Public Document Pack

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Wednesday 27 September 2023

Notice of Meeting

Dear Member

Strategic Planning Committee

The **Strategic Planning Committee** will meet in **Meeting Room 3 - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 5 October 2023.**

(A coach will depart the Town Hall, at 10:15 a.m. to undertake site visits. The consideration of planning applications will commence at 1.00 p.m. in the Town Hall.)

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

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

Julie Muscroft
Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

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

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

Substitutes Panel

Conservative	**Green**	**Labour**	**Liberal Democrat**
D Bellamy	K Allison	B Addy	PA Davies
D Hall	A Cooper	A Anwar	J Lawson
A Gregg	S Lee-Richards	P Moore E Firth	A Munro
R Smith		T Hawkins	A Marchington
J Taylor		H Zaman	A Smith

Agenda
Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive apologies for absence from those Members who are unable to attend the meeting and details of substitutions and for whom they are attending.

2: Minutes of the Previous Meeting

1 - 2

To approve the minutes of the meeting of the Committee held on 31st August 2023.

3: Declaration of Interests and Lobbying

3 - 4

Members will be asked to say if there are any items on the Agenda in which they have any disclosable pecuniary interests, any other interests, or been lobbied, which may prevent them from participating in any discussion of the items or participating in any vote upon the items.

4: Admission of the Public

Most agenda items take place in public. This only changes where there is a need to consider exempt information, as contained at Schedule 12A of the Local Government Act 1972. You will be informed at this point which items are to be recommended for exclusion and to be resolved by the Committee.

5: Public Question Time

To receive any public questions.

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

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

6: Deputations/Petitions

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

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

7: Planning Applications

5 - 6

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

Please note that any members of the public who wish to speak at the meeting must register to speak by **5.00 p.m.** (for phone requests) or 11:59 p.m. (for email requests) on **Monday 2nd October 2023**.

To register, please email governance.planning@kirklees.gov.uk or phone the Governance Team on 01484 221000.

8: Site Visit - Application No: 2022/93154

Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) on land at Penistone Road, Fenay Bridge, Huddersfield.

Contact: Nick Hirst, Planning Services

Ward(s) affected: Almondbury

(Estimated time of arrival on site – 10.30 a.m.)

9: Site Visit - Application No. 2022/90858

Construction of 3G pitch with 4.5m perimeter fencing and 15m floodlighting at Shelley College, Huddersfield Road, Shelley, Huddersfield.

Contact: Louise Bearcroft, Planning Services

Ward(s) affected: Kirkburton

(Estimated time of arrival on site – 11.00 a.m.)

10: Planning Application - Application No: 2022/93154 7 - 56

Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) on land at Penistone Road, Fenay Bridge, Huddersfield.

Contact: Nick Hirst, Planning Services

Ward(s) affected: Almondbury

11: Planning Application - Application No: 2022/90858 57 - 72

Construction of 3G pitch with 4.5m perimeter fencing and 15m floodlighting at Shelley College, Huddersfield Road, Shelley, Huddersfield.

Contact: Louise Bearcroft, Planning Services

Ward(s) affected: Kirkburton

Planning Update

An update report providing further information on matters raised after the publication of the agenda will be added to the online agenda prior to the meeting.

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Contact Officer: Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 31st August 2023

Present: Councillor Steve Hall (Chair)
Councillor Beverley Addy
Councillor Bill Armer
Councillor Moses Crook
Councillor Carole Pattison
Councillor Andrew Pinnock
Councillor Mark Thompson

Apologies: Councillor Mohan Sokhal

1 Membership of the Committee
Councillor Addy attended for Councillor Sokhal.

2 Minutes of the Previous Meeting
Resolved – That the Minutes of the meeting of the Committee held on 3 August 2023 be approved as a correct record.

3 Declaration of Interests and Lobbying
No interests or lobbying were declared.

4 Admission of the Public
All items were considered in public session.

5 Deputations/Petitions
No deputations or petitions were received.

6 Public Question Time
No questions were asked.

7 Site Visit - Application No: 2023/91267
Site visit undertaken.

8 Planning Application - Application No: 2023/91267
The Committee considered Application 2023/91267 in respect of the partial demolition of an existing outbuilding and alterations to form an office/gym/ garage/trailer store/stables/tackroom/feed store, and the change of use of an agricultural building to horse schooling arena at Grange Farm, Slaithwaite Road, Meltham, Holmfirth.

Resolved –
That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the report, as set out below:

1. Standard 3-year timeframe for commencement of development.
2. Development to be completed in accordance with the submitted plans and specifications.
3. External facing and roofing materials to match existing.
4. To be used for private non-commercial purposes only.

KIRKLEES COUNCIL

DECLARATION OF INTERESTS AND LOBBYING

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 declared that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

- Article 8 - Right to respect for private and family life.

- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

- necessary to make the development acceptable in planning terms;

- directly related to the development; and

- fairly and reasonably related in scale and kind to the development.

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

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

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

Originator: Nick Hirst

Tel: 01484 221000

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Oct-2023

Subject: Planning Application 2022/93154 Erection of 68 dwellings with associated access, parking, open space, landscaping and infrastructure works (including installation of surface water attenuation tank) Land at, Penistone Road, Fenay Bridge, Huddersfield, HD8 0AW

APPLICANT
Newett Homes

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
23-Sep-2022	23-Dec-2022	

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

Public speaking at committee link

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Almondbury Ward

Ward Councillors consulted: Yes

Public or private: Public

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

a) **Affordable housing**: 3x First Homes and 4x Affordable Rent Homes (10% of total units)

b) **Open space off-site contribution**: £61,724.60 towards local public open space improvements.

c) **Education**: £194,302 towards local schools

d) **Metro Enhancements**: £10,000 towards bus stop improvements

e) **Sustainable Travel**: £35,339.60 towards sustainable travel provisions (such as Metro passes)

f) **Biodiversity net gain**: £170,200 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified.

g) **Management and maintenance**: On site Public Open Space, drainage, and ecological features.

h) **Viability Review Mechanism**: An updated viability report to be provided to the LPA, with additional Section 106 obligation to be provided if a higher-than-expected profit is achieved.

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

1.0 INTRODUCTION

1.1 This application seeks full planning permission for a residential development of 68 dwellings. The application site includes land allocated for housing in the Local Plan (allocation HS1) and a portion of Green Belt.

1.2 This application is brought to the Strategic Planning Committee due to seeking greater than 60 dwellings, in accordance with the Council's Scheme of Delegation.

1.3 The site has an extant permission for the erection of 68 dwellings under application ref. 2020/90725 (approved 2nd of September 2021).

2.0 SITE AND SURROUNDINGS

2.1 The application site is situated approximately 4.5km east from the centre of Huddersfield and Lepton is to the site's immediate east.

2.2 The application site composes of two components. The largest / primary component is a broadly rectangular section on the east side of Penistone Road (the A629) and is a field. This field forms housing allocation HS1 and extends to 2.27 hectares. The immediate surrounding area is mainly residential in character with housing development to the north, south and east of the site, forming part of the settlement of Lepton. To the north it is bounded by Whitegates Grove. To the eastern boundary is a disused railway line, the embankment of which rises up from the site edge. Beyond this, at a higher level than the site, are residential properties on Whitegates Grove and Clough Way. The southern boundary is adjoined by the gardens and curtilage of residential properties on Woodsome Drive.

2.3 The site is presently an agricultural field, principally characterised by its open form and topography, which slopes up from Penistone Road. The existing levels along the western boundary of the site are between approximately 83-85m AOD. Along the eastern boundary, they are in the range of 90m-98m AOD, resulting in a level change across the site of between 7m to 13m. It is a physically contained site, defined by the natural stone wall that forms its perimeter along the A629 as well as vegetation to its remaining boundaries. In addition to a single tree that sits centrally within the field, there is a group of mature trees to the northern edge of the site, including some protected under a Tree Preservation Order (TPO). There is a further TPO on a group of trees along the disused railway embankment adjoining the north-east corner of the site as well as further planting along this embankment. Planting exists along the southern boundary, both within and adjacent to the site.

2.4 The second component of the application site is an area of circa 0.7ha on the west side of Penistone Road. This land is Green Belt. As detailed further in paragraph 3.7 this land is not to accommodate dwellings but the proposal's attenuation tank (and access works). The land to the north, west and south surrounding this parcel of land is open farmland within the Green Belt.

3.0 PROPOSAL

3.1 This planning application seeks full planning permission for the construction of 68 dwellings, with associated works, comprising the following:

- 2bed: 10
- 3bed: 43
- 4bed: 15

Units would be a mixture of detached and semi-detached with one terrace of three. There would be 12 house-types across the site.

3.2 Units to the south-west and north of the site (plots 1 – 44) would be two storeys. Those to the south-east (plots 45 – 68) would be split level, presenting three storeys to their front (facing towards Penistone Road) and two storeys to their rear (facing towards Clough Way). Dwellings fronting onto Penistone Road would be natural stone. Units within the site would be faced in artificial stone, some with render detailing.

3.3 As noted in paragraph 2.3 the site currently has a steep topography and retaining walls are proposed throughout the development (including within rear gardens and public open space). Heights of retaining walls vary across the site, varying from low level to 4.3m at the extreme. Retaining wall designs proposed include gabion baskets, sleepers, and tobermore (or similar).

3.4 The site would be comprehensively landscaped through low level planting and trees. The site's existing stone wall to Penistone Road would be removed (to facilitate footpath widening). Rear gardens are to be enclosed by 1.8m high fencing, expect where front the public realm where stone walls with fencing panels are proposed. Public open space would be spread throughout the site, notably including an area to the north (connecting the development to Whitegate Grove) and in the centre, where a Local Equipe Area of Play (LEAP) would be situated.

3.5 Two new accesses are to be formed into the site from Penistone Road, each with dedicated right turn lanes. The north would serve plots 1 – 35 and 43 – 68 (61 units) and consist of several branching roads ending in turning heads. The south entrance would have a single branch that serve plots 36 – 41 (7 units) with a turning head. The pavement along the site's frontage to Penistone Road would be widened to 2.0m (requiring the demolition of the site's existing low stone boundary wall) with several pedestrian refuses proposed along the frontage.

3.6 For parking, the 2-bed and 3-bed units would have two off-road parking spaces per unit, with the 4-bed units have three. Some units would benefit from internal or detached garages. There would be 17 visitor parking spaces across the site.

3.7 The site's surface water attenuation tank is to be in a field to the west of the residential development, across Penistone Road. To enable level access from Penistone Road to the attenuation tank, for management and maintenance access, an access route will be installed. This will be formed via re-grading the land, the use of batters and a grasscrete surface.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

2020/90725: Erection of 68 dwellings with associated access, parking and open space (revised plans) – Approved

2022/94050: Non material amendment to previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans) – Approved

2023/90772: Discharge conditions 3 (CEMP), 7 (waste collection), 14 (soft landscape), 17 (boundary treatment), 25 (tree/shrub planting) on previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans) – Pending consideration

2023/90773: Discharge conditions 4 (highway works), 5 (right turn lane), 6 (internal adoptable estate roads), 8 (retaining walls/structures), 9 (surface water), 10 (highway survey), 11 (surface water and land drainage), 12 (storm events), 13 (surface water drainage), 15 (archaeological evaluation), 16 (levels), 18 (Biodiversity Net Gain Assessment), 19 (EDS) on previous permission 2020/90725 for erection of 68 dwellings with associated access, parking and open space (revised plans) – Pending consideration

4.2 Surrounding Area

Land off, Hermitage Park, Lepton (Housing allocation HS3)

2022/91735: Outline application, with access and layout, for the erection of 80 dwellings and associated work – Pending consideration*

* Approved by the Strategic Planning Committee at the meeting held 06/04/2023. Final negotiations on the S106 are ongoing.

Penistone Road/, Rowley Lane, Fenay Bridge

2020/92307: Outline application, including the consideration of access, for erection of residential development (up to 75 units)**

** Approved by the Strategic Planning Committee at the meeting held 08/12/2022. Final negotiations on the S106 are ongoing.

12, Woodsome Drive, Fenay Bridge

2021/91653: Erection of detached garage with photo voltaic panels to roof – Approved

4.3 Enforcement History

None on site nor relevant within the area.

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 The site has an extant planning permission under application ref. 2020/90725 for 'Erection of 68 dwellings with associated access, parking and open space'. The application was made by Farnley Estates (No 1) LLP/Engie Regeneration Ltd/Stonewater Ltd and was submitted in March 2020. It was presented to the Strategic Planning Committee in April 2021 where members resolved to support the application. The decision was issued September 2021.

5.2 Application 2020/90725 was approved with 36 planning conditions and the following S106 package:

1) Affordable housing – 20% provision with a tenure split of 55% social or affordable rent to 45% intermediate housing;
2) Open space - Off-site contribution of £32,244 to address shortfalls in specific open space typologies;
3) Education – A contribution of £135,308 to be spent upon priority admission area schools within the geographical vicinity of this site to be determined prior to the commencement of development;
4) £10,000 to install Real Time information to the 16775 bus stop on Penistone Road;
5) A contribution of £37,851.00 towards a sustainable travel fund;
6) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals.

5.3 Following the determination of 2020/90725, the site was sold to the current applicant, Newett Homes. Prior to the current application being submitted Newett Homes did not submit a formal pre-application to the Local Planning Authority. The current application was submitted September 2022, also seeking permission for 68 units.

5.4 Officers, with guidance from consultees, expressed various concerns on the proposal as originally submitted. These concerns included, but were not limited to design, highways, ecological impacts, drainage, and the provision of planning contributions.

5.5 The application has gone through several revisions, with updated supporting information provided for review by technical consultees. Through this process, the proposal has reached a stage where officers are overall supportive.

