscape masterplan has been amended, as has the associated biodiversity net gain assessment and ecological design strategy.

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

#### **4.1 Application site**

2023/92255 - Variation of conditions 1 (plans), 2 (crime prevention) and 15 (restriction of permitted development) of previous reserved matters approval 2021/93286 pursuant to outline permission 2020/91215 for erection of 41 dwellings – Pending decision being issued (however, approved by Strategic Planning Committee on the 25/01/2024).

2023/92254 Discharge conditions 6 (drainage), 7 (drainage), 14 (CEMP) on previous permission 2021/93286 for reserved matters application pursuant to outline permission 2020/91215 for erection of 41 dwellings – Pending consideration.

2023/92253 Discharge conditions 6 (highways), 7 (PROW), 10 (CEMP), 11 (drainage), 27 (ball stop netting) on previous permission 2020/91215 for outline application for erection of residential development – Pending consideration.

2022/90137 Discharge of conditions 13 (coal legacy), 17 (remediation), 18 (unexpected contamination), 19 (validation report), 20 (electric vehicle charging), 21 (arboricultural impact assessment and method statement), 24 (baseline ecological value), 25 (ecological design strategy) and 29 (noise report) of previous outline permission 2020/91215 for erection of residential development – Pending consideration.

2021/93286 – Reserved matters application pursuant to outline permission 2020/91215 for erection of 41 dwelling – Approved.

2020/91215 – Outline application for erection of residential development – Section 106 outline permission granted.



2019/90380 – Outline application for erection of residential development and associated access – Refused and appeal dismissed.

99/91668 – Formation of grass full-size practice pitch and all weather training/fitness surface with associated lighting and formation of Millennium Green – Refused and appeal dismissed.

#### Enforcement history

COMP/23/0452 Alleged breach of condition 8 (2020/91215) – Pending investigation.

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

5.1 Amendments have been sought to the Secure by Design, street scene and site plan as part of this application process.

### **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 27/02/2019).

#### Kirklees Local Plan (2019):

6.2 The application site is a Housing Allocation (ref: HS137) within the Kirklees Local Plan.

6.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Master planning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles

- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

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

Supplementary Planning Guidance / Documents:

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

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
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)

National Planning Guidance:

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19/12/2023 and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

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

## 6.6 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015, updated 2016)

## 6.7 Climate change

The Council approved Climate Emergency measures at its meeting of full Council on the 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A 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 12/11/2019 the Council adopted a target for achieving ‘net zero’ carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council 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 development affecting a public rights of way via site notices, through neighbour letters sent to properties bordering the site, and has been advertised in a local newspaper. This is in line with the council’s adopted Statement of Community Involvement.

- 7.2 Final publicity expired: 26/09/2023.

- 7.3 As a result of the above, 49 representations have been received. A summary of the concerns raised are as follows:

### Design concerns:

- The new position of the 6 plots near to the proposed ball stop netting provides more room for the Ball stop netting and the claimed PROW but in turn brings these 6 plots closer to the public highway leaving little or no front garden spaces.
- Newett Homes have applied to alter the size and position of the plots closest to the ball stop netting (Plots 14 to 20) and also to reduce from 7 plots to 6 plots in this area. They are also applying to alter the size and position of the ball stop netting. This is because on the original plans there wasn’t enough room for the ball stop netting support stanchions as well as room for the claimed PROW which runs adjacent to the cricket field stone wall boundary.

- No mention is made or samples shown of the type of stone to be used, this should be reflected by those stone fronted houses on Wentworth Drive. Not the yellow stone used by Newett Homes on their current development in Skelmanthorpe, which is totally out of character with area and is not pleasant to look at.
- In terms of samples there is also need to consider and confirm the make up of the ball strike net, is it net or is it mesh, the options for both will need to be considered from an engineering and maintenance perspective likewise the maintenance plan whether that be reactive, planned or compliance led.
- How will the netting be maintained and what effects will this have on the local bird and wildlife population?
- The ball protection nets required to protect the proposed site and new owners from ball strike from the cricket field will be an eyesore and the height required will be a blot on the landscape.
- I note that there has been a change to the number of houses near the PROW – surely Newetts should be sharing design and artists impression, including the type of stone, doors and windows. Consideration should be given to make the stone on the houses in keeping with surrounding houses in Wentworth area and Green Acres? All this information including all measurements of the houses and gardens should be available to all before the start of building. This information should be shared prior to building commencing. Will the 7th house Newetts have removed – if it is being relocated on the development can this be shared on an updated plan?
- Clearer communication with residents needs sharing from Newetts – eg more drawings outlining layout with proposed materials to be used and measurements – size of garden and clear diagrams showing car parking spaces and access for bin wagon.

#### Highway safety and parking:

- The new plans for 6 not 7 houses is a welcomed reduction, however the new plan is poorly proposed and will lead to over parking in the area where PROW 21/20 crosses the Planned Development which will inevitably lead to pedestrian conflict with traffic where at present there is no conflict.
- There is only one visitor parking space near to these modified 6 plots and there is no pavement. There are 6 apartments and 3 town houses directly opposite the 6 modified plots which have no provision for visitor parking either. One visitor parking space for 15 plots is not sufficient. Plots 30 to 40 also have no facility for visitor parking. See Consultation response; Highways Development Management Ref 17-33-6 2020/91215 - Item 1 – ‘Visitor parking should be provided at a rate of 1 space per four houses. Where on street parking is envisaged, swept path analysis is required to demonstrate if the Kirklees Refuse vehicle can manoeuvre through’. The on-street parking shown at the entrance of the site is far too remote from the plots and is unlikely to be used (visitors will not want to park remotely at the front of the site and walk such a distance, also car crime will be a risk where there is remote parking).
- Movement of these 6 shows no pavement and only 1 visitor parking slot and the town houses opposite have no slots for visitor parking either meaning 1 parking slots for 15 plots is not enough. Plot 30 and 40 have no visitor parking there should be 1 space per four houses.