5.6 The previous application, 2020/90725, was not subject to a S106 Viability Appraisal. As part of the current application, the applicant has submitted a viability assessment seeking to demonstrate that a policy-compliant set of planning obligations cannot be feasibly delivered as part of this application. Therefore, an independent viability process was undertaken which concluded a full policy compliant contribution would make the proposal unviable. This is considered further in paragraphs 10.116 – 10.128. Based on the information provided by the Council's viability assessor, officers negotiated the following proposed reduced Section 106 package:

1) **Affordable housing**: 3x First Homes and 4x Affordable Rent Homes (10% of total units)
2) **Open space off-site contribution**: £61,724.60 towards local public open space improvements.
3) **Education**: £194,302 towards local schools
4) **Metro Enhancements**: £10,000 towards bus stop improvements
5) **Sustainable Travel**: £35,339.60 towards sustainable travel provisions (such as Metro passes)
6) **Biodiversity net gain**: £170,200 towards off-site measures to achieve biodiversity net gain, with alternative option to provide on-site or nearby provision if suitable scheme identified.

6.0 PLANNING POLICY

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

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

6.2 The application site is mostly allocated for housing in the Kirklees Local Plan under allocation HS1. The red line boundary does also cross Penistone Road (unallocated land) into an area of Green Belt (to host the attenuation tank).

6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP26** – Renewable and low carbon energy
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active, and safe life styles
- **LP49** – Education and health care needs
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space
- **LP65** – Housing allocations

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

Supplementary Planning Documents

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

Guidance documents

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

National Planning Guidance

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

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

6.6 Other relevant national guidance and documents:

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

Climate change

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

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

7.0 PUBLIC/LOCAL RESPONSE

The applicant's statement of community involvement

7.1 The application is supported by a statement of community involvement which outlines the public engagement the applicant undertook prior to their submission. The applicant posted a letter to neighbouring properties (circa 600 addresses) that included the proposed site plan and information pack of the development. The letter provided an email address, phone number, and directed residents towards a website where comments could be left. A meeting with the ward Councillors was held where the project team answered questions and took on board design feedback.

7.2 In total 24 responses were received in via survey, phone conversations and email responses. The SCI summarises the comments as follows:

- Whether the speed limit on Penistone Road near to the site can be reduced to 30mph
- The housing mix, including size and cost.
- Impact on doctor surgeries, dentists, schools, and other local services
- Home design, with comments that they should be built using stone and slate.
- Potential impact on highways
- Heritage impacts of the development
- Concerns whether the dwellings would comply with the Nationally Described Space Standards

Within the SCI the applicant considers each of these comments and outlines how they have been incorporated into the proposal.

Public representation

7.3 The application has been advertised as a Major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement.

7.4 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.5 The end date for public comments was 22/09/2023. In total 24 public comments were received. The following is a summary of the comments made:

Principle

- The attenuation tank is inappropriate development within the Green Belt and should not be accepted. It should be located within the housing allocation.
- Development should be targeted at brownfield sites, not greenfield.
- National government has considered abolishing housing targets. Therefore, this development is no longer needed and should be refused.

Design

- The use of metal railing adjacent to plots 40 and 43 would have an overly industrial / commercial appearance and is not in keeping with the area. It should be replaced by a 2m high solid wall.
- The design of the development does not fit into the character of the area.
- The design of the development is poor and represents urban sprawl
- Uncertainty over the boundary treatments to the south.

Amenity

- Plot 43, which will be built higher than the neighbouring properties, would cause overlooking and overbearing of properties to the south of the site.
- The proposal will lead to new dwellings and gardens being adjacent to existing dwellings and gardens. This will result in harmful noise pollution, disruption, and loss of privacy.
- Unclear what function / purpose land adjacent to plot 43 which is not clearly garden, would serve.
- The proposal will cause noise and air pollution.
- The proposal will cause harmful overbearing, overshadowing, and overlooking of neighbouring properties.
- The proposal would, in some ways, be better for local residents (those to the south) then that previously approved on site.
- The Public Open Space on the south boundary is too close to neighbouring properties. It'll result in people being adjacent to windows and their land. Concerns over the anti-social use of this land and potential for criminal access to neighbouring properties. In the previous application this area was larger and fenced off.
- Concerns whether hedgerow on the south, which provides a good barrier, will be removed.
- The proposal does not deliver the full expected amount of Public Open Space on site. If being paid off-site, where will this be spent?
- Section plans to all neighbouring properties should be provided.

Highways

- The ‘Saxon’ house type typically has tandem parking that is adjacent to a blank wall with no doors. This will make using the parking undesirable as residents will need to walk around the dwelling to access it. This will result in people not using their drives and therefore parking in turning heads, affecting the ability of refuse and emergency vehicles to access the site.
- There are insufficient visitor parking spaces across the site, specifically from the southern access. Two visitor parking spaces for seven dwellings is inadequate. Concerns also exist of ‘excessive vehicles’, such as camper vans, work vans or lorries that must access the southern area and result in issues.
- Penistone Road is unsafe and has numerous accidents per year. This proposal will exacerbate current issues.
- There are insufficient busses in the area.
- The proposal fails to consider the cumulative highway impacts of development in the area and the impacts on Penistone Road.
- The proposal will result in more traffic on overly busy roads. Access onto Penistone Road from connecting roads is difficult and this development will exacerbate it.
- Speed bumps should be provided along Penistone Road.

Other

- The proposal would not secure a full set of policy compliant S106 obligations, particularly affordable housing. This is disappointing and a dangerous precedent that should not be supported. The Council is committed to delivering 25% of affordable as first homes.
- The council’s independent viability assessors report identifies an out-of-date education contribution of £31,914. K.C. Education provided a later assessment which reached a figure of £194,302.
- No site notices were erected, and the public representation period was too short resulting in limited comments provided. The previous application on site had a much longer public representation period.
- The council’s independent viability assessors report does not consider a wider range of scenarios that should be applied, such as the impacts of Full S106 contributions and full affordable housing requirement or No S106 contributions and full affordable housing requirements.
- The applicant’s viability report includes abnormal costs provided by Newett, as opposed to the report’s author (GNEC). This is queried as to whether its normal.
- The use of 2.5 storeys homes results in greater build costs. Only 2 storey homes should be used to lower build costs.
- The applicant seeking a 20% profit level is unreasonable.
- The site often floods. Therefore, it is unsafe to put dwellings here.
- The proposal will harm local ecological value and species.
- Concerns that the proposed road works and development will require working at night. While this helps commuters, it causes issues for nearby residents trying to sleep.
- The local area has insufficient schools, doctors, and other services.
- The plans are inconsistent, with discrepancies and are presumably wrong in places.

- Concerns that plot 43 and 44 will cause harm to neighbouring trees outside of the application site.

7.6 Final amendments were made after the last public representation period. These were considered minor in scope and were improvements and/or direct responses to issues raised by the public or officers. As such, it was not considered necessary to undertake a full readvertisement of the final amendments. However, officers considered that the plans may be of greater interest to engaged residents on the southern boundary. Therefore, an additional 7 days were given to the two properties on the southern boundary to review the minor further details, to expire on the 28th of September. This is after the report is due to be published and therefore any comments received will be reported to members within the update.

7.7 The site is within Almondbury ward where members are:

- Cllr Alison Munro
- Cllr Bernard McGuin
- Cllr Paola Davies

7.8 Cllr McGuin sought details on the proposal, although offered no comments on the merit of the application.

7.9 Cllr Munro has expressed objection to the proposal, with the following concerns raised:

- The previous application initially sought to be 100% affordable units. This would have delivered all expected annual affordable houses (49 per year) for South Kirklees. This was amended to 20%, the minimum required by policy. This should be repeated for the new development.
- Cabinet chose not to adopt the Community Infrastructure Levy / CIL which has allowed developers to not pay all their required contributions.
- The applicant initially offered only £140,000 towards S106 contributions and no affordable housing. This is unacceptable.
- The attenuation tank should not be sited within the Green Belt. The access track will harm openness. It'll also harm Woodsome Hall (Grade 1 Listed) and Castle Hill (Grade 2 Listed Tower and Ancient Monument).
- The abnormal cost for siting the tank in the Green Belt has been given as £579,070. No comparable cost for siting it within the site has been provided. It should be provided.
- It is unclear whether the developer owns the neighbouring site where the tank would be sited. If they have, when was this? If not, has the cost been factored into the viability assessment?
- A profit level of 17.5% is unacceptable. It should be 16.5% and officers should calculate how many affordable houses this change would provide.
- Developers should not be allowed to claim viability issues and 'get out' of paying their fair contributions. It is unacceptable for developers to make profit at the expense of local people. This will establish a dangerous precedent.
- Penistone Road is used as a 'race track' by some motorists. Adding turning lanes is dangerous and will lead to overtaking.

- The neighbouring field, where the attenuation tank is to be located, floods.
- The flooding leads to more wild birds in the area, presumably pecking rich nutrients left by the floods.
- If the 10% net gain cannot be located on the housing allocation it should be located on the neighbouring field.
- It has been disclosed that sewage was dumped 26 times in location 1 in Fenay Bridge for 59 hours between 2021 and 2022 and at location 2 also in Fenay Bridge sewage was dumped 31 times equating to 68 hours (Top-of-The-Poops.org) Resolving the issue of sewage dumping could take years.
- Pollution from construction at the site will make its way into Fenay Beck and harm local wildlife.

7.10 The site falls within Lepton Parish Council. No comments were received.

8.0 CONSULTATION RESPONSES

8.1 **Statutory**

K.C. Highways (Development Management): The proposal would not prejudice the safe and effective operation of the highway. Traffic generation would be within acceptable levels, access arrangements are appropriate, and the internal layout is acceptable. No objection subject to conditions.

K.C. Lead Local Flood Authority: The site is within Flood Zone 1, therefore not raising concerns of river flooding. The applicant has made appropriate space for surface water with the proposed surface water drainage arrangements acceptable in principle. No objection subject to management and maintenance of surface water being secured within the S106 and conditions relating to drainage infrastructure.

The Coal Authority: A Coal Mining Risk Assessment (CMRA) has been provided and reviewed by the Coal Authority, who confirm they have no objection to the proposal and request no conditions.

The Environment Agency: Expressed initial concerns due to being of the view that the proposed attenuation tank would be within Flood Zone 2 or 3. Further details were provided by the applicant to demonstrate that this is not the case. On review, the Environment Agency have confirmed they hold no objection. They have however requested a note by placed on the decision notice (if minded to approve) relating to permits when working near main rivers.

8.2 **Non-statutory**

K.C. Crime Prevention: Provide advice to officers and the applicant. This included avoided creating non-overlooked, lighting, and recessed gateways. Elements of the advice have been incorporated by the applicant where feasible with conditions proposed to address others.

K.C. Ecology: The applicant has undertaken appropriate investigations and assessment. The proposal would not secure 10% net gain on site, with a £170,200 off-site contribution required. Subject to this being secured within the S106, plus conditions for ecological mitigation and enhancement, no objection.

K.C. Education: Have identified a policy compliant education contribution of £194,302.

K.C. Environmental Health: Due regard has been given to potential sources of pollution including ground condition, air pollution, noise, and lighting. No objection to the proposed details subject to conditions.

K.C. Highways (Structures): No objection subject to conditions relating to works to provide or near existing retaining walls adjacent to the highway and structures under the highway.

K.C. Highways (Waste): Appropriate bin storage and collection locations are shown. Requested conditions requiring bin storage and collection be provided as shown as well as the submission of a strategy for waste collection during construction.

K.C. Landscape: Provide advice to enhance landscaping on site which has been incorporated where feasible. Regarding Public Open Space, confirmed a policy compliant expectation of onsite delivery and offsite contribution. The proposed on-site and off-site mixture is deemed acceptable. Some reservations over the proposed LEAP due to the topography and retaining wall but accept no fundamental issue subject to considered design.

K.C. Strategic Housing: Have provided advice on a policy compliant Affordable Housing provision. This would be 14 total, consisting of eight affordable or social rent units, three homes should be First Homes, and three homes should be other intermediate dwellings. Unit sizes should be in accordance with the Affordable Housing and Housing Supplementary Planning Document (SPD).

Due to the viability assessment submitted with the applicant, Strategic Housing have provided advice to officers on the most effective method of securing a reduced affordable housing provision.

K.C. Trees: Expressed concerns over the proposal's potential impact upon a mature oak tree (T21) on land neighbouring the site to the south of the site. Accept that the works will not directly kill the tree, but if done wrong may result in prolonged deterioration. If minded to approve require a through and detailed Arboricultural Method Statement.

West Yorkshire Metro: No comments received. However, in the previous scheme requested £35,339.60 towards sustainable travel / bus passes and £10,0000 towards real time bus stop upgrades nearby. Given the number of units has not changed, nor has Metro's cost per dwelling for Mcards, these contributions have been repeated.

Yorkshire Water: No objection subject to conditions relating to surface water drainage.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

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

Land allocation (housing allocation) and quantum of development

10.2 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.

10.3 The 2023 up-date of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land. As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. This means that for decision making "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7) ; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

10.4 The Council's inability to demonstrate a five-year supply of housing land weighs in favour of housing development but must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.

10.5 Due regard must also be given to the site's planning history. Full planning permission application 2020/90725 approved the 'Erection of 68 dwellings with associated access, parking and open space'. The application was approved September 2021 and is therefore an extant permission which carries material weight in the planning balance. The extant permission, for the same number of units, on a housing allocation further establishes the principle of development in this case. However, while seeking the same number of units, there are material differences in the design of each application, and due regard must be given to whether the material differences comply with the relevant planning policies. These elements will be considered, where relevant, within this report.

10.6 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.

10.7 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Allocation HS1 has an indicative capacity of 68 dwellings, which this application proposes. As noted in paragraph 10.5, this is also the same number of units as per 2020/90725. This represents a development density of 30 dwellings per ha (excluding undevelopable (for residential use) Green Belt land). Given the compliance with the allocation expectations and the principle established by 2020/90725 the proposed number of units is deemed acceptable and in compliance with LP7.

10.8 Progressing to housing mixture, LP11 seeks for proposals to provide a representative mixture of house types for local needs. This is expanded upon and detailed within the Council's Affordable Housing and Housing Mix SPD (March 2023). The following is the SPD expectation for market housing (only, affordable units are considered separately) against that proposed:

	SPD Expected Mixture for Market Units (Huddersfield South)	**Proposed Mixture**
1 and 2beds	30 – 60%	10%
3beds	25 – 45%	65%
4beds +	15 – 35%	25%

10.9 It is noted that the mixture does not fall within the expectations of the SPD, with a shortfall of 1 and 2 beds, but with an excess of 3beds. However, as the Council's Affordable Housing and Housing Mix SPD (March 2023) was only adopted part way through this application, reasonable transitional arrangements are required and full adherence to the SPD is not deemed reasonable in this case. Furthermore, the SPD establishes a 'comply or justify' approach, allowing material considerations to justify a departure. The following table is the housing mixture (again, for market units only) secured via 2020/90725 (which was determined prior to the SPD being adopted):

	SPD Expected Mixture for Market Units (Huddersfield South)	Proposed Mixture
1 and 2beds	30 – 60%	33%
3beds	25 – 45%	66%
4beds +	15 – 35%	0%

10.10 As can be seen in the above table, the extant permission on site also did not conform to the expectations of the SPD due to an excess of 3beds and no 4bed+ units. As the new proposal includes both 1 and 2beds and 4bed+ units, it is considered that the new proposal represents a more appropriate and reasonable mixture when giving regard to the SPD's expectations. Therefore, on balance, officers consider the proposed housing mixture to be acceptable.

10.11 The site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocation, in accordance with LP7 and LP11. The proposal would aid in the delivery of the Council's housing targets and the proposed density and housing mixture of the development is found to be acceptable.

Green Belt

10.12 The proposed attenuation tank would be sited in an adjacent field, which is land allocated as Green Belt. For the avoidance of doubt, no dwellings are proposed within the Green Belt.

10.13 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 149 (buildings) or 150 (other works) of the NPPF, and as built upon within the Local Plan.

10.14 Paragraph 150 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The paragraph specifies what types of development can be considered in this way, and the prescriptive list includes engineering operations (NPPF paragraph 150(b)). An attenuation tank, as a retained void, and re-grading works to the land are accepted to be engineering options. Therefore, an assessment must be made on the proposal's impact upon openness and the impact upon purpose of the Green Belt.

10.15 First considering impact on openness, the proposed tank would be fully subterranean bar a small manhole for access. This manhole will not be readily visible from any public viewpoint and is expected to only be notably visible within very close proximity. The tank itself would therefore have a negligible impact on the openness of the Green Belt.

10.16 The tank will require infrequent access for maintenance, typically once or twice a year. This minimal degree of movement is not expected to result in a material intensification of activity within the Green Belt that would be deemed detrimental to openness.

10.17 However, to facilitate access for a maintenance vehicle (a requirment for Yorkshire Water adoption) appropriate level access from the highway must be provided. The field has a current access point; however, this leads to a steep slope into the field (presumably acceptable for a tractor or similar vehicle) which would be unacceptable for a maintenance vehicle. The applicant is proposing groundworks to form a ramped entrance route between the gate and tank. This would drop of 84m at the entrance point on Penistone Road to the 80m ground level of the tank, running in a C shape.

10.18 It is proposed that the access would have a grasscrete road and would be formed via grassed batters (as opposed to solid retaining walls). Once complete the access is expected to appear as a simple ground level variance and would blend into the natural environment. Furthermore, as Penistone Road is at a higher ground level, from the most prominent visual receptor, there would be limited notable visual impact. Other public views would be from distance which would likewise limit the visual impact. Therefore, there is expected to be no material harm to openness through the proposed re-grading. The use of grasscrete and grassed batters, as proposed, would be secured via the standard condition 2 (works to be done in accordance with approved plans).

10.19 Progressing to the proposal's impact upon the purpose of the Green Belt, Paragraph 138 of the NPPF identifies five purposes of the Green Belt. These are:

a) to check the unrestricted sprawl of large built-up areas;
b) to prevent neighbouring towns merging into one another;
c) to assist in safeguarding the countryside from encroachment;
d) to preserve the setting and special character of historic towns; and
e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The proposed subterrain attenuation tank and modest re-grading of the land with rare access is not considered to contradict any of the above.

10.20 Concluding on the above, while works are proposed within the Green Belt, they are deemed to be appropriate development within the Green Belt by virtue of paragraph 150(b). The works within the Green Belt are engineering operations that would neither harm the openness of the Green Belt, nor contradict the purpose of including land within it.

Sustainable development and climate change

10.21 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.

10.22 The site is within the urban envelope and is deemed to be a location sustainable for residential development. It is accessible, lying within an existing established settlement where bus stops give reasonable access to the district centre of Huddersfield. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

10.23 Specific to the development, the applicant has submitted a Sustainability Report, which details the following design approach:

- **Building Fabric Improvement**: Newett Homes have proposed an enhanced fabric specification for all the dwellings at Fenay Bridge which will exceed the requirements of the current Building Regulations (Part L 2021). The fabric improvements beyond Building Regulation requirements will ensure that the running costs for the home are kept to a minimum with less fuel needed to keep the home at a comfortable living temperature.

- **Passive Solar**: The site layout has been designed to capture as much natural solar gain as possible, with windows facing towards the sun (giving due regard to topographical constraints).

- **Materials**: Manufacturers of building materials have an obligation to ensure the materials used during manufacturing are responsibly sourced. The materials used on this project will be sourced from manufacturers that hold such credentials and where available 'A' rated materials (as defined in the BRE Green Guide to Specification) will be installed.

- **Waste**: Manufacturer's instructions on usage of materials and waste recycling throughout construction to be followed.

- **Low Energy Lighting**: Low energy blulbs to be used throughout.

- **Heating Systems and Controls**: An 'A' rated combi or system boiler will be installed to each plot along with a cylinder with a low declared heat loss. Smart control devices, separating dwellings into upstairs and downstairs, to be installed.

- **Renewables**: Solar panels are proposed on all units, on the most southern roof slope.

- **Water Usage**: Various devices proposed including water saving taps, cisterns, low pressure showers and flow restrictors to manage pressure.

10.24 A condition requiring the development to be completed in accordance with the submitted details is recommended. Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists) and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

10.25 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.

10.26 There is development to the north, east and south around the site, so the proposal would not appear as a rural extension (i.e., encroaching into open countryside). Nonetheless, the site is on the edge of the urban environment, where the environment is transitioning into the open rural environment to the west. Furthermore, as a sloped site on a valley side the development will be visible from short- and long-distance vistas. Inevitably, the development of the site from greenfield to a residential estate would have notable impacts upon the appearance of the environment; therefore, a considered design is required.

10.27 As noted previously, the land to the west is Green Belt. Consideration of the attenuation tank being sited within the Green Belt is undertaken in paragraphs 10.12 – 10.20. In terms of the main residential development, the proposal has a good transition of lower density adjacent to Penistone Road, which itself forming a strong defendable boundary to the Green Belt. Therefore, officers are satisfied that the proposed residential development would not prejudice the openness of the Green Belt nor its purpose.

10.28 The layout of the development has largely been determined by the natural features of the site, regarding its topography and existing tree planting. The access roads have been designed as much as possible to follow the contours of the land and, along with avoiding unduly steep sections, largely dictate the shape of the land. Compared to the previous application on site, ref. 2020/90725, the current scheme has sought to minimise substantial retaining walls to a greater degree through working with existing land levels. This has been achieved through using split level units with three storey frontages (with 2 storeys to the rear) to incorporate ground retention into the structure of the dwellings, as opposed to separate retaining walls. Furthermore, the use of a second entrance (the southern entrance) has avoided the need for the road to traverse the most extreme level changes, thereby further avoiding retaining walls.

10.29 Retaining walls are to feature throughout the site, typically ranging between 0.2 to 4.3m at the most extreme. Despite the efforts of the applicant, retaining walls are still an inevitability for the site. Most of the walls are contained within rear gardens or within the site, and therefore less visible from wider public vistas. Nonetheless, some retaining walls are still evident from the public realm. Notably this includes modest retaining works intermittently along the frontage to Penistone Road (max circa 1.7m) and a more substantial wall to the east of plot 40. Officers are satisfied that the applicant has kept these to an operational minimum and are comparable to those required and approved as part of 2020/90725.

10.30 Regarding the retaining wall materiality, proposed materials include the use of solid stone walls, sleepers, and gabion baskets. Sleepers in rear gardens, where they are proposed, is considered acceptable. Solid stone walls are good quality subject to the materials, samples of which may be secured via condition. Some of the proposed gabion basket locations are a cause for concern given their prominence: gabion baskets are proposed along the frontage to Penistone Road. Gabion baskets are not considered a high enough quality for such prominent locations, and this is considered a negative of the scheme. Officers therefore consider it reasonable to condition alternative materials for the walls: a condition for full details of the retaining walls and their materials to enable this to be addressed is recommended and has been agreed with the applicant.

10.31 Considering existing trees, the northern POS has been designed to ensure the mature trees that are protected by TPOs are retained. It is noted that the proposed footway widening along Penistone Road (increasing the width from between 1.5m – 1.8m to 2.0m) would require works near two of the protected trees. Officers would expect the footway to narrow before these trees, therefore not impacting upon them, however, will be considered as part of the full technical design of the footway. The delivery of the footway would however require the removal of all the young trees along the west boundary.

10.32 In terms proposed landscaping and planting, the proposal includes 4,377sqm of Public Open Space which includes a Local Equipped Area of Play. The indicative landscaping strategy has shown that the site may be attractively landscaped to a high quality, which is welcomed. This includes the planting of numerous trees including the streets being tree-lined (although these would be in either POS or front gardens, as opposed to being within the highway). A condition for a fully detailed landscaping strategy, to include management and maintenance details are recommended. The S106 will also include a clause to secure the perpetual management and maintenance arrangements.

10.33 Given their small size and young age they are considered of limited value. In total 25 small and young trees of limited amenity value would be removed, with the mature trees that benefit from TPOs to the north being retained. The landscaping strategy shows indicatively in excess of 50 standard trees being planted. Overall, the tree-loss of the proposal would be reasonable and would be adequately mitigated through the proposed re-planting.

10.34 Notwithstanding the above, concerns have been raised by K.C. Trees over the proposed retaining works within the identified Root Protection Area (RPA) of T21. This tree is in neighbouring land and is a good quality (category B) tree. For the avoidance of doubt, it is not proposed to remove the tree. As a neighbour's tree, this would not be within the rights of the applicant. However, the proposal includes a minimal encroachment into the trees RPA via excavation to facilitate plot 43. The area is small and K.C. Trees are satisfied that excavation in the area would not result in the direct death of the tree. However, if done poorly and without appropriate mitigation, it could result in the decline of the trees health. The applicant's Arborical submission does address this to a degree, but K.C. Trees expect a more thorough and detailed arboricultural method statement to be undertaken. It is concluded that this is not a prohibitive issue for the development and may be managed via condition.

10.35 Given the number of trees adjacent to the site, in the interest of their preservation and avoid unintended removal, a condition is recommended that requires any unidentified tree-works to not take place until an updated Arboricultural Report is submitted and approved.

10.36 In addition to the northern POS, that will provide pedestrian connectivity to Whitegates Grove, the largest 'main' area of open space would be positioned approximately centrally within the site. It would be along the rear boundary and visible at the entrance into the development. Due to the existing slope, the central part of the site where the main POS is proposed would be unsuitable and unviable for housing because it would require extensive and expensive retaining structures along the railway embankment. It would also be likely to result in limited and dark rear gardens. It can, however, accommodate an area of open space that is large enough for a LEAP. Although this POS is sited relatively away from the more densely populated southern end of the site, it would be approximately 180m to the furthest houses. At a steady walking pace of 3 miles per hour, this would equate to a very approximate walking time of 3 minutes along a safe route within the site, which is not considered unreasonable. Furthermore, the POS would be well-overlooked, and it would provide a softer landscaped approach into the site, particularly when combined with the smaller areas of open space immediately adjacent to the site access.

10.37 A further area of green space would be a site of ecological set-aside (further details and clarification provided within paragraph 10.57) on the southern boundary. This would provide an appropriate buffer between the development and the existing occupiers on Woodsome Drive. Landscaped areas would also be sited along most of the boundary to Penistone Road.

10.38 Boundary treatments to dwellings are to be 1.8m timber fencing, or 2.0m acoustic fencing where needed. This is typical and acceptable. Where rear boundaries are adjacent the public realm, including adjacent to Penistone Road, a higher quality stone and timber design is intended. Front boundary treatments, guards for retaining areas, and the fencing to keep the southern POS area inaccessible (reason given in paragraph 10.) is to be metal estate railing of varying heights. Black railing is likewise a typical feature of modern developments and is welcomed. Residents have raised concerns that it may appear overly industrial. While this is noted officers do not share this concern and reiterate its typical use in modern developments. Notwithstanding this, typical elevations for the boundary treatments have not been provided. A condition requiring full details, beyond the written descriptions and layout plan provided, is recommended via condition.

10.39 The dwellings would be arrayed facing onto the new estate roads. Those adjacent to Penistone Road, with the exemption of plot 36 would have their front elevations facing onto the road, ensuring an active frontage. Plot 36's side would face the road, but it is well set back with planting to the front and the layout is not a cause for concern. The density of the development is lower to the frontage, with units more spaced out before progressing to the denser, more closely spaced units to the rear. This will allow for an acceptable transition that reflects the established urban grain.