- How will the refuse wagon collect bins from the modified plots and from the apartment block plus from plots 21, 23 and 24? – There are no bin collections points?
- The route of the existing PROW (DEN/21/20) will cross the new public highway, but the crossing point is an offset raised ramp that does not run in line with the route of the PROW ? Is this safe for children crossing ? At the moment children walking along this PROW encounter no cars or roads but will now have to negotiate a raised offset ramp as well as looking out for vehicles? Also, potential problems for pushchairs, wheelchairs, roller skates etc.
- We oppose the above application number for the erection of a further 6 dwellings, again over stretching the area, increasing traffic volumes whilst polluting the village with more carbon emissions in an already compact area not to mention the already road safety hazards with parked cars on the main access roads, gridlock is now a by for here in Emley, with a major accident waiting to happen. Please consider the limited movement we now experience and turn down the above application in an already small area.
- Pedestrian safety will inevitably be compromised, overcrowding will result with too many parked cars, and an increase number of cars will have to exit the site at a tight, potentially dangerous junction. Roads into the village from the A636 are, in places, only just wide enough for two average cars to pass, the increase in vehicle numbers especially during construction and afterwards will be dangerous and potentially impede emergency vehicles.
- The road network in and around Emley is already very busy due to the narrow roads which were not built to cope with large volumes of traffic and the number of parked cars in and around the village already have adverse effects on traffic passing through the village such as large agricultural vehicles and school buses / coaches.
- The plans are so small we cannot measure the minimum size agreed for the garages at 7m X 3m.

Ecological concerns:

- The Ecological Impact Assessment prepared by SLR dated 8 August 2023 submitted in support of modification/variation application and in discharge of condition 25 (ecological design strategy) makes no reference at all to the Emley Millennium Green which is directly adjacent the building site. Nor does the supporting ecological plan show any of the 100s of trees/bushes/planting present on the Millennium Green. It is not even labelled as the Emley Millennium Green on the Plan.
- Emley Millennium Green was a project commenced by villagers of Emley including tree planting by the children of Emley First School in the year 2000. The trees ,bushes and wildlife have flourished over the last 23 years So we as trustees of the green need to know answers from Newetts on what they are planning to do with the now well established hedge grow full of wildlife and hedgehogs etc. We understand that 2 proposed houses are to be built very near the hedge, with no buffer zone (green strip) between the trees and houses that is required for maintenance etc. This hedge was planted by hand to create a good boundary hedge for birds , habitat and now there's a hedgehog sanctuary in the hedge. We as trustees to the green need to know what Newett Homes have in mind to preserve our boundary hedge and the PROW that runs from the centre of the village to the Millennium Green.

- There is no mention of how wildlife will be impacted by the removal of the existing large hedgerow of trees and bushes along the length of the boundary between the Emley Millennium Green and the development site, this is where many of the released hedgehogs are likely to be found. The ecological assessment also makes no mention of moles on the Millennium Green which are close to the development land. Nor is there mention of the large variety of wildlife found on the Millennium Green and surrounding areas including bats, barn owls, blue tits, nuthatch and treecreeper birds, to name but a few species.
- It appears that Plots 34 and 41 are being moved slightly closer the boundary of the Millennium Green. There is already going to be too much removal of trees and bushes on the boundary of the Millennium Green to accommodate these two plots and they should not be brought any closer. How will the Millennium Green trees and tree roots be affected which are in very close proximity to these two plots. The ecological updating survey by SLR dated 8th August 2023 make no reference to this.
- There are diverse species of butterfly and birds within these trees such as nut hatch tree creeper. That will also be impacted.
- No thought of hedgehog friendly fences within the development to allow them to traverse. This will have an impact on the species already in decline.
- Supporting bio-diversity and wild life should be at the forefront of any development and this keeps the area in keeping with the already surrounding greenness of the area, much wild life habitat particularly for our native British birds already in decline should be considered and removing this hedge along the PROW on the green acres site should be reconsidered. Is the hedge owned by Kirklees or the developer.
- Much habitat is already lost in this development so maintain some of it seems a reasonable request.

#### General concerns:

- Concerns regarding condition 14 on the Reserved Matters and condition 10 on the Outline in relation to the CEMP.
- Concerns with the information submitted in support of the Discharge of Condition applications.
- Newett Homes have applied to alter the size and position of the plots closet the ball stop netting (Plots 14 to 20) and also to reduce from 7 plots to 6 plots in this area. They are also applying to alter the size and position of the ball stop netting. This is because on the original plans there wasn't enough room for the ball stop netting support stanchions as well as room for the claimed PROW which runs adjacent the cricket field stone wall boundary. Newett Homes is also applying to make minor adjustments to the position and size of various other plots around the site.
- The Secure by design layout dated 11/07/23 appears to show a diversion of the main diagonal PROW (DEN/21/20) through the site – Why?
- The submitted 'Cricket Pitch Section' plan and the 'Ball Strike Net Plan' both dated 27/06/23 prepared by Newett Homes is not sufficient. There is no information or evidence to show that the stanchions/supports and netting design nor the new position of the net, nor the height of the net is adequate. The cricket field and the development land are exposed to high winds and adverse weather and this needs to be factored into any design. The balls strike netting needs to be robust enough to withstand

the extremes of weather experienced in Emley, and to prevent rattling and whistling noises disturbing residents in the vicinity.

- The Labosport report LSUK.21-0698 dated 19/11/2021 commissioned by Barratts is now outdated. Labosport need to be instructed to prepare a fresh report following a physical site inspection rather than a desk top appraisal. The report needs to factor in the changes to the position and design of the ball stop netting, and also factor in any changes to the way cricket is currently played at the cricket ground rather than relying on old information on cricket standards.
- I am concerned that the ball strike net does not follow or comply with the conditions detailed in the planning application and that due to changes in the development proposal the labosport report is out of date. Moreover the design and layout of the fence is not located in a secure location and will therefore be subject to or at risk of vandalism.
- The proposed netting and its height is not what was approved in the Planning Application 2021/93286. The Labosport LSUK.21-0698 dated 19/11/2021 gave a height of 18 metres but Newett are now using 17 meters. A new Labosport/Newett Boundary Risk A new assessment is required to look at the heights again particularly due to the proposed nets being moved and the claimed PROW now being incorporated into the new design. As already stated this should be a physical survey by Labosport not a desk top survey, they need to visit the site to appreciate the position and the situation.
- Labosport and Planning agreed 18 metre nets and the nets would be erected prior to building commencing. Newetts are not following this advice. If not, why not?
- The impact on wildlife i.e birds as a result of the ball strike net.
- The proposed netting is not only lower than it should be but it does not extend to the perimeters originally proposed. It is shown as not extending the full length of the cricket field wall, ie where the proposed attenuation tanks are to be grassed over and the development children play this area is not covered by the safety of the nets. Are children not as important as the houses. This is of course in addition to the fact that there will need be access for a "cherry picker" machine space for repair / maintenance of the ball stop netting - which would need a clear 3.00m drive way, and this is not reflected in the most recent proposals to Kirklees.
- How is it maintained, why does it not extend the full length of the site?
- Newett Homes plan to create a corridor along their northern boundary to incorporate the ball stop netting and the claimed PROW, but this will create a dark alleyway between the dwelling rear fences and the cricket field boundary wall? This could be viewed by the police as a danger zone for potential house break ins? Furthermore, it might be necessary to insert a condition that none of those houses should be permitted to create a gateway in their back fences which opens out onto this public area of the claimed PROW.
- If the ball stop netting is located in this public area of the claimed PROW, in addition to the repair and maintenance issues, the fact that they are accessible to the members of the public could mean that they could be prone to vandal damage in a secluded unmonitored vicinity. Newett Homes needs to consider all these factors and clearly and provide detailed plans to show how the public area will a) provide a secure space for the ball stop netting, b) provide sufficient space for any maintenance machinery to access the area and c) provide sufficient safe space for the claimed PROW.

- The nets if they are within the claimed PROW could be at risk of vandalism as this area with the proposed plans would be secluded and unmonitored.
- The plan Newett homes need to provide detailed information to show how the public area provides secure place for ball stop nets and machinery can easily have room to access for maintenance.
- It was disappointing to note that Newett Homes initially brought in contractors through the Green Acres Close entrance despite it being clear in the Planning Consent that access through Green Acres could only be used by Emergency Service or the Millennium Green.
- A guarantee that Green Acres Close and entrance to the Millennium Green will be protected from contractors entering or parking. Although this was stated clearly in the original planning application, this has been abused by Newetts. This information should be shared prior to building commencing.
- The position of Plot 30 appears to be moving very close to the existing PROW route and there is likely to be conflict with people walking along the PROW.
- Clarification is also required of the exact position on the plan of the PROW that runs adjacent no. 10 Green Acres Close and the recreation Ground (DEN/96/10) as there seems to be conflict with the site legal boundary line which appears to overlap into the garden of No.10 Green Acres Close – this needs clarification as well as how wide will the PROW be in this area.
- For me personally, some of the largest issues covered are on nature and wildlife that seem to have been completely dismissed or ignored coupled with the outrageously tall ball strike netting which will just destroy to look of the area around the cricket club, proposed houses as well as the villages much loved Millennium Green.
- The development would impact upon the Millennium Green, wildlife, planting and ecology contrary to the consultation responses provided by Landscape, PROW and Ecology at the Reserved Matters stage.
- The school is overcrowded.
- The village infrastructure cannot cope at the moment.
- My opinion of the proposed housing project at the side of the Millennium Green, Emley remains unchanged whether it be Barratts, Newetts or any other developer.
- The Millennium Green is a peaceful and tranquil haven for all villagers and funeral collections from bereaved families have been donated. How must they be feeling now?
- Our village will soon become a small town if we are not careful. If we have to have new housing why not build basic, decent affordable properties in keeping with the surroundings (not apartments) which will help the younger residents onto the property ladder thereby allowing them to stay in the village. We need to think about affordability, the local environment rather than profit.
- The new developer is forging ahead without adequate consultation or respect for the impact of their 'project' (not ours) on the local community. They are trying to squeeze too many homes onto the land available. My main concerns are the lack of visitor parking (which will have an adverse impact on the already overcrowded residential streets near by) and also the lack of an adequate wildlife and access corridor with the Millennium Green. The project must be scaled back so that it is more in harmony with its local village environment.



- Contractors were going to cut off the locks on Green Acres Close in order to access the land even though this was known to them to be against the Planning conditions, continued for 5 days to bring equipment into the field from Warburton, no causeways.
- I note the attenuation area is grassed over and will attract children playing. Could there be some assurance that this area is a safe area to play and walk across. Could it have signage?
- A request to Newetts and planning, please be open and transparent with Emley residents. We deserve this consideration and courtesy.
- Labosport – these experts should be working with Newetts to ensure all Health and Safety measures are met – young families are going to be living and children playing in these gardens and areas. No chances or short cuts can be taken here!
- More communication with residents in Emley, particularly Wentworth Drive and surrounding areas to inform residents of proposed starting dates and planned building programme. This surely is what a considerate contractor should be doing.

Denby Dale Parish Council: Concerns expressed around the netting proposed. At present, no clear specification has been provided which is required. The proposal also is currently based on inadequate old data which would not provide satisfactory protection. Maintenance would also be an issue due to the PROW width between the development and sports area. There were also objections based on the lack of proposed lighting on the pathway, which poses a security risk, as would any addition for gates from gardens onto the pathway by residents in the future.

**Comment:** Details of the ball strike net and its maintenance are secured under conditions on the Reserved Matters application and will be re-attached to this planning decision, if approved. KC Crime Prevention have also reviewed the plans submitted and have noted that there is currently an un-adopted footpath / desire line leading from the Emley Recreation Fields to the rear of Wentworth Avenue and the southern boundary of the Emley Clarence Cricket Club. This footpath is currently unlit but shows signs of use. The addition of housing along this southern boundary to the cricket club should not create a greater use of this footpath. Therefore, installing lighting here would have a minimal effect on security due to the lack of an active frontage and clear sight lines for informal surveillance of the footpath. The Developer has been advised to provide secure rear garden fencing with the planting of hostile vegetation and bushes to provide an extra layer of protection to the properties along the footpath.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

KC Highway Development Management: Given that each of the proposed housing plots 14 to 19 (proposed) retain sufficient off-street parking facilities Highways Development Management have no objection to these proposals.

## 8.2 **Non-statutory:**

KC Ecology: The figure secured as part of the S73 application looks at both applications holistically. Therefore, there would be no change to the BNG calculations as part of this application, as the £79,810 previously secured is considered sufficient in order to ensure a 10% net gain is secured for the whole site.

KC Landscape: A management and maintenance plan for the landscaped areas will need to be secured.

KC Environmental Health: No objection to the amended/modified proposal.

KC Waste Strategy: The proposed alterations do not impact on waste storage or bin presentation points at the individual dwellings and therefore Waste Officers do not have any comments.