10.40 Progressing to the design of the dwellings, architecturally they have a typical modern vernacular that is not unattractive. The architectural design of dwellings in the area is varied, resulting in no defined architectural character or characteristics; in such a setting, the modern attractive vernacular of the proposed units would appear suitably harmonious. More generally, the character of the surrounding area largely comprises semidetached and detached dwellings set within generous plots that typically have a much lower density. The proposal would accord to this.

10.41 Plots 45 – 68 (23 units) would be split level, with three-storeys to their frontage facing out into the valley (west facing). They'd have two storeys to the rear. While split level properties in the area are common, these are predominantly a one and two storey split. Three-storey properties are not common in Lepton. Despite this, their proposed inclusion is not opposed. As addressed previously, the use of split-level properties is intended to reduce the requirement on retaining walls and work with existing levels. Located within the site to the rear, the properties being three-stories will not be prominent or noticeable: when viewed from outside the site, the roofscape of the development will simply follow the existing pattern of development within Lepton, with dwellings arrayed raising up the land following the topography.

10.42 Dwelling materials are to include natural stone, artificial stone, and render. Natural stone is to be used along the frontage to Penistone Road. Within the site artificial stone would be the main material, with render used sparingly to add visual interest. Roofs are proposed as artificial grey tiles.

10.43 The use of natural stone along Penistone Road is a high-quality feature of the site and will assist in harmonising with the character of the area. This will be subject to acceptable end product being used, securable via condition. The internals of the site will be secluded away from neighbouring natural stone buildings and given the identified viability issues of the site, subject to a suitably high-quality artificial stone being used, its partial use is not opposed. Render as a secondary material to add interest is typical in the area and not unusual in Lepton. Its modest use is not opposed. Finally, roofing in the area is likewise varied and the use of an artificial tile, again subject to a suitable end project being used, would not appear incongruous in the area. Overall, the materials are deemed acceptable, subject to acceptable samples being approved via condition.

10.44 The applicant has demonstrated that careful consideration has been given to the shape, massing, and design of the dwellings, including their roof forms. The design of the units and wider site has had to balance several constraints, including reducing the reliance on retaining walls, keeping the heights of units to a minimum, and harmonise with the established built environment. The result of this is evident in the varied number of housing types, many of which have tailored designs to respond to different parts and challenges of the site.

10.45 In summary, the proposed works would notably change the character and appearance of the site and wider area, while being visible from across the valley. Nonetheless, the proposed development is deemed to be designed to a high standard. The proposal would represent an attractive continuation of the residential environment, while appropriately transitioning to the rural landscape to the west. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

10.46 The above assessment has been based on the proposal as submitted. Given the topography of the site and the layout of the development, it is considered further development on the site, via extensions or outbuildings, could notably affect the quality of the design. It is therefore considered prudent to remove permitted development rights for outbuildings and extensions for all units within the site.

<u>The historic environment</u>

10.47 Policy LP35 confirms that development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm. This reflects the requirements of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, which requires the local planning authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

10.48 A site constraint identified in relation to HS1 is that it is close to an area of archaeological interest. This appears to relate generally to known Iron Age and Romano British activity in the locality as well as evidence of medieval settlements nearby. However, these areas of archaeological interest are not within the site. Consequently, a pre-determination archaeological evaluation was not considered necessary, and it will be secured by means of a planning condition.

10.49 Concerns have also been raised as part of the consultation exercise regarding the effect of the proposal on the setting of Castle Hill, which is Grade 2 Listed (Victoria Tower) and a Scheduled Monument. The supporting text to Policy LP35 advices that development proposals will be expected to consider the Council's Castle Hill Setting Study when considering potential impacts on this designated heritage asset. The Setting Study was undertaken in 2016 as part of the Local Plan allocations and future development management functions.

10.50 The allocation is within the 10km buffer zone for the area of study for Castle Hill. However, it is not on a significant ridgeline nor on critical or high importance undeveloped land, as described within the setting study. Furthermore, Paragraph 6.18 of the Setting Study advices that where development is located within or immediately adjacent to areas of existing urban development and is not out of scale with the design of surrounding existing buildings, the impact on the setting of Castle Hill will not be substantial. Similarly, where such development does not lie on a ridgeline, and would therefore not alter the character of views to and from the hilltop across such ridgelines, or challenge Castle Hill’s prominence within the landscape, there is low risk of harm to setting.

10.51 It is therefore considered that the proposal would not harm the setting of Castle Hill. This is further confirmed by the fact that the setting of Castle Hill was fully considered through the local plan process, and it is not identified as either a constraint or an ‘other site consideration’ within the Local Plan for allocation HS1. For these reasons, the development of the application site is considered acceptable and the significance of Castle Hill as a heritage asset would be preserved. It is therefore in accordance with Policy LP35.

Residential Amenity

10.52 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

10.53 There are existing residential properties to the north, east and south of the site. The northern properties are separated from the proposed buildings by the northern POS and Whitegates Grove, resulting in a circa 48m distance between the new dwellings and the closest existing property, no. 49 Penistone Road. This distance is considered sufficient to prevent materially harmful impacts on existing residents to the north.

10.54 To the north-east of the site is Whitegates Grove (which wraps around the north and north-east of the site). To the south-east is Clough Way. These properties are on a higher ground level to the site, with their respective access roads and former railway line (costing of thick naturalised vegetation) between themselves and the application site. Separation distances between properties on the above roads and the new dwellings are more than 50m, again with the existing dwellings being at a notably high level. While it is acknowledged that these dwellings currently have a clear view over the site, which is currently a greenfield, there is no right to a view in planning and the loss of an attractive view is not a material consideration. The material consideration is the impact of their amenity, through matters such as overbearing, overshadowing, and overlooking. By virtue of the separation distance and difference in levels, officers conclude that the new development would not result in materially harmful impacts on any properties on either Whitegates Grove or Clough Way.

10.55 To the south of the site are nos. 9 and 12 Woodsome Drive. These properties are the closest to the site.

10.56 Consideration is first given to the impact upon no. 9. No 9 is constructed close to the southern boundary of the site with windows on its north elevation directly overlooking the site at approximately 1m to the boundary. These windows have been confirmed to serve habitable rooms and are their respective primary windows. A window in the lower ground floor of no. 9 also facing north has been confirmed to serve a non-habitable room.

10.57 To prevent harmful impacts upon no. 9's occupiers the applicant has proposed an area of open space adjacent to the shared boundary where no dwellings would be sited. This area has been designated and accepted as Public Open Space; however, it is not intended to be accessible by the public to prevent use of the area in such proximity to no. 9 resulting in harmful impacts. While intended as POS, the typology is to be 'natural / semi-natural', which does not have to be publicly accessible to be acceptable. This typology has visual benefits and can also provide ecological functionality. The area would be kept inaccessible by 1.5m high estate railing and landscaping; estate railing is considered preferable to fencing or a solid wall to enable views into the open land (while preventing the public getting too close to no. 9) and animal movement. A condition requiring this fencing being installed at an appropriate time is recommended. This is in addition to the proposed fencing along the shared boundary between the site and no. 9, to be 1.8m high fencing, to preserve the boundary and security.

10.58 Concerns of the potential anti-social use of this Public Open Space have been raised. The proposed fencing and landscaping would make it difficult to access and the delivery of it may be secured via condition. Concerns of anti-social behaviour beyond this is considered outside the remit of planning.

10.59 In addition to the windows on the north elevation, no. 9 has a balcony on the west facing elevation. The balcony is built adjacent to the shared boundary and would be immediately adjacent to plot 42's garden. It would be sited 14.5m away from the rear wall of plot 42. Due to different land levels, the balcony would be notably higher than the ground level to plot 42. By virtue of the level difference and separation distance, officers are satisfied that the occupation of plot 42 would not result in materially harmful overlooking upon no. 9's occupiers. The separation distance and orientation are also sufficient to

prevent overbearing or overshadowing upon the balcony. Considering the amenity of plot 42's future occupiers, the distance between the balcony and dwellings is sufficient to prevent concerns of overlooking into the dwelling. While the balcony would more freely overlook plot 42's garden, given the assumed infrequent use of a garden and balcony, the impact is not deemed materially harmful.

10.60 Plot 43 would be located to the north-east of no. 9. Concerns have been raised in representations over the potential of overlooking between these properties. Plot 42 would have windows on the south and west facing elevation. These elevations are each at an oblique angle to no. 9's dwellinghouse, with a separation distance greater than 19.2m (corner to corner of the dwellings; window separation would be greater). Officers are satisfied that this distance and oblique angle, plus the proposed boundary treatment (1.8m close boarded timber) would effectively prevent materially harmful overlooking (as well as any overbearing or overshadowing impacts). No. 9 does have a front garden that plot 43's rear windows would more directly face. However, the separation distance from plot 43 to the shared boundary would be 14.0m, again with the boundary treatment. Therefore, officers are satisfied that material harmful overlooking would not be caused. In terms of levels, plot 43 is proposed to have a finished floor level of 92.2 OD. While no. 9's FFL has not been identified (as private land), the level immediately adjacent to no. 9 within the site is 91.0 OD. A level difference of circa 1.2m, at the given separation distance, is not expected to materially exacerbate overlooking, overbearing, or overshadowing.

10.61 Progressing to no. 12 Woodsome Drive, plot 68 would be adjacent to it. Given their respective layouts, the front and rear windows of no. 12 would not have a clear view towards plot 68 and as a result would not suffer from overbearing, overshadowing, or overlooking. However, no. 12 has a large side facing window that faces into the site. The window serves as the primary (but not only) outlook of a habitable room.

10.62 No. 12's side window would face towards the side of plot 68 that only has a non-habitable room window. Therefore, overlooking between plot 68 and no. 12 would not be caused. A condition requiring this to be obscure glazed and removing PD rights for additional windows on the side is recommended to preserve no.

10.63 In terms of overbearing, plot 68 would be 9.0m away from the window in question. While plot 68 has three-storeys to the front, given the proposed level differences no. 12 would effectively be at the same level at plot 68's first floor. Furthermore, plot 68 would be set off to the side and not block the direct view out of the window in question, although it would be visible to the side. The direct view of the window would be over plot 68's front garden that would be on a ground level below no. 12. Considering these factors, on balance officers are satisfied that the proposed relationship between plot 68 and no. 12 would not amount to a materially harmful overbearing relationship. In terms of overshadowing, plot 68 being due north of no. 12 would prevent harmful overshadowing occurring.

10.64 Concerns have been raised by residents on the southern boundary over the impacts of gardens and residential development adjacent to their properties and their own gardens. The gardens in question will either be at the same level as, or lower than, the existing neighbouring properties. Adjacent residential gardens that are level to one another be is typical and not a cause for material concern subject to appropriate boundary treatment being installed, in this case 1.8m close boarded fencing, which is securable via condition.

10.65 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.

10.66 In summary, subject to the recommended conditions, officers are satisfied that the development would not materially prejudice the amenity of existing neighbouring dwellings. Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.

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

10.68 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	**No. of beds**	**Number of units**	**Proposed (GIA, m^2)**	**NDSS (GIA, m^2)**
Ripponden	2	11	70	70
Dalton	3	8	84	84
Saxton	3	12	87	84
Upton	3	1	87	84
Grassington*	3	4	90	90
Beeches*	3	10	106	90
Rowan*	3	6	110	90
Malham	4	1	114	97
Addingham	4	2	117	97

Hovingham	4	1	117	97
Bramham	4	2	139	97
Tupelo*	4	8	145	103
Keyingham	4	2	144	97

* Units that are 2.5 or 3 storeys in height

10.69 All units meet or exceed the NDSS standards, which is welcomed. All would have well-proportioned habitable rooms that are served by good sized windows.

10.70 For information purposes, the two-bed units of the extant permission on site (ref. 2020/90725) were 2sqm below the NDSS. The two-bed units made up 33% of the site.

10.71 The internal spacing and separation distances between the units are acceptable and will not result in overbearing, overshadowing, or overlooking between the new units.

10.72 Garden sizes for all the proposed units are, in terms of square meterage, considered acceptable and commensurate to the scale of their respective dwellings. However, by virtue of the site's difficult topography, retaining walls are to be in many unit's gardens. This has the impact of limiting the outlook of rear windows of several properties and creating tiers that subdivides the gardens and reduces their effective size.

10.73 Tiered gardens are not unusual across Kirklees, nor in Lepton itself, due to the steep topography typical for parts of the region. Officers consider that most of the retaining walls proposed in rear gardens would not result in material harm to the amenity of future occupiers. Most gardens would be split into two tiers of good sizes each, and the retaining walls are well spaced from rear windows to avoid causing materially harmful overbearing and/or overshadowing. The exception to this is the proposed retaining works for plots 7 – 16. The current retaining wall plan show these units having their gardens split between 3 or 4 tiers, with the retaining walls that would be up to 2.3m in height at the extreme while being closely spaced to the rear windows. This is considered by officers to result in unacceptable gardens that would prejudice the amenity of future occupiers.

10.74 In response to the above concerns, the applicant has demonstrated via section plans that the retaining walls for plot 7 – 16 could be simplified. This would result in larger individual walls, but which would be further from the dwellings and result in less tiers and larger usable areas. On balance officers consider this arrangement, which would be like that approved via the previous application on the site ref. 2020/90725, to be acceptable. A final technical plan showing this is pending but expected shortly after this report is to be published; confirmation of receipt and officers' assessment shall be provided within the update.

10.75 Policy LP47 of the KLP refers to healthy, active, and safe lifestyles and recognises that these will be enabled by a number of criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being. More specifically, Policy LP63 advices that new housing developments will be required to provide or contribute towards new

open space or the improvement of existing provision in the area, to be provided in accordance with the Council's local open space standards or national standards where relevant.

10.76 Public Open Space of 4,377sqm would be provided on site and would contribute to the amenity of future and existing neighbouring residents. This includes a Locally Equipped Area of Play (LEAP) (with through-age and inclusive play equipment along with natural features and materials, and informal recreation) that would be sited roughly centrally within the site. A condition requiring a detailed design for the LEAP, to the appropriate standard, is recommended. The retaining works plan does show that this area would be subdivided by a retaining wall circa 1.5m in height. While this will challenge the designer, play areas on sloping land and with retaining walls are not unheard of. Officers are satisfied that a bespoke and innovative design, which the applicant is aware will be required, would be able to adequately this challenge.