KC Crime Prevention: The amended plans are considered acceptable as the security measures are proportionate to the scheme proposed.

Sport England: No objection to the application subject to a condition regarding management and maintenance of the ball strike net and its associated apparatus being re-attached to this application.

KC PROW: In support of the scheme, however further information is required to understand the final finishes of the claimed public footpath. Officers would like to see this in a crushed stone.

## 9.0 **MAIN ISSUES**

- Principle of development
- Visual amenity and design
- Residential amenity
- Highway safety
- Other matters
- Representations
- Conclusions

## 10.0 **APPRAISAL**

### Principle of development

- 10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates those proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections of this committee report.

- 10.2 The application site is allocated for housing on the Local Plan; as such, the principle of residential development in this location is acceptable. Furthermore, as set out above, the site benefits from a previous approval for 41 dwellings, which is currently being built out, of which 7 dwellings were located within the current application's red line boundary.
- 10.3 As this application is for the erection of 6 dwellings (modified scheme), its approval would result in a minor alteration in the number of houses being delivered at the site by 1. Principle 4 of the Housebuilders Design Guide SPD reflects with policy LP7 of the Kirklees Local Plan in that "*Net development density is expected to achieve at least 35 dwellings per hectare, though higher densities are supported in areas in or adjacent to town centres which are well served by public transport and to secure more sustainable forms of development. Densities lower than 35 are only permitted in line with Local Plan Policy LP7. The location of the site is important in terms of the requirement for car parking provision, on-site open space provision and the type of housing required in the locality*".
- 10.4 In this case, the six units proposed as part of this application, combined with the dwellings previously approved (40 in total) would provide a net density of 34 dwelling per hectare. This is considered acceptable and would accord with the aforementioned policy and guidance.
- 10.5 In relation to housing mix, there would be a decrease in the number of detached dwellings within this area of the site, from 5 to 2 and an increase in semi-detached dwellings from 2 to 4. This is to allow for a better layout to be achieved, when taking into account space around dwellings and the space required for the claimed public footpath. When considering the housing allocation, as a whole, there would still be a good mix of dwelling types with various detached dwellings throughout the site.
- 10.6 Along with the reduction of 1 dwelling, there would also be a slight amendment to the number of bedrooms proposed. This would include 1 x 4 bed and 5 x 3 beds, as opposed 5 x 3 beds and 2 x 4 bed.
- 10.7 In this instance, such changes can be supported due to the recognised housing need within Kirklees Rural East, where there is a greater need for 3-bed dwellings than 4-bed dwellings. Nonetheless, the retention of 7 x 4 bed dwellings (when taking into account the wider site) would still comply with the Council's Affordable Housing Mix SPD in that 21% of the market homes would be 4-bed. This would accord with Policy LP11 of the Kirklees Local Plan.
- 10.8 The affordable units would remain unchanged under this proposal.
- 10.9 In conclusion, the development has been considered acceptable in principle as it would accord with the aforementioned national and local policy and guidance.

#### Visual amenity and design

- 10.10 Policies LP1, LP2 and LP24 of the Kirklees Local Plan are all relevant, as these policies seek to achieve good quality design that retains a sense of local identity, which is in keeping with the scale of development within the area and is visually attractive.

- 10.11 These aims are also reinforced within Chapter 12 of the NPPF (Achieving well designed plans) where paragraph 131 provides an overarching consideration of design stating that “the creation of high quality buildings and places are 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”.
- 10.12 Plans and elevations of the proposed house types have been submitted in support of this application. The dwellings are proposed to include gable roofs, with varied orientations. These are the same house types as approved under the Variation of Condition application 2023/92255 and are broadly similar to those approved as part of the Reserved Matters application, to ensure that a high design quality is maintained.
- 10.13 From an urban design perspective, the proposed layout of these units are considered to be an enhancement to the overall scheme, as they allow for car parking to the side of the dwellings, which is considered to be favourable in view of Principle 12 of the Housebuilders Design Guide SPD and avoiding parking to dominate the street frontage.
- 10.14 Each dwelling would have a proportionately sized area of rear amenity space and it is considered that the proposed units would not appear out of place when read in the context of the approved site layout. The proposed boundary treatments would comprise timber fencing and hedging to the rear, with 0.6m high knee rails proposed to the side boundaries of plots 14 and 19. These would be comparable to those of the nearby houses, with the 0.2m high trellis added as an extra security measure due to these plots location adjacent to the claimed public footpath. Such boundary treatments have been considered acceptable by officers, as they would be in keeping with those found within the vicinity of the site. Nonetheless, in the interests of visual amenity, a condition shall be required to state that all boundary treatments should be installed in accordance with the submitted plans before the dwellings are first brought into use.
- 10.15 Materials were secured via condition 2 on the Reserved Matters permission, to include reconstituted stone with grey concrete roof tiles. The materials would remain the same as part of this application, however, given that this application is seeking full planning permission for the modification of 6 units, a condition to secure these materials would need to be attached to the decision notice.
- 10.16 In summary, the proposed development is considered acceptable and in accordance with the policies contained within the Local Plan and guidance contained within the Housebuilders Design Guide SPD.

#### Residential Amenity

- 10.17 Paragraphs B and C of the Kirklees Local Plan Policy LP24 states that development should:

“Maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers”.

- 10.18 Further to this, paragraph 135 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.
- 10.19 In this instance, the modified units would be adjacent to Emley Cricket Ground and would not be within a close vicinity to any existing third party properties. Therefore, there would be no additional overbearing, overshadowing or overlooking as part of the changes proposed.
- 10.20 With regards to the relationship with other dwellings within the site, these would remain broadly similar, as the houses would be retained at two storey, albeit, the dwellings would be situated closer to the highway. Nonetheless, adequate internal separation distances would also be maintained to ensure that future amenity is protected.
- 10.21 The size of the new houses would be compliant with the nationally described space standards and therefore would ensure that an acceptable level of amenity is achieved to in accordance with Policy LP24 (c) of the Kirklees Local plan and the aims of Chapter 12 of the National Planning Policy Framework.

#### Highway safety and parking

- 10.22 Paragraph 114 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 115 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.
- 10.23 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.
- 10.24 KC Highway Development Management have been formally consulted as part of this application process. The officer has noted that the proposal is to redesign the north-eastern part of the site between the public right of way and the surface water attenuation area to ensure that the land can be potentially developed whilst integrating a PROW.
- 10.25 This application effects plots 14 to 20 of the previously approved scheme (7 plots). These are replaced with plots 14 to 19 (6 plots) including two pairs of semi-detached houses and two detached houses. The proposed adoptable access road is extended and the parking layout to plot numbers 21 to 29 opposite is slightly amended.