10.77 Notwithstanding the above, the on-site provision of POS would fall below the required on-site contribution, calculated in accordance with Local Plan policy LP63 and the methodology set out in the Open Space SPD. In accordance with the SPD, to offset this shortfall a contribution of £87,314.00 would be required. However, as discussed in paragraphs 10.116 – 10.128, viability has demonstrated that a full policy compliant set of contributions cannot be secured. As a result, the POS contribution has been reduced to £61,724.60 (a reduction of £25,589.40). While this shortfall is noted, on the planning balance and weight given to the formal viability process that has taken place, this shortfall is deemed acceptable. It is recommended that the (reduced) contribution be secured in the required Section 106 agreement, along with provisions to secure details of the management and maintenance of open spaces to be delivered on site.

10.78 Units to the site's west would be adjacent to Penistone Road, a busy road that is a potential noise pollutant. The application is supported by a Noise Impact Assessment which has been reviewed and accepted by K.C. Environmental Health (it should be noted that the report is out of date, in regard to layout, following updates to the proposal; the layout changes are not substantial and do not invalidate the conclusions of the report). This report identifies that certain units along the site's frontage would require a higher specification of glazing to mitigate potentially harmful noise pollution, with mechanical ventilation. Furthermore, certain units would require acoustic screening in their gardens, although the report concludes that even with such screening 10 units would have gardens that nominally exceed the desired noise limit of 55dB, at 57dB. This is a small overage, with K.C. Environmental Health not objecting and commenting '*BS8233 recognises that these guideline values are not achievable in all circumstances where development might be deemed to be desirable'.* It is recommended that a condition be imposed for an updated Noise Impact Assessment, capturing the amended layout, and requiring technical details of the window specifications and acoustic screening for gardens (and whether a high specification could achieve the desirable 55dB). Nonetheless, the submitted report has demonstrated that noise pollution may be adequately managed at the site and is not a fundamental cause for concern.

10.79 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

Highway

10.80 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.

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

Access and traffic generation

10.82 First considering traffic generation, a proposal of 68 dwellings is expected to generate the following movements:

	Arrival	**Departure**	**Two-way**
AM Peak	11	44	55
PM Peak	44	11	55

10.83 Considering committed developments from nearby housing allocations HS2 / HS3 which were agreed at local plan examination stage and assumed to be 50% of the site traffic from these developments which would then pass the proposed site HS1 on the A629 Penistone Road. Based on this assumption the forecast for committed development traffic passed the site access associated with Sites HS2 and HS3 are 240 two way vehicle movements during the AM and PM peak periods respectively, over and above the existing base traffic flows of circa 1400 and 1600 two way vehicular movements in the AM and PM peak periods respectively on Penistone Road, this information has been modelled by Utilising the data into the PICADY output results giving a maximum RFC value of 0.285, this figure means that vehicles entering and exiting the site can do so without causing undue delay in terms of queuing in and out of the site for excessive timescales with a priority give way arrangement. It is therefore considered that no additional highway mitigation measures are required other than those proposed to make this development acceptable from a highway's perspective.

10.84 Regarding access into the site, two new access points, each from Penistone Road, are proposed. The northern access point would serve plots 1 – 35 and 43 – 68 (61 units) and the south serve plots 36 – 41 (7 units). Appropriate sightlines for these new accesses have been demonstrated and their implementation and retention may be secured via condition. To ensure suitable and safe access is achievable for each of these accesses, a right turn lane is proposed to be provided. This will be an arrangement consisting of a 2.8m wide right turn lane and have residual running lanes of 3.0m. Central traffic islands would also be installed along the length of the site to protect right turning vehicles and discourage overtaking in Penistone Road in the vicinity of the site. As part of these works, Penistone Road would be resurfaced in the vicinity of the site. A stage 1 safety audit and designers' response has been provided regarding the access arrangements associated with the site, which have been considered and addressed accordingly. A condition requiring full technical details of these access works and securing their implementation is recommended.

10.85 As part of the access improvements, the existing footway on the site frontage would be widened from the existing 1.5m - 1.8m to a consistent 2.0m. A condition requiring full technical details of these improvements and securing their implementation is recommended. This would necessitate the removal of the existing low drystone wall and young trees along the west boundary of the site, however the public benefits to highway safety these works would secure, along with the landscaping / boundary mitigation proposed would outweigh the harm.

10.86 New retaining walls will be required. These will be within the site and adjacent to the existing highway. Therefore, a condition requiring technical details, to ensure they are an appropriate standard and do not affect the public highway, is recommended.

10.87 The attenuation tank will be accessed via an existing access point onto Penistone Road. The infrequent access to the attenuation tank will not represent a material intensification in terms of its current infrequent agricultural use and its continued use is not opposed.

10.88 Progressing to the internal road arrangements, the submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. Full technical details of the new access road, to an adoptable standard, are to be sought via condition. However, for the avoidance of doubt, it is the applicant's prerogative as to whether they'll seek adoption of the road by the local Highway Authority as it is outside the remit of the Local Planning Authority to require adoption of roads.

10.89 All dwellings would have a level of dedicated off-road parking in accordance with the Highways Design Guide SPD. The provision of this may be secured via condition. In terms of visitor parking, the Highways Design Guide recommends one per four dwellings. For 68 units accessed off the new road this would equate to 17 visitor parking spaces, which the proposal includes. The delivery of these would be secured via the abovementioned condition for technical highway specifications.

10.90 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles through the site. Particular attention has been given to the turning head serving plots 36 – 41 and the visitor parking, to ensure visitor parking does not prejudice the effective use of the turning head. Several shared private drives are proposed. Each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste collection areas may be secured by conditions. Given the scale of the development, which will likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse services will not access roads prior to adoption (or while construction work is continuing) therefore appropriate arrangements must be considered and implemented.

10.91 Given the scale and nature of the development officers recommend a Construction Management Plan be secured via condition (this may be combined into the Construction Environmental Management Plan recommended in paragraph 10.65). This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is recommended by planning officers.

Sustainable and alternative methods of travel

10.92 LP20 of the Kirklees Local Plan states '*The council will support development proposals that can be served by alternative modes of transport such as public transport, cycling and walking and in the case of new residential development is located close to local facilities or incorporates opportunities for day-to-day activities on site and will accept that variations in opportunity for this will vary between larger and smaller settlements in the area*.'

10.93 No Public Rights of Way cross the site currently. PROW KIR/64/20 runs along Whitegates Grove to the north. The site would provide pedestrian access onto Whitegates Grove. No new buildings would be sited close to the PROW and overall officers are satisfied that the proposal will not prejudice the use of the PROW. Having a route through the site and connecting onto PROW KIR/64/20 / Whitegate Road is a welcomed connectivity improvement. A condition requiring technical details and the implementation of this connection route is recommended.

10.94 Plots 36 – 42 would be accessed from the southern access and would be separated from the rest of the site by a retaining wall between plots 40 and 43. Officers have negotiated with the applicant to secure a connection between the two roads for pedestrians. The steepness and land restraints prevented a ramp being feasible. While a ramp would be preferable, given it has been excluded a staircase is a reasonable secondary option. A condition requiring technical details of the staircase, to ensure it is designed to an adequate standard and delivered, is recommended.

10.95 The application is supported by a Travel Plan which provides a review of the site's connectivity and proposals to promoting sustainable travel methods for future occupiers. The recommendations and proposals of the travel plan are welcomed. Typically, officers would seek a £10,000 contribution towards travel plan monitoring over 5 years (£2,000 per year) to promote and adapt the travel plan for the given period. However, as detailed in paragraphs 10.116 – 10.128, due to viability issues for the development certain planning contributions for the proposal have been removed / reduced. Officers recommend that the travel plan monitoring fee be fully removed (to allow other contributions, such as education and affordable housing to be secured). Nonetheless, while omitting the £10,000 monitoring contribution would mean the Highways Authority would be unable to formally monitor the travel plan a condition requiring the development to operate in accordance with the Travel Plan is recommended as a reasonable compromise to secure the provisions the applicant has put forward.

10.96 Considering walkability from the site, the typically accepted 'preferable maximum' walking distance is 2km. Within a 2km catchment of the site, much of Fenay Bridge can be accessed. Amenities include convenience stores, restaurants, a supermarket (Morrisons at Penny Lane), a doctor's surgery, and educational establishments (including Rowley Lane Junior Infant & Nursery School and Lepton C.E. (VC) Junior, Infant & Nursery School).

10.97 When considering cycling, the typically accepted maximum distance for local amenities extends to 5km. Within this distance are various centres including Huddersfield, Almondsbury, and Farnley Tyas. Whilst there are no specific cycling facilities within the immediate vicinity of the site, approximately 1.2km to the north on Penistone Road there is a bus/taxi/cycle lane that provide a dedicated lane to Huddersfield town centre, which is approximately 5km ride from the site (approximately a 20-minute ride).

10.98 It is recognised that the disused railway line to the rear of the site is identified within the Local Plan as part of a core walking and cycling network. Policy LP23 of the Local Plan advices that they provide an opportunity for alternative sustainable means of travel throughout the district and provide efficient links to urban centres and sites allocated for development in the Local Plan. Proposals should seek to integrate into existing and proposed cycling and walking routes by providing connecting links where appropriate. This has been fully explored during this planning application in terms of providing a direct link from the site onto the former railway line. However, the railway embankment and line are in separate private ownership and the steepness of the railway banking made it unfeasible to provide a direction connection from the POS within the site onto this route. However, the abovementioned path through the site's northern PROW connects to Whitegate Road which would provide direct access onto the former railway line, should it ever be formalised and be brought forward as a public bridleway/cycling route in the future. Consideration was also given to securing a contribution towards this route. However, at this stage, given that it remains in private ownership without a clear strategy to bring it forward as a walking and cycling route, a contribution could not be justified at this time.

10.99 Opportunities for other cycle improvement in the area are limited. Nonetheless, the provision of secure and protected cycle storage facilities one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel. As detailed further in paragraphs 10.129 – 10.133 officers no longer recommend conditions for Electric Vehicle Charging Points, as they are secured via modern Building Regulations.

10.100 West Yorkshire Metro were consulted but provided no comment on the application. In the previous application they advised that £35,339.60 should be secured towards sustainable travel methods, with a recommendation for Mcards, and £10,000 to upgrade a nearby bus stop. This is recommended to be stop ID: 16775 (north-bound towards Huddersfield) on Penistone Road located south-west of the site where it'd most benefit future residents and residents approaching from Rowley Lane. It is considered reasonable to repeat these requirements, to be secured within the S106, in the interest of promoting alternative methods of travel. Officers have verified that the price of Mcards has not changed since the previous application.

10.101 The site is concluded to be within a sustainable location. Furthermore, the proposal includes highway improvements that will promote walking towards local facilities as well as a contribution towards public bus infrastructure. As such, the development is deemed to comply with the aims of policy LP20.

10.102 Overall, it is concluded that the proposal is acceptable regarding the matter of access and highway impact. Subject to recommended conditions, it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users and that any significant impacts from the development on the transport network can be viably and appropriately mitigated. It is concluded that the development would not result in a severe cumulative highway impact. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework

Drainage and flood risk

10.103 The nature of the development, and its location within Flood Zone 1, precludes the requirement for a Flood Risk Assessment. There are no concerns relating to flood risk for the development.

10.104 First considering flood risk, all dwellings would be constructed in Flood Zone 1 and are therefore not considered at risk of fluvial flooding. The Environment Agency (EA) expressed initial concerns that the attenuation tank was within Flood Zone 2 and 3 when allowing for climate change. The applicant provided further details on this matter and satisfied the EA that the attenuation tank and its access were within Flood Zone 1. The EA have however asked for a condition regarding working near Fenay Beck, a designated main river.

10.105 A pluvial flood routing (i.e., exceedance event) has been provided and demonstrates flood waters avoiding domestic curtilage (i.e., routed using the highway). Nonetheless, it is recommended that a condition be imposed requiring full updated details to be provided and implemented.

10.106 Progressing to surface water management, the LLFA are satisfied that the applicant has given due regard to 'making space for water' in their proposal. A surface water drainage strategy has been submitted by the applicant. The applicant has followed the drainage hierarchy in proposed to discharge surface water in Fenay Beck, as infiltration techniques have been ruled out due to the topography and ground conditions. This would be at a discharge rate of 10l/s, which is appropriate for a greenfield site of the site's size. Calculations have been provided to demonstrate adequate attenuation requirements, including climate change allowances. The LLFA accepts the details provided, however recommend that a condition for full technical details of the drainage strategy be secured via condition. This is deemed reasonable.

10.107 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement.

10.108 Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.

10.109 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the KLP and Chapter 14 of the NPPF.

Ecology

10.110 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.

10.111 The applicant has submitted an Ecological Appraisal that considered local species in and around the site. It concludes that the site offers some opportunities for roosting and foraging and commuting bats, nesting and foraging birds, otters and reptiles. However, the value of the site for these protected species can be maintained and even enhanced post development, through appropriately mitigation and enhancements measures which can be secured via an Ecological Design Strategy, via condition.

10.112 Considering the site as a habitat, the Ecological Appraisal identifies the main habitats present within the site are dominated by other neutral grassland and arable crops, with smaller areas of mixed and bramble scrub, other broadleaved woodland, both wet and dry ditches and an area of the Fenay Beck. Several habitats of elevated ecological interest are to be impacted by the proposed development, although those that are scheduled to be lost to facilitate the proposed development are of no greater than 'site' level value. Subject to 10% ecological net gain being secured, this impact is deemed acceptable.

10.113 The application's Biodiversity Net Gain metric calculates that the development will result in a 45% net loss of habitat units while increasing hedgerow units by 176.97%. A total of 7.18 habitat units would be delivered on site however, the delivery of which may be secured via condition. It is considered that all options to maximise the availability of habitat units within the site and the wider area have been exhausted. As such, off-setting will be required for the development to achieve a biodiversity net gain. For the development to achieve a net gain of 10%, 7.4 habitat units will need to be delivered. Commuted sums are calculated based on £20,000 per habitat unit (national average taken from DEFRAs latest BNG impact assessment) plus a 15% admin fee (as detailed in the BNG technical advice note). Therefore, a commuted sum of £170,200 would be required for the development to achieve a 10% biodiversity net gain. This would be used for ecological enhancements within the area by the Council and may be secured via S106 agreement.

10.114 To ensure construction works do not cause harm to Fenay Beck as a habitat and local species in and around the site, a condition for a Construction Environmental Management Plan: Biodiversity is recommended. Subject to this, potential detrimental impacts during the construction phase may be appropriately mitigated.

10.115 Invasive non-native species (American signal crayfish and Himalayan balsam) were found adjacent to the site. Therefore, a condition for an invasive species management plan is recommended, to remove such species if found within the site and avoid spreading invasive species outside of the site.

10.116 Subject to the given conditions and securing the off-site ecological contribution, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan.

Planning obligations

10.117 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.

10.118 The following represents a policy-compliant set of Section 106 financial obligations for the proposal:

- **Affordable Housing**: 14 units (20%), consisting of 8 (55%) as affordable rent and 6 (45%) as intermediate, to include 4 (25%) first homes.
- **Public Open Site** (off-site contribution): £87,314
- **Education**: £194,302
- **Ecological Net Gain** (10%): £170,200
- **Sustainable Travel**: £55,339.60 (consisting of £35,339.60 for Mcards (or similar) plus £10,000 for Real Time Bus upgrades, plus £10,000 for Travel Plan monitoring)

10.119 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them. The Government's planning practice guidance provides the following overview of the Viability Assessment process, for context:

> *Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.*
>
> *Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.*
>
> *In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.*

10.120 The applicant's viability assessment has been reviewed by an independent viability assessor (Align) appointed by the Council, to advise officers on this specialist subject. The key matters of dispute identified by Align are as follows:

- Reduction in the established Base Land Value figure to reflect the high level of abnormal costs associated with the land.
- Removal of electric vehicle charging point abnormal cost of £38,805.
- Adjusted build costs to reflect the different house types e.g., 10% externals for 2 storey properties and 15% for 2.5 and 3 storey properties, resulting in build costs of £113.07 and £119.02 respectively.

It should be noted that the above changes are, in the whole, nominal and the independent viability assessor largely concurs with the applicant's position.

10.121 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are various factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.

10.122 The following figures are surplus profit values above the identified percentage of GDV. It should be noted that a policy compliant set of contributions for off-site Public Open Space, Education, Ecology (net gain), and Sustainable Travel (minus £10,000 towards travel plan monitoring) have been included within the development's costs. Therefore, the following figures relate to available funds for affordable housing only:

Profit Level Surplus Value	**Profit Level Surplus Value**
15% profit on GDV	£1,542,000
17.5% profit on GDV	£990,000
20% profit on GDV	£438,000

10.123 Based on the above surplus figures, even at the lower 15% profit level would not result in 20% affordable housing being viable. However, it is considered that a reduced Section 106 package may be sought without making the scheme wholly unviable. To determine the value of the reduced package, due regard must be given to what is a reasonable level of profit value for a specific proposal. This should be between the identified 15 to 20% margin, which is ultimately a decision for the decision maker. Furthermore, it much be acknowledged that viability assessment is partly a subjective process based on professional views on the costs of development and likely sales values. The Council's viability guidance note states the following:

> *there are a number factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand.*
>
> *Consequently, the Council do not intend to adopt a rigid approach to profit levels. Whilst it is expected that it will fall within the 15-20% range of GDV, in determining the appropriate level for an individual scheme, regard will be had to the individual characteristics of that scheme.*

10.124 The applicant initially sought to secure a 20% profit level. They cited the abnormal costs of the site as a factor, market conditions, and historic viability testing at the site (done to inform the local plan) used a 20% value. Officers dispute the reasonableness of this. It is accepted that the topography and associated abnormal costs do add risk and difficulty to the site and make a 15% profit level unreasonable. However, giving due regard to the strong market area and greenfield nature of the site, officers consider a central position of 17.5% profit to be reasonable and fair value. Through negotiations the applicant has agreed to this figure. Considering the above, the proposal has £990,000 to put towards affordable housing.

10.125 Officers recommend the following S106 package be accepted, although again the final decision on this rests with the Committee as decision maker:

- **Affordable Housing**: 7 units (10%), consisting of 4 as affordable rent and 3 as intermediate (specifically first homes)
- **Public Open Site** (off-site contribution): £61,724.60
- **Education**: £194,302
- **Ecological Net Gain** (10%): £170,200

- **Sustainable Travel**: £45,339.60 (£35,339.60 towards sustainable travel provisions (such as Metro passes) plus £10,000 towards bus stop improvements)

The proposed affordable housing units have been identified based on the percentage expectations set out in the Affordable Housing and Housing Mix SPD.

10.126 The education and ecological net gain figures are the full policy compliant requirment. The sustainable travel and Public Open Space (off-site contribution) have been reduced to 'round up' the affordable housing offer to enable a full additional unit to be provided onsite (as opposed to there being a 'left over' pot of money for off-site affordable housing). The sustainable travel has been reduced by £10,000 through the omission of the travel plan monitoring and the off-site POS has been reduced by £25,589.40. These are considered reasonable compromises to deliver an additional on-site affordable housing unit.

10.127 Notwithstanding the proposed arrangements, it is acknowledged that this viability process has been based on costs and assumptions that are subject to change. To ensure that any windfalls (such as higher sales values, or lower construction costs) do not result in unexpected profits without reasonable contributions being secured, a review mechanism is proposed for an additional viability assessment partway into the build process of the development. This is to ensure contributions may be secured on any windfall profits.

10.128 Section 106 obligations that would be required regardless of the financial contributions include the provision of the site's on-site Public Open Space and management / maintenance arrangements for the drainage (prior to adoption), open space, and ecological net gain features.

Other Matters

Air quality

10.129 The proposed development site is not located within an Air Quality Management Area (AQMA), but the scale of development necessitates due regard to local air quality. The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance. This considers the impacts of the operational phase of the development (i.e., when lived in) and construction phase.

10.130 The report concludes that for the operational phase the predicted annual mean NO2, and PM10 concentrations will be below the current national air quality objectives for both the "without development" and "with development" scenarios at all sensitive receptor locations across the development site. Therefore, in accordance with the Environmental Pollution UK (EPUK) and Institute of Air Quality Management (IAQM) guidance the overall future impact of the development on modelled receptors is negligible. Following an update, the applicant has confirmed that their assessment gives due regard to the cumulative impacts of nearby developments as well.

10.131 For the construction phase, the principal consideration relates to dust generated by construction. The report concludes that the dust impact during the construction phase is considered not to be significant, in accordance with relevant guidance, which has been confirmed by K.C. Environmental Health. However, it recommends that this can be further controlled by the implementation of good mitigation measures. This would form part of the Construction Management Plan, recommended in paragraph 10.65, to be secured via condition.

10.132 Policies LP5, LP24 and LP51 state that all new developments should be serves by Electric Vehicle Charging Points. Conversely, since the Local Plan was adopted Building Regulations S 2021 edition (came into effect June 2022). This building regulations makes the installation of a minimum of 1 EVCP per dwellings mandatory. Planning conditions should not repeat separate legislation and therefore conditions for the delivery of EVCP are no longer considered reasonable or necessary.

10.133 Subject to the given conditions, officers are satisfied that the proposal would not harm local air quality, nor would residents suffer from existing poor air quality.

Ground contamination and coal legacy

10.134 In accordance with LP53, as a major residential development consideration of ground contamination is required. The application is supported by Phase 1 (desktop) and Phase 2 (site investigation) Contaminated Land reports which have been reviewed by Environmental Health.

10.135 The Contaminated Land reports have been reviewed by Environmental Health. While the methodology and findings of the report are noted and demonstrate no prohibitive issues that would prevent the use of the site for dwellings, the reports are out of date, with the investigations undertaken in 2017. Therefore, the reports cannot be fully accepted. Accordingly Environmental Health recommend conditions requiring updated reports be provided.

10.136 The area falls within the ‘high coal risk zone’. As such the application is supported by a Coal Mining Risk Assessment which has been reviewed by The Coal Authority. In summary, the CMRA outlines investigations undertaken and demonstrates that the site has no risk to development from historic coal activities. This has been reviewed and accepted by the Coal Authority, who advise no further investigations and/or conditions are necessary.

10.137 In summary, subject to the imposition of the abovementioned conditions, officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

10.138 The West Yorkshire Police Liaison officer has made several comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. A condition for a lighting strategy for private areas

(i.e., shared driveways that won't benefit from street-lighting) is recommended. Subject to this, the proposal is considered to comply with policy LP24(e).

Minerals

10.139 The site is within wider mineral safeguarding area (Sandstone). Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing and affordable housing need, having regard to Local Plan delivery targets) for it. The proposal is therefore not considered to conflict with policy LP38.

Representations

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

Principle

- Development should be targeted at brownfield sites, not greenfield.

Response: Local and national planning policies does not prioritise brownfield over greenfield, or vice versa

- National government has considered abolishing housing targets. Therefore, this development is no longer needed and should be refused.

Response: Planning decisions must be made based on adopted national and local policy. Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The considerations of government, without formal adoption, are not material planning considerations.

Design

- Uncertainty over the boundary treatments to the south.

Response: Clarification on boundary treatments has been provided through the course of the application and re-advertised.

Amenity

- Unclear what function / purpose land adjacent to plot 43 which is not clearly garden, would serve.

Response: The area in question has been partly incorporated into the southern POS area (without public access) and partly incorporated into plot 43's front garden.

- The Public Open Space on the south boundary is too close to neighbouring properties. It'll result in people being adjacent to windows and their land. Concerns over the anti-social use of this land and potential for criminal access to neighbouring properties. In the previous application this area was larger and fenced off.

Response: Through the course of the application this POS has been enlarged with an enclosed permitter via fencing proposed, the delivery of which is to be secured via condition.

- Concerns whether hedgerow on the south, which provides a good barrier, will be removed.

Response: the submitted Arboricultural Impact Assessment states this is to be retained.

- The proposal does not deliver the full expected amount of Public Open Space on site. If being paid off-site, where will this be spent?

Response: it is not unusual for Public Open Space to be partly delivered on site and partly improved off-site. This acknowledged that residents will not just visit POS within the new development and ensures existing areas are improved. The exact location will be determined by K.C. Landscape as part of their improvement programs in consultation with ward members.

- Section plans to all neighbouring properties should be provided.

Response: Requiring section plans for all dwellings is unnecessary. Level plans have been provided along with sample sections. This is deemed sufficient to understand the proposal and assess the impacts.

Highways

- The 'Saxon' house type typically has tandem parking that is adjacent to a blank wall with no doors. This will make using the parking undesirable as residents will need to walk around the dwelling to access it. This will result in people not using their drives and therefore parking in turning heads, affecting the ability of refuse and emergency vehicles to access the site.

Response: Tandem parking is not unusual and, while that proposed will not lead directly to a door, is not unreasonably far away from the access.

- There are insufficient visitor parking spaces across the site, specifically from the southern access. Two visitor parking spaces for seven dwellings is inadequate. Concerns also exist of 'excessive vehicles', such as camper vans, work vans or lorries that must access the southern area and result in issues.

Response: Visitor parking spaces comply with the expectations of the Highways Design Guide, as do private parking spaces. Developments cannot reasonably be designed when the potential of large private vehicles like camper vans as it would result in substantial parking requirements for all dwellings.

- Speed bumps should be provided along Penistone Road.

Response: K.C. Highways conclude this is not reasonable or necessary as part of the development.

Other

- The council's independent viability assessors report identifies an out-of-date education contribution of £31,914. K.C. Education provided a later assessment which reached a figure of £194,302.

Response: This was noted and corrected, with the recommendation before members including the correct figure of £194,302 towards local education.

- No site notices were erected, and the public representation period was too short resulting in limited comments provided. The previous application on site had a much longer public representation period.

Response: Site notices were erected around the site. All public representation and the period of time given has been undertaken in accordance with national and local requirements.

- The council's independent viability assessors report does not consider a wider range of scenarios that should be applied, such as the impacts of Full S106 contributions and full affordable housing requirement or No S106 contributions and full affordable housing requirements.

Response: The viability assessor has followed national standard practise and the guidance set out by Kirklees Planning when it comes to their approach undertaken. Undertaking various tests of different possible outcomes is not required to inform their conclusion.

- The applicant's viability report includes abnormal costs provided by Newett, as opposed to the report's author (GNEC). This is queried as to whether its normal.

Response: Newett Homes, as the developer who will implement the scheme, are best placed to inform the abnormal costs they have identified and factored in. It is normal for the developer to inform abnormal costs (which are then reviewed independently as part of the viability process).

- The use of 2.5 storeys homes results in greater build costs. Only 2 storey homes should be used to lower build costs.

Response: While a 2.5 storey home has a higher build cost, it also has a higher sale price to balance this.

- Concerns that the proposed road works and development will require working at night. While this helps commuters, it causes issues for nearby residents trying to sleep.

Response: Such matters are outside the remit of planning and would be subject to review and approval by the Highways Authority.

- The local area has insufficient schools, doctors, and other services.

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

- The plans are inconsistent, with discrepancies and are presumably wrong in places.