- 10.26 However, given that each of the proposed housing plots 14-19 retain sufficient off-street parking, Highways Development Management have no objection to the proposal, as it would comply with the aforementioned planning policy.
- 10.27 KC Waste Strategy have been formally consulted as part of this application and have confirmed that the alterations proposed would not impact on waste storage or bin presentation points at the individual dwellings. This is to accord with Policy LP43 of the Kirklees Local Plan.

#### Landscape (including biodiversity)

- 10.28 Landscaping changes between the approved and proposed scheme are minimal. Hedgerows have been proposed between the timber fencing to the rear of the plots and the informal path, in order to create some defensible planting. The small areas of public open space would remain along the PROW and above the proposed attenuation tank, linking the site to the recreation ground.
- 10.29 The detailed planting plan has been reviewed and considered acceptable by officers, however, no information has been submitted for its management and maintenance and therefore this could be secured via condition in the case of an approval.
- 10.30 Overall the modified scheme would not prejudice the proposals' landscaping arrangements which would remain of a high quality and would be visually acceptable, in accordance with Policies LP24 and LP32 of the Kirklees Local Plan. The previous off-site contribution towards public open space would still be required, as part of the wider site.

#### Crime prevention

- 10.31 A revised Secure by Design layout plan has been received as part of this application process, taking into account the comments raised by the West Yorkshire Designing Out Crime Officer (DOCO). The plan shows proportionate security measures for the development proposed, taking into account the minor layout changes proposed as part of this application. This is considered acceptable and would accord with Policy LP24(e) of the Kirklees Local Plan.

#### Contributions

- 10.32 If approved, this application will result in a new stand-alone planning permission being issued. As contributions have already been dealt with under the application for the wider housing site, legal advice was sought as to whether a legal mechanism is required to tie this application back to the existing S106 agreement.
- 10.33 A Deed of Variation would be required to tie this application to the original Section 106 (dated 23/06/2021 and secured at outline stage in connection with application 2020/91215), the subsequent Deed of Variation dated 03/03/2023. For Members' information, the previously agreed obligations and contributions were:

- 1) Affordable housing – eight affordable housing units (either 6 social/affordable rent, two intermediate/discount market sale or four

social/affordable rent, and four intermediate/discount market sale) to be provided in perpetuity.

2) Open space – A sum of £44,006 towards off site provision.

3) Education – £78, 891 contribution to be spent on priority admission area schools within the geographical vicinity of this site. Payments would be made in instalments and on a pre-occupation basis, per phase. Instalment schedule to be agreed.

4) Highways and transport - £20,520.50 towards a Sustainable Travel Plan Fund (£500.50 per dwelling)

5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

6) Biodiversity - £79,810 contribution towards off-site provision (as amended under planning application 2023/92255)

7) Traffic Regulation Order – £7,000 contribution.

### Representations

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

#### Design concerns:

- The new position of the 6 plots near to the proposed ball stop netting provides more room for the Ball stop netting and the claimed PROW but in turn brings these 6 plots closer to the public highway leaving little or no front garden spaces.

**Comment:** Officers consider this revised scheme to be a betterment, as the Reserved Matters layout, included car parking to the front of the dwellings which is contrary to the Housebuilders SPD Principle 12. In this case, small front gardens are proposed, with car parking to the side.

- Newett Homes have applied to alter the size and position of the plots closest to the ball stop netting (Plots 14 to 20) and also to reduce from 7 plots to 6 plots in this area. They are also applying to alter the size and position of the ball stop netting. This is because on the original plans there wasn't enough room for the ball stop netting support stanchions as well as room for the claimed PROW which runs adjacent to the cricket field stone wall boundary.

**Comment:** This comment has been noted.

- No mention is made or samples shown of the type of stone to be used, this should be reflected by those stone fronted houses on Wentworth Drive. Not the yellow stone used by Newett Homes on their current development in Skelmanthorpe, which is totally out of character with area and is not pleasant to look at.

**Comment:** The materials are to remain as approved, this will include reconstituted stone with grey concrete roof tiles. These would be secured via a condition on the decision notice, in the case of an approval.

- In terms of samples there is also need to consider and confirm the make up of the ball strike net, is it net or is it mesh, the options for both will need to be considered from an engineering and maintenance perspective likewise the maintenance plan whether that be reactive, planned or compliance led.
- How will the netting be maintained and what effects will this have on the local bird and wildlife population?  
**Comment:** Conditions 4 and 5 on the Reserved Matters application relating to the detailed design and management and maintenance of the ball-strike net would be re-attached to this new planning application.
- The ball protection nets required to protect the proposed site and new owners from ball strike from the cricket field will be an eyesore and the height required will be a blot on the landscape.  
**Comment:** This has been noted, however, the ball-strike net was approved as part of the Reserved Matters application.
- I note that there has been a change to the number of houses near the PROW – surely Newetts should be sharing design and artists impression, including the type of stone, doors and windows. Consideration should be given to make the stone on the houses in keeping with surrounding houses in Wentworth area and Green Acres? All this information including all measurements of the houses and gardens should be available to all before the start of building. This information should be shared prior to building commencing. Will the 7th house Newetts have removed – if it is being relocated on the development can this be shared on an updated plan?
- Clearer communication with residents needs sharing from Newetts – eg more drawings outlining layout with proposed materials to be used and measurements – size of garden and clear diagrams showing car parking spaces and access for bin wagon.  
**Comment:** The plans proposed are drawn to a scale and therefore can be measured electronically or on paper. The materials would not change as part of this application. Lastly, the 7<sup>th</sup> house would be removed and would not be re-allocated elsewhere within the site.