Response:

10.141 Cllr Munro has expressed objection to the proposal. The following are responses to comments not addressed within the main assessment:

- The previous application initially sought to be 100% affordable units. This would have delivered all expected annual affordable houses (49 per year) for South Kirklees. This was amended to 20%, the minimum required by policy. This should be repeated for the new development.
- Cabinet chose not to adopt the Community Infrastructure Levy / CIL which has allowed developers to not pay all their required contributions.
- The applicant initially offered only £140,000 towards S106 contributions and no affordable housing. This is unacceptable.
- Developers should not be allowed to claim viability issues and 'get out' of paying their fair contributions. It is unacceptable for developers to make profit at the expense of local people. This will establish a dangerous precedent.

Response: While the previous application is a material consideration, each application must also be assessed on its own merits. The previous application securing 20% affordable should not be used as a requirement for this application. Unlike this application, the previous proposal provided no viability assessment to test the impacts of providing a full policy compliant set of contributions. The applicant has followed due process through the submitted viability report, which has been reviewed by the Council's independent viability assessor and an informed conclusion reached. The viability process undertaken is a material planning consideration specific to this application which must be considered in the planning balance. This process has increased the contribution from the applicant substantially from the initially offered £140,000 towards S106 contributions and no affordable housing.

- The attenuation tank should not be sited within the Green Belt. The access track will harm openness. It'll also harm Woodsome Hall (Grade 1 Listed) and Castle Hill (Grade 2 Listed Tower and Ancient Monument).

Response: The access track's impact on the Green Belt has been considered in paragraphs 10.12 – 10.20. Given the separation distance, low level of the works, and intervening topography and vegetation, officers do not consider that the access track will affect either of the identified heritage assets.

- The abnormal cost for siting the tank in the Green Belt has been given as £579,070. No comparable cost for siting it within the site has been provided. It should be provided.

Response: A definitive cost of locating the tank in the north of the site has not been provided. However, the applicant has provided the following reasons for why it is not feasible:

• Levels Changes: The Note confirms that the sections submitted as part of the approved scheme (application ref. 2020/90725) do not accurately depict the changes in levels across the application site and consequently misrepresent the extent of engineering works required to accommodate a tank/development across the site as a whole. For example, the approved scheme included a substantial retaining wall running along the site's eastern boundary which could not be practically built out within the space shown. The reality is that this structure would have eaten into the rear gardens of the properties along the eastern boundary and significantly reduced the amount of useable private open space for these dwellings – a design response which the amended scheme now seeks to avoid.

• Root Protection Zones: The approved scheme showed the attenuation tank within the public open space at the northern end of the application site. What it failed to take account of was the root protection areas (RPA's) of the TPO trees within this section of the site. The reality is that the tank would have killed / severely impacted several existing TPO trees within this section of the site.

• Extensive Excavation Works: The approved scheme showed the attenuation tank beneath an area of soft landscaping which has a circa 3.3m level change over the footprint of the tank. It also showed the attenuation tank being installed circa 2m below ground, with its base at a level of 4m below ground at the lowest point. This would have resulted in the need to excavate to a depth of 7.5m (and even further once the base construction of the tank was taken into account) within the highest (eastern) section of the site. Such extensive excavation works would not only have resulted in practical problems from a construction perspective but would also have created 'construction, design and management' (CDM) issues. This is particularly in respect of the health and safety issues associated to working with deep excavations.

- It is unclear whether the developer owns the neighbouring site where the tank would be sited. If they have, when was this? If not, has the cost been factored into the viability assessment?

Response: Officers have sought clarification on this matter from the applicant and will provide further details in the update to members.

- Penistone Road is used as a ‘race track’ by some motorists. Adding turning lanes is dangerous and will lead to overtaking.

Response: Pedestrian islands are proposed along the frontage of the site to dissuade overtaking.

- The neighbouring field, where the attenuation tank is to be located, floods.
- The flooding leads to more wild birds in the area, presumably pecking rich nutrients left by the floods.

Response: The attenuation tank is located within Flood Zone 1. This has been reviewed and verified by the Environment Agency. Claims regarding birds feeding are supposition. Nonetheless, as noted the site does not fall within a flood zone.

- If the 10% net gain cannot be located on the housing allocation it should be located on the neighbouring field.

Response: The neighbouring field is agricultural in use and its use for ecological enhancement may not be appropriate. Nonetheless, while an off-site ecological enhancement is to be secured, if the applicant can find a more appropriate local strategy to deliver themselves, this could be arranged.

- It has been disclosed that sewage was dumped 26 times in location 1 in Fenay Bridge for 59 hours between 2021 and 2022 and at location 2 also in Fenay Bridge sewage was dumped 31 times equating to 68 hours (Top-of-The-Poops.org) Resolving the issue of sewage dumping could take years.

Response: This is not a material consideration and is a separate matter for the utility provider.

- Pollution from construction at the site will make its way into Fenay Beck and harm local wildlife.

Response: A temporary surface water drainage strategy and Construction Environmental Management Plan (CEMP) are to be secured via condition to prevent this.

11.0 CONCLUSION

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

11.2 The proposal seeks the residential development of a housing allocation. The proposal would meet the Local Plan’s target density figures and the housing mixture is deemed appropriate. Therefore, the principle of development is deemed appropriate.

11.3 Site constraints including topography, neighbouring residential properties, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.

11.4 The proposal has been assessed considering material planning considerations and found to be acceptable. Viability issues have been demonstrated to prevent a fully policy compliant suite of Section 106 financial obligations, however a reduced contribution has been negotiated and agreed with the application which would assist in mitigating local impacts of the proposal.

11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Attenuation tank access to be formed using batters and grascrete, as proposed.
4. Development to be done in accordance with sustainability report
5. Walling and roofing material samples to be submitted and approved.
6. Development to be done in accordance with level strategy.
7. Details of proposed retaining wall materials, to not include gabion walls along the frontage of Penistone Road and to include samples of materials, to be provided.
8. Detailed landscaping strategy to be provided and implemented, with management and maintenance details to be approved.
9. Full details of boundary treatments to be submitted and approved. Boundary treatment around southern POS to be implemented.
10. Updated Arboricultural Impact / Method Statement to be submitted and approved. No unidentified tree-works to take place unless further Arboricultural Impact / Method Statement provided.
11. Archaeological evaluations to be undertaken.
12. Remove PD rights for outbuildings and extensions (all units)
13. Remove PD rights for windows on south facing side elevation of plot 68.
14. Submission of Construction Environmental Management Plan (CMP) to be submitted, approved, and adhered to.
15. Submission of Construction Environmental Management Plan (CEMP), to include dust mitigation, to be submitted, approved, and implemented.
16. Detailed plan for the equipment and design of the Local Equipped Area of Play (LEAP) to be submitted, approved, and implemented.

17. Updated Noise Impact Assessment to be submitted, approved, and implemented.
18. Access sightlines to be implemented and secured
19. Full technical details of the internal road, to adoptable standard to be provided, approved, and implemented.
20. Full technical details of staircase between plots 40 and 43 to be provided, approved, and implemented.
21. Full technical details of design of right turn accesses to be provided, approved, and implemented.
22. Full technical details of 2m wide frontage to be provided, approved, and implemented.
23. Full technical details of pedestrian connection to Whitegates Grove to be provided, approved, and implemented.
24. Full technical details of new retaining walls to be provided, approved, and implemented.
25. Bin stores to be provided.
26. Details of cycle storage per plot to be provided, approved, and implemented.
27. Construction phase waste collection strategy to be submitted, approved, and adhered to.
28. Contaminated land investigations to be undertaken and remediation / validation undertaken as required.
29. Development to be undertaken in accordance with flood routing strategy.
30. Full technical details of the drainage strategy to be provided, approved, and implemented.
31. Details of temporary surface water drainage arrangements, during construction, to be provided and adhered to.
32. Ecological Design Strategy to achieve 7.18 habitat units on site plus ecological mitigation measures
33. CEMP: Biodiversity to be submitted, approved, and implemented.
34. Lighting strategy (amenity, ecology, and crime mitigation)
35. No site clearance within the bird breeding season (unless appropriate survey undertaken).

Notes

- Note from Environment Agency regarding working near main river

Background Papers

Application and history files

Available at: https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f93154

Planning application details | Kirklees Council

Certificate of Ownership

Certificate B signed.

Originator: Louise Bearcroft

Tel: 01484 221000

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Oct-2023

Subject: Planning Application 2022/90858 Construction of 3G pitch with 4.5m perimeter fencing and 15m floodlighting Shelley College, Huddersfield Road, Shelley, Huddersfield, HD8 8NL

APPLICANT
Debbie Howard, Shelley College

DATE VALID	TARGET DATE	EXTENSION EXPIRY DATE
14-Mar-2022	09-May-2022	27-May-2022

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

Public speaking at committee link

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral wards affected: Kirkburton

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

RECOMMENDATION: DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to address the outstanding issue of Biodiversity Net Gain and to complete the list of conditions including those contained within this report.

1.0 INTRODUCTION:

1.1 The application seeks full planning permission to install a 3G synthetic sports pitch (also known as an Artificial Grass Pitch AGP) in an existing school field to the south-west of Shelley College. The pitch will predominately be used for football and rugby training and will include a spectator area.

1.2 The application is referred to Strategic Planning Committee under the Council's Scheme of Delegation as the site area is over 0.5 hectares.

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises an existing school field to the south-west of Shelley College, bound by Shelley Woodhouse Lane to the west and public footpath KIR/148/10 to the north.

2.2 The existing site partly comprises of an existing red blaes games area (70m x 70m), a type of pitch construction where hardened clay is crushed and used to form the top layer. The existing pitch is in use for physical education sports games including rounders and hockey, and incorporates 3no cricket nets and a long jump pit. The remainder of the site comprises existing grassland/playing fields. The existing red blaes games area is separated by the grassed playing fields by a significant soils bund several metres in height. There are two rows of trees that run parallel to either side of the existing pitch (north and south).

2.3 The wider school site is bound by the edge of the adjacent greenbelt, and levels generally run from higher in the south to lower in the north across the school site. The surrounding area comprises a mix of agricultural fields and residential properties. The site is allocated as Urban Greenspace in the Kirklees Local Plan (Local Plan reference UGS962).

3.0 PROPOSAL:

3.1 The proposal is to remove the existing red blaes games area and to install a new 3G artificial pitch, partly on this area, and partly on the adjacent grassland. It is proposed the new all-weather pitch will enhance the sports already provided by the college through improving the existing facilities, and increasing the variety of sports that can be played.

3.2 The proposed new pitch would measure 106m in length and 66m in width, have kickboards to the perimeter and be enclosed by 4.5m high perimeter fencing, to be coloured green to specification RAL6005. A double gate will be provided for vehicular/maintenance access to the pitch and single gates for pedestrian access/ball retrieval. A spectator zone is proposed to the south which would have a hardstanding and be secured by 1.2m fencing. A storage container is proposed to the south of the pitch. To achieve the required size and performance specification of the new pitch the existing red blaes area and grassland will need to be excavated and platformed.

3.3 It is intended the new pitch would be artificially lit and the proposals include a floodlighting system that will consist of 6 columns, each 15m in height which will support LED lighting fixtures to be powered from an existing electrical connection.

3.4 Access to the site would be via the existing one-way entrance and exit route off the B6166 Huddersfield Road; this would be both on completion and during the period of construction. An existing grasscrete/blaes track links the sports pitch site with the existing car park.

3.5 It is proposed the 3G pitch would be used by both Shelley College and the wider community. Subject to the grant of planning permission the applicant would undertake community consultation with key partners to secure formal agreements for both playing and training opportunities, with an emphasis on increasing the school-club links in the locality.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 91/04196 – Erection of extension to school to form sixth form area – Conditional Full permission

2006/93790 – Erection of sixth form centres – Granted under Reg.3 General Regulations

2007/90203 – Erection of 6th form centre – Granted Under Reg.3 General Regulations

2008/94307 – Erection of three temporary classrooms – Granted Under Reg.3 General Regulations

2009/90971 – Three classroom temporary development and all associated works – Granted under Reg.3. General Regulations

2012/92458 – Construction of assemble hall – Conditional Full Permission

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

5.1 Officers negotiated with the applicant to provide:

- A Noise Impact Assessment
- Ecological surveys (Bats and Great Crested Newts)
- Details of Biodiversity Net Gain
- Additional Details of Drainage

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 LP1 – Presumption in favour of sustainable development
LP2 – Place Shaping
LP21 – Highways and access
LP24 – Design
LP27 – Flood Risk
LP28 – Drainage
LP30 – Biodiversity and Geodiversity
LP33 – Trees
LP47 – Healthy, active and safe lifestyles
LP48 – Community Facilities and services
LP50 – Sport and physical activity
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP61 – Urban Green Space

Supplementary Planning Guidance / Documents:

6.3 Kirklees Playing Pitch Strategy 2015
Biodiversity Net Gain Technical Advice Note June 2021

National Planning Guidance:

6.4 Chapter 2 – Achieving Sustainable Development
Chapter 4 – Decision Making
Chapter 8 – Promoting health and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 11 – Making effective use of land
Chapter 12 – Achieving well-designed placed
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
Chapter 15 – Conserving and Enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notice and neighbour notification with the publicity expiring 25 May 2022.

7.2 As a result of this publicity one representation has been received. The main concerns raised include:

- Possible light pollution/leakage from the floodlights that may affect neighbouring property.
- Drainage and run off from the pitch, there are few drains on Shelley Woodhouse Lane and when it rains heavily it runs down the road like a river and pools at the top of the bridleway.

- Access to the site, problems have being experienced with people parking outside of neighbouring properties and accessing the site through a broken down fence.

7.3 Kirkburton Parish Council – No comments to make

8.0 CONSULTATION RESPONSES:

8.1 **Statutory:**

Sport England – Sport England does not wish to raise an objection to this application as it is considered to meet exception 5 of Sports England's Playing Fields Policy and Guidance.