#### Highway safety and parking:

- The new plans for 6 not 7 houses is a welcomed reduction, however the new plan is poorly proposed and will lead to over parking in the area where PROW 21/20 crosses the Planned Development which will inevitably lead to pedestrian conflict with traffic where at present there is no conflict.  
**Comment:** Adequate on-site parking is proposed for each dwelling.
- There is only one visitor parking space near to these modified 6 plots and there is no pavement. There are 6 apartments and 3 town houses directly opposite the 6 modified plots which have no provision for visitor parking either. One visitor parking space for 15 plots is not sufficient. Plots 30 to 40 also have no facility for visitor parking. See Consultation response; Highways Development Management Ref 17-33-6 2020/91215 - Item 1 – ‘Visitor parking should be provided at a rate of 1 space per four houses. Where on street parking is envisaged, swept path analysis is required to demonstrate if the Kirklees Refuse vehicle can manoeuvre through’. The on-street parking shown at the entrance of the



site is far too remote from the plots and is unlikely to be used (visitors will not want to park remotely at the front of the site and walk such a distance, also car crime will be a risk where there is remote parking).

- Movement of these 6 shows no pavement and only 1 visitor parking slot and the town houses opposite have no slots for visitor parking either meaning 1 parking slots for 15 plots is not enough. Plot 30 and 40 have no visitor parking there should be 1 space per four houses.

**Comment:** The amount or location of visitor parking spaces would not be changed as part of this proposal. The road layout is to remain unchanged and is currently being reviewed by the Council's Section 38 Team for adoption.

- How will the refuse wagon collect bins from the modified plots and from the apartment block plus from plots 21, 23 and 24? – There are no bin collections points?

**Comment:** These dwellings are outside of the red line boundary for this application, however, waste collection would remain the same as approved.

- The route of the existing PROW (DEN/21/20) will cross the new public highway, but the crossing point is an offset raised ramp that does not run in line with the route of the PROW ? Is this safe for children crossing ? At the moment children walking along this PROW encounter no cars or roads but will now have to negotiate a raised offset ramp as well as looking out for vehicles? Also, potential problems for pushchairs, wheelchairs, roller skates etc.

**Comment:** This has been noted and Highway Officers have confirmed that there is sufficient space at the top of the ramp for pushchairs, wheelchairs and people on roller skates to cross the road and join back onto the PROW.

- We oppose the above application number for the erection of a further 6 dwellings, again over stretching the area, increasing traffic volumes whilst polluting the village with more carbon emissions in an already compact area not to mention the already road safety hazards with parked cars on the main access roads, gridlock is now a by for here in Emley, with a major accident waiting to happen. Please consider the limited movement we now experience and turn down the above application in an already small area.

**Comment:** This concern has been noted, however, this application is to reduce the original number of units from 41 to 40. As such, there would be no further impact to highway safety, over and above what the site already has planning permission for.

- Pedestrian safety will inevitably be compromised, overcrowding will result with too many parked cars, and an increase number of cars will have to exit the site at a tight, potentially dangerous junction. Roads into the village from the A636 are, in places, only just wide enough for two average cars to pass, the increase in vehicle numbers especially during construction and afterwards will be dangerous and potentially impede emergency vehicles.

- The road network in and around Emley is already very busy due to the narrow roads which were not built to cope with large volumes of traffic and the number of parked cars in and around the village already have adverse effects on traffic passing through the village such as large agricultural vehicles and school buses / coaches.

**Comment:** This application is not to re-assess the principle of development, which has already been established. In fact the proposal is looking to reduce the number of dwellings by 1.

- The plans are so small we cannot measure the minimum size agreed for the garages at 7m X 3m.

**Comment:** The plans are drawn to a scale and therefore can be measured electronically or by hand.

#### Ecological concerns:

- The Ecological Impact Assessment prepared by SLR dated 8 August 2023 submitted in support of modification/variation application and in discharge of condition 25 (ecological design strategy) makes no reference at all to the Emley Millennium Green which is directly adjacent the building site. Nor does the supporting ecological plan show any of the 100s of trees/bushes/planting present on the Millennium Green. It is not even labelled as the Emley Millennium Green on the Plan.
- Emley Millennium Green was a project commenced by villagers of Emley including tree planting by the children of Emley First School in the year 2000. The trees, bushes and wildlife have flourished over the last 23 years. So we as trustees of the green need to know answers from Newetts on what they are planning to do with the now well established hedge grow full of wildlife and hedgehogs etc. We understand that 2 proposed houses are to be built very near the hedge, with no buffer zone (green strip) between the trees and houses that is required for maintenance etc. This hedge was planted by hand to create a good boundary hedge for birds, habitat and now there's a hedgehog sanctuary in the hedge. We as trustees to the green need to know what Newett Homes have in mind to preserve our boundary hedge and the PROW that runs from the centre of the village to the Millennium Green.
- There is no mention of how wildlife will be impacted by the removal of the existing large hedgerow of trees and bushes along the length of the boundary between the Emley Millennium Green and the development site, this is where many of the released hedgehogs are likely to be found. The ecological assessment also makes no mention of moles on the Millennium Green which are close to the development land. Nor is there mention of the large variety of wildlife found on the Millennium Green and surrounding areas including bats, barn owls, blue tits, nuthatch and tree creeper birds, to name but a few species.
- It appears that Plots 34 and 41 are being moved slightly closer the boundary of the Millennium Green. There is already going to be too much removal of trees and bushes on the boundary of the Millennium Green to accommodate these two plots and they should not be brought any closer. How will the Millennium Green trees and tree roots be affected which are in very close proximity to these two plots. The ecological updating survey by SLR dated 8th August 2023 make no reference to this.

- There are diverse species of butterfly and birds within these trees such as nut hatch tree creeper. That will also be impacted.  
**Comment:** This has been noted, however, this application focuses on the dwellings proposed to the south of the cricket club and not adjacent to Emley Millennium Green. These comments have been assessed under the S73 (variation application) 2023/92255.
- No thought of hedgehog friendly fences within the development to allow them to traverse. This will have an impact on the species already in decline.  
**Comment:** The Ecological Design Strategy submitted for the wider site sets out that hedgehog highways will be created in all garden fences. The access gaps shall be appropriately labelled with signs on both sides, to deter householders from blocking the purpose made gaps. A condition to ensure that this new permission will be undertaken in accordance with the Ecological Design Strategy shall be attached to the decision notice in the case of an approval.
- Supporting bio-diversity and wild life should be at the forefront of any development and this keeps the area in keeping with the already surrounding greenness of the area, much wild life habitat particularly for our native British birds already in decline should be considered and removing this hedge along the PROW on the green acres site should be reconsidered. Is the hedge owned by Kirklees or the developer.  
**Comment:** This has been noted, however, the hedge appears to be outside of the red line boundary for this application.
- Much habitat is already lost in this development so maintain some of it seems a reasonable request.  
**Comment:** This has been noted and adequate biodiversity enhancement measures have been proposed as part of this application.

General concerns:

- Concerns regarding condition 14 on the Reserved Matters and condition 10 on the Outline in relation to the CEMP.
- Concerns with the information submitted in support of the Discharge of Condition applications.  
**Comment:** This has been noted.
- Newett Homes have applied to alter the size and position of the plots closet the ball stop netting (Plots 14 to 20) and also to reduce from 7 plots to 6 plots in this area. They are also applying to alter the size and position of the ball stop netting. This is because on the original plans there wasn't enough room for the ball stop netting support stanchions as well as room for the claimed PROW which runs adjacent the cricket field stone wall boundary. Newett Homes is also applying to make minor adjustments to the position and size of various other plots around the site.  
**Comment:** The ball strike net would remain to the rear of plots 14-20 as previously approved. This application is not looking to alter its size or the location of the proposed stanchions.

- The Secure by design layout dated 11/07/23 appears to show a diversion of the main diagonal PROW (DEN/21/20) through the site – Why?  
**Comment:** The alignment of the PROW is outside of the red line boundary for this application. However, officers can confirm that it will remain as approved.
- The submitted ‘Cricket Pitch Section’ plan and the ‘Ball Strike Net Plan’ both dated 27/06/23 prepared by Newett Homes is not sufficient. There is no information or evidence to show that the stanchions/supports and netting design nor the new position of the net, nor the height of the net is adequate. The cricket field and the development land are exposed to high winds and adverse weather and this needs to be factored into any design. The balls strike netting needs to be robust enough to withstand the extremes of weather experienced in Emley, and to prevent rattling and whistling noises disturbing residents in the vicinity.  
**Comment:** In the absence of acceptable information pursuant to conditions 4 and 5 on the Reserved Matters application, these conditions will be re-attached as part of this application.
- The Labosport report LSUK.21-0698 dated 19/11/2021 commissioned by Barratts is now outdated. Labosport need to be instructed to prepare a fresh report following a physical site inspection rather than a desk top appraisal. The report needs to factor in the changes to the position and design of the ball stop netting, and also factor in any changes to the way cricket is currently played at the cricket ground rather than relying on old information on cricket standards.
- I am concerned that the ball strike net does not follow or comply with the conditions detailed in the planning application and that due to changes in the development proposal the labosport report is out of date. Moreover the design and layout of the fence is not located in a secure location and will therefore be subject to or at risk of vandalism.
- The proposed netting and its height is not what was approved in the Planning Application 2021/93286. The Labosport LSUK.21-0698 dated 19/11/2021 gave a height of 18 metres but Newett are now using 17 meters. A new Labosport/Newett Boundary Risk A new assessment is required to look at the heights again particularly due to the proposed nets being moved and the claimed PROW now being incorporated into the new design. As already stated this should be a physical survey by Labosport not a desk top survey, they need to visit the site to appreciate the position and the situation.
- Labosport and Planning agreed 18 metre nets and the nets would be erected prior to building commencing. Newetts are not following this advice. If not, why not?  
**Comment:** Given that this application is a modification to the plots approved as part of the Reserved Matters, relating to house type/minor layout changes, it is not considered necessary or reasonable to require the applicant to submit a new Labosport report. The proposed height of the ball strike net is to remain at 17m as approved at Reserved Matters stage and set out within the Labosport assessment. The net would also remain in the same location as approved.

- The impact on wildlife i.e birds as a result of the ball strike net.  
**Comment:** This concern has been noted, however, the principle of a ball strike net in this location and of this size has already been approved.
- The proposed netting is not only lower than it should be but it does not extend to the perimeters originally proposed. It is shown as not extending the full length of the cricket field wall, ie where the proposed attenuation tanks are to be grassed over and the development children play this area is not covered by the safety of the nets. Are children not as important as the houses. This is of course in addition to the fact that there will need be access for a “cherry picker” machine space for repair / maintenance of the ball stop netting - which would need a clear 3.00m drive way, and this is not reflected in the most recent proposals to Kirklees.
- How is it maintained, why does it not extend the full length of the site?  
**Comment:** The length of the net would not change as part of this application. It is still be proposed to the rear of plots 14-19. The net is to protect the houses adjacent to the cricket pitch from damage and to not prejudice the playing of this sport given the location of the houses proposed. The risk of ball strike to users of the green space above the attenuation tank would be similar to that which currently exists (where the site is currently open with no ball strike net in situ to protect the users of the public footpaths). Sport England have not requested that the net be extended to cover other parts of the application site.
- Newett Homes plan to create a corridor along their northern boundary to incorporate the ball stop netting and the claimed PROW, but this will create a dark alleyway between the dwelling rear fences and the cricket field boundary wall? This could be viewed by the police as a danger zone for potential house break ins? Furthermore, it might be necessary to insert a condition that none of those houses should be permitted to create a gateway in their back fences which opens out onto this public area of the claimed PROW.  
**Comment:** KC Crime Prevention have reviewed the information/documentation provided as part of this application and consider the security measures proposed to be reasonable to the development. The planting of hostile vegetation and bushes would be beneficial to add an extra layer of protection to the rear fencing of the proposed properties along the footpath.
- If the ball stop netting is located in this public area of the claimed PROW, in addition to the repair and maintenance issues, the fact that they are accessible to the members of the public could mean that they could be prone to vandal damage in a secluded unmonitored vicinity. Newett Homes needs to consider all these factors and clearly and provide detailed plans to show how the public area will a) provide a secure space for the ball stop netting, b) provide sufficient space for any maintenance machinery to access the area and c) provide sufficient safe space for the claimed PROW.
- The nets if they are within the claimed PROW could be at risk of vandalism as this area with the proposed plans would be secluded and unmonitored.
- The plan Newett homes need to provide detailed information to show how the public area provides secure place for ball stop nets and machinery can easily have room to access for maintenance.