8.2 **Non-statutory:**

K.C Environmental Services – No objections subject to conditions

K.C Ecology –The proposals are expected to have very little impact upon commuting and foraging bats in the area. The proposed works to construct the sports pitch are unlikely to impact upon the very low population of great crested newts. Comments on the proposal to secure 10% Biodiversity Net Gain are awaited.

K.C Highways Development Management – The proposed pitch would be located on land presently used for physical education lessons with the improved facilities allowing for a larger range of activities to take place. Whilst Highways DM would have no wish to raise objection to the scheme, it is important that the construction is carried out safely and would ask that a construction management plan is submitted by condition.

9.0 MAIN ISSUES

- Principle of development
- Environmental Issues (Ground Conditions)
- Residential Amenity (Noise and Lighting)
- Highway issues
- Drainage issues
- Ecology issues
- Climate change
- Representations

10.0 APPRAISAL

Principle of development

10.1 The application site is allocated as Urban Greenspace in the Local Plan, (Local Plan reference UGS962) and Policy LP61 of the Kirklees Local Plan applies. This policy stipulates that development proposals which would result in the loss of urban greenspace will only be permitted where;

a) an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or

b) replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or

c) the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.

10.2 Paragraph 99 of the National Planning Policy Framework states that existing opens space, sports and recreational buildings and land, including playing fields should not be built on unless:

- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- *the development is for alternative sports and recreation provision, the benefits of which clearly outweigh the loss of the current or former use.*

10.3 In this case the proposal for a new 3G pitch represents an alternative sports use on the site of the existing red blaes game area (and including the adjacent grassland) and would enhance the existing sports provision. It is noted that the grassland whilst considered to be playing fields is not marked out for sports use. The Kirklees Playing Pitch Strategy (adopted 2015) identifies a shortfall of grass pitch capacity across a range of pitch sports, and as a result recommends the provision of a network of floodlit AGPs to help meet shortfalls.

10.4 Sport England are a statutory consultee. Sport England will oppose the granting of planning permission for any development which would lead to the loss of or would prejudice the use of any part of a playing field or land which has been used as a playing field and remains undeveloped, or land allocated for use as a playing field. The provision of a new outdoor sports facility on the existing playing field is considered against exception 5 of Sport England's Playing Fields Policy and Guidance document which states *"the proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field".*

10.5 As noted, the Kirklees Playing Pitch Strategy identifies a shortfall of grass pitch capacity across a range of pitch sports, and recommends the provision of a network of floodlit AGPs to help meet shortfalls. Sport England note this is echoed in the Kirklees Local Football Facilities Plan which identifies football's need for 11 AGPs in the District. They go on to say that whilst the site is not identified in either document as a priority location, the development clearly meets an identified strategic need. The Football foundation has echoed the

strategic need for the facility *"We would be keen for the school to engage with S&HCFA to ensure that there is good community engagement of grassroots clubs and provide them with priority access for training and match play opportunity. The 3G AGP design should follow The FA Guide to Football Turf Pitch Design Principles and Layouts".*

10.6 Sport England considers that there is little loss of playing pitch provision associated with the proposed location of the AGP. They note Redgra pitches were a very early all-weather surface but are now considered outmoded and unsatisfactory by most sports, whilst the grassed area to the south-west – although technically playing field – does not appear to have accommodated playing pitches. They conclude it is clear the AGP will be of significant benefit to sport and subject to the imposition of a condition securing a community use agreement, it meets playing field policy exception 5. Given this, Sport England raise no objections to the proposal and the principle of development is considered to be acceptable. This is subject to the imposition of a condition to secure a Community Use Agreement which must be prepared in consultation with Sport England.

10.7 It is considered the proposal meets the exceptions listed in LP61 of the Kirklees Local Plan and paragraph 99 of the National Planning Policy Framework. Furthermore, Sport England have confirmed it meets exception 5 of Sport England's Playing Fields Policy and Guidance document. The principle of development is therefore considered to be acceptable.

Environmental Issues (Ground Conditions)

10.8 Environmental Services note the site is not shown as being potentially contaminated from its former use and it is not located close to a historic landfill site that may have an adverse impact on the proposed development. However, the proposed development site is shown as being c.100m South from potentially contaminated land. A Coal Mining Report has been submitted by the Coal Mining Authority dated 01 February 2022. The report shows there to be no records of past mining in the development area. Due to the small scale of the development, and as ground works are proposed, there is the possibility for unexpected contamination and/or coal to be identified, therefore Environmental Services recommend a condition relating to unexpected ground contamination. Subject to the inclusion of this condition, no objections are raised.

Residential Amenity (Noise and Lighting)

Noise

10.9 The surrounding area to the school is mixed agricultural and residential in nature, and the nearest noise sensitive receivers (NSRs) which have the potential to be affected by the development have been identified as the houses on Shelley Woodhouse Lane and Stead Lane, at a distance of c115m from the current marked pitch. This will be reduced to c75m to the perimeter of the proposed new pitch. The applicant proposes the hours of use to be Monday to Friday 0800hrs to 2200hrs and weekend 0800hrs and 2100hrs to accommodate the proposed Community Use.

10.10 The applicant has submitted a Noise Impact Assessment. Environmental Services note that this has been undertaken in accordance with the recommendations of the Sport England document 'Artificial Grass Pitches (AGP) Acoustics – Planning Implications'. This gives recommended methodologies for calculating the noise level due to AGP use at different receivers. When setting a noise limit for noise emissions, the guidance states

> *"The determining noise criteria for AGPs proximity to residential properties, to avoid moderate annoyance in the daytime and evenings, as set by the World Health Organisation's 'Guidelines for Community Noise': 50 dB Laeq (1 hour) upper noise limit external to residential properties and within external living areas".*

10.11 Environmental Services note that based upon the guidance which states a typical free-field noise level from an AGP is 58dB Laeq(1hour) (at 10m from the side-line halfway marking), noise modelling was conducted and the modelled pitch noise is shown in figure 4.1 of the Noise Report. The noise levels at the NSRs are shown in table 4.1 and show them to be 8dB below the 50Db Laeq (1 hour) recommended level in the guidance at the NSRs. This indicates a low impact and would be acceptable for both internal and external amenity areas. They note however, that this is modelled on the side of the full pitch, and the submitted General Arrangement drawing shows a number of pitches marked up which if used, would be closer to the NSRs. To ensure that the impact of using the closer pitches is fully considered Environmental Services recommend a condition for the applicant to submit an addendum noise report based on the side-line halfway marking of the small pitch closer to the NSRs. A condition is therefore required to secure this further noise report, as well as a condition for ball sound mitigation and a Noise Management Plan to help to control the 'people noise' from the users and the spectators and provide a level of confidence in the management of the site. Environmental Services are satisfied that these matters can be addressed via condition and raise no objections.

10.12 In respect of the hours of use of the proposed sports pitch, the applicant proposes the hours of Monday to Friday 0800hrs to 2200hrs and weekends 0800hrs and 2100hrs. Environmental Services have concerns about the proposed late use (coupled with the use of the artificial lighting) and recommend a condition to restrict these hours to Monday-Friday 0800hrs to 2000hrs and Weekends and bank Holidays to 0800 to 1600hrs. The restriction in hours would prevent harmful noise pollution at unsocial hours (through voice, whistles, ball strike etc). A condition is also required to secure appropriate hours for construction, in order to prevent a loss of amenity to the occupiers of neighbouring property. Subject to these conditions, there would be no harmful impact on residential amenity.

Artificial Lighting

10.13 In respect of the proposal to light the pitch, concerns about lighting have been raised in the representation received. There is concern about possible light pollution/leakage from the floodlights and how this may affect neighbouring property. The submitted Design and Access Statement states the proposal is to install a 6-column 15m high LED floodlighting system. Environmental Services note the proposed installation meets the requirements of an E2 environmental zone as per the ILP 'Guidance notes for the reduction of

obtrusive light 2020' and is accepted. Environmental Services go on to say the maximum lux for both pre-curfew and post-curfew meet with the E2 environmental zone. A floodlighting layout shows the location of the floodlights (M1 to M6) and an overspill lighting model by Halliday Lighting shows the extent of any overspill and indicating it will not lead to a loss of amenity to the occupiers of the nearest residential properties which is accepted by Environmental Services. Environmental Services require information on the methods of switching and controlling the lighting so that it is only operated at the permitted times and at times when it is required. The timings will tie in with the hours of use for the AGP (15 minutes pre and 15 minutes post the permitted hours of use).

10.14 In conclusion there would be no detrimental impact on the amenity of neighbouring residential properties arising from noise or light pollution, subject to the imposition of conditions. The proposal would accord with Policy LP24 of the Kirklees Local Plan.

Highway issues

10.15 Policy LP21 of the Kirklees Local Plan stipulates that proposals shall demonstrate that they can accommodate sustainable methods of transport and be accessed effectively and safely by all users. Access to the pitch would be via the existing Shelley College one way entrance and exit route off the B6166 Huddersfield Road This is intended to be used both during construction and on completion. Concerns have been raised in the representation received about existing access problems, with residents experiencing people parking outside of neighbouring properties and accessing the site through a broken-down fence.

10.16 Highways Development Management (HDM) note the proposed pitch would be located on land presently used for physical education lessons with the improved facilities allowing for a larger range of activities to take place. HDM raise no objections to the scheme, however, to ensure that construction is carried out safely a condition is requested to secure a schedule of the means of access to the site for construction traffic. This will need to include details of the point of access for construction traffic, times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and wheel washing facilities. Subject to the inclusion of this condition, it is considered there would be no detrimental impact on highway safety issues and the proposal would accord with Policy LP21 of the Kirklees Local Plan. The issues being experienced by residents (parking outside of neighbouring properties) are acknowledged; however, Highways Development Management are satisfied that the access arrangements are sufficient to serve the proposed new pitch. It is considered there would be no impact on the adjacent public footpath KIR/148/10 to the north.

Drainage issues

10.17 Concerns have been raised in the representation received about drainage and run off from the proposed 3G pitch. This is with consideration of the limited drainage on Shelley Woodhouse Lane, and that during heavy rain periods, the water runs down the road and pools at the top of the bridleway.

10.18 A SUDS drainage report has been submitted by the applicant. In this document it confirms that soakaway test results have shown the soils to be relatively impermeable, and for this reason the proposal is to increase storage within the new pitch subbase structure, and to continue discharging the pitch drainage into the existing surface water drainage network. In line with the hierarchy of sustainable drainage it was queried with the applicant whether run off from the pitch could be discharged to the watercourse on the boundary of the college site, however this has been discounted as a discharge point for reason that it is located on private land and not available to serve the proposal.

10.19 The design of the proposed pitch will include a 300mm thick sub-base layer of type1 stone modified for drainage. Above this is a porous asphalt engineered layer of 40mm thick, and a free draining shockpad up to 20mm and synthetic turf system 60mm which the applicant notes would be a substantial increase on the existing storage potential. The pitch drainage system will consist of lateral drainage pipes of 80mm diameter laid at 6.0m centres across the width of the pitch in line with the 1:100 maximum allowable gradient pitch platform created. The lateral pipes would connect into a carrier drain of 150mm in diameter laid along the Southern touchline of the new pitch flowing to the low Southwestern corner of the site.

10.20 The proposal follows the principle of the hierarchy of sustainable drainage, however notwithstanding the details previously submitted with the application, to ensure the final scheme is to the satisfaction of the Lead Local Authority and taking into account the concerns raised in the representation received a condition is suggested to approve a final scheme and secure its implementation.

Ecology issues

10.21 An Ecological Appraisal and Arboricultural Report have been submitted by the applicant. The Ecological Report details that the site is dominated by species poor improved grassland, however given the presence of five mature trees that provide suitability for roosting bats, along with the suitability of the site for Great Crested Newt, additional surveys were recommended. In accordance with the government circular on Biodiversity and Geological Conservation (ODPM, 2005), and explanatory note from Natural England (Natural England, 2020) information of protected species, and in particular European protected species (including bats) must be made available prior to determination. The applicant has therefore carried out additional surveys for Bats and Great Crested newts which have been subsequently assessed by the Council's ecologist.

10.22 In respect of the impact on bats, tree and activity surveys were undertaken at the site in Spring and Summer 2023 to determine their use of the site. The report concludes that the hedgerows and tree lines located around the site are not regularly used by commuting bats and do not provide a valuable foraging resource. The Council's ecologist notes the proposed lighting at the site will be LED and 'in use hours' are proposed to prevent unnecessary disturbance to bats during the spring and summer months. Such hours of use should be strictly adhered to throughout the operational phase of the development, and subject to this it is concluded that the proposals are expected to have very little impact upon commuting and foraging bats in the area.

10.23 In respect of the impact on Great Crested Newts, based on the survey results, the proposed works to construct the sports pitch are considered unlikely to impact upon great crested newts, and furthermore Reasonable Avoidance Measures are proposed during works to reduce the risk of harm to negligible. A condition is required to ensure that such measures as detailed in the submitted report are adhered to throughout the development.

10.24 In accordance with Policy LP30 of the Kirklees Local Plan and Kirklees guidance, a 10% Biodiversity net gain must be demonstrated utilising the most up to date version of DEFRA's Biodiversity Metric. The applicant has submitted a Biodiversity Net Gain Assessment and metric. The report confirms that the site is composed of hard standing, modified grassland, broadleaf woodland, a tree line and hedgerow. The proposed construction of the 3G pitch will result in the loss of 0.2ha of modified grassland, which translates to the loss of 0.88 Area Habitat Units against a baseline of 24.36 on site biodiversity units.

10.25 To achieve 10% biodiversity net gain enhancement of habitats is proposed. This will consist of a total of 12.56 habitat units to be delivered on site through the enhancement of modified grassland and hedgerow planting.

10.26 The submitted document confirms a 10% net gain will be delivered. These details however have not yet been assessed by the Council's Ecologist and a further consultation response is awaited. In conjunction