- **Comment:** A management and maintenance programme for the ball strike net is to be proposed. This will need to take into account its location adjacent to the claimed PROW. This will be secured via a condition to the decision notice in the case of an approval.
- It was disappointing to note that Newett Homes initially brought in contractors through the Green Acres Close entrance despite it being clear in the Planning Consent that access through Green Acres could only be used by Emergency Service or the Millennium Green.
- A guarantee that Green Acres Close and entrance to the Millennium Green will be protected from contractors entering or parking. Although this was stated clearly in the original planning application, this has been abused by Newetts. This information should be shared prior to building commencing.  
**Comment:** Condition 8 on the outline permission states that “No vehicular access shall be provided from Green Acres Close, other than that already provided for the Millennium Green and that required for emergency services access”. This condition therefore remains in force. Should access be taken from Green Acres Close by construction traffic, then residents are advised to contact Planning Enforcement.
- The position of Plot 30 appears to be moving very close to the existing PROW route and there is likely to be conflict with people walking along the PROW.
- Clarification is also required of the exact position on the plan of the PROW that runs adjacent no. 10 Green Acres Close and the recreation Ground (DEN/96/10) as there seems to be conflict with the site legal boundary line which appears to overlap into the garden of No.10 Green Acres Close – this needs clarification as well as how wide will the PROW be in this area.  
**Comment:** These concerns are outside of the red line boundary for this application and have been assessed under 2023/92255.
- For me personally, some of the largest issues covered are on nature and wildlife that seem to have been completely dismissed or ignored coupled with the outrageously tall ball strike netting which will just destroy to look of the area around the cricket club, proposed houses as well as the villages much loved Millennium Green.
- The development would impact upon the Millennium Green, wildlife, planting and ecology contrary to the consultation responses provided by Landscape, PROW and Ecology at the Reserved Matters stage.
- The school is overcrowded.
- The village infrastructure cannot cope at the moment.
- My opinion of the proposed housing project at the side of the Millennium Green, Emley remains unchanged whether it be Barratts, Newetts or any other developer.
- The Millennium Green is a peaceful and tranquil haven for all villagers and funeral collections from bereaved families have been donated. How must they be feeling now?

- Our village will soon become a small town if we are not careful. If we have to have new housing why not build basic, decent affordable properties in keeping with the surroundings (not apartments) which will help the younger residents onto the property ladder thereby allowing them to stay in the village. We need to think about affordability, the local environment rather than profit.
- The new developer is forging ahead without adequate consultation or respect for the impact of their 'project' (not ours) on the local community. They are trying to squeeze too many homes onto the land available. My main concerns are the lack of visitor parking (which will have an adverse impact on the already overcrowded residential streets near by) and also the lack of an adequate wildlife and access corridor with the Millennium Green. The project must be scaled back so that it is more in harmony with its local village environment.  
**Comment:** These concerns have been noted, however, the application is not to re-assess the principle of development.
- Contractors were going to cut off the locks on Green Acres Close in order to access the land even though this was known to them to be against the Planning conditions, continued for 5 days to bring equipment into the field from Warburton, no causeways.  
**Comment:** Damage to public/private property is outside of the remit of planning and the police should be contacted. Should access be taken from Green Acres Close, then residents are advised to contact Planning Enforcement.
- I note the attenuation area is grassed over and will attract children playing. Could there be some assurance that this area is a safe area to play and walk across. Could it have signage?  
**Comment:** The onus would be on the developer to provide adequate signage should there be any health and safety risks associated with the green space above the attenuation tank.
- A request to Newetts and planning, please be open and transparent with Emley residents. We deserve this consideration and courtesy.  
**Comment:** All documents and files submitted for this application are showing on the Council's website for transparency.
- Labosport – these experts should be working with Newetts to ensure all Health and Safety measures are met – young families are going to be living and children playing in these gardens and areas. No chances or short cuts can be taken here!  
**Comment:** This has been noted.
- More communication with residents in Emley, particularly Wentworth Drive and surrounding areas to inform residents of proposed starting dates and planned building programme. This surely is what a considerate contractor should be doing.  
**Comment:** This has been noted.

## **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 As this is a modified scheme, for a small part of a wider housing allocation, the principle of development has been established at outline stage. The application seeks to vary the layout of the land directly to the south of Emley Cricket Club, in order to allow sufficient space for the claimed public footpath, which is currently being considered by the Council's Public Right of Way Team. The minor changes to the layout of the dwellings within their plot, would allow for side parking to be achieved and no further impact to be proposed upon third party residential amenity. The changes proposed to parking are also supported by Highway Officers.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Deed of Variation to the original Section 106 agreement.

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

1. Development to commence within three years.
2. Development to be undertaken in accordance with the approved plans/information.
3. The external walls and roofs of the dwellings to be constructed in accordance with the materials approved under 2021/93286.
4. All areas shown to be used for parking and turning shall be laid in a permeable surface.
5. The installation of an electric vehicle recharging point for each dwelling.
6. The development shall be carried out in accordance with the Construction Management Plan (approved under 2023/92254).
7. Development to be undertaken in accordance with crime prevention/boundary treatment plan (ref Z115.114 Rev B).
8. Details of external lighting prior to its installation.
9. Detailed design of ball-stop net and associated columns.
10. A management maintenance plan to include the routine inspection and maintenance, and long-term repair and replacement of columns, netting and such other associated apparatus.
11. Foul, surface water and land drainage to be undertaken in accordance with details approved under 2023/92254.
12. Temporary surface water drainage to be undertaken in accordance with details approved under 2023/92254.
13. Development in accordance with the advice and directions (recommendations) contained in the Arboricultural Method Statement, reference, Wharncliffe Trees and Woodland Consultancy approved under 2021/93286).
14. Management and maintenance programme for landscape scheme.
15. Details of all new retaining walls/ building retaining walls adjacent to the existing/ proposed adoptable highways.



16. Details of any new surface water attenuation pipes/manhole located within the proposed highway footprint.
17. A plan detailing the position and location of bat and bird boxes and hedgehog friendly fence panels.
18. Construction Environmental Management Plan to be undertaken in accordance with details approved under 2023/92254.
19. Removal of PD rights for Class Classes A to E inclusive of Part 1 of Schedule 2 for plots 14 – 19.
20. The claimed public footpath shall be finished in a crushed stone.
21. Development to be undertaken in accordance with the approved Ecological Design Strategy.
22. Where site remediation is recommended in the Geoenvironmental Appraisal (Lithos, 3253/2A, March 2020) and/or the Gas Risk Assessment (Lithos, 016/3253/LIZ/at, 31/07/2019) development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority.
23. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 22.
24. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority.
25. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive.

**Background Papers:**

Application and history files.

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Certificate B signed and notice served.

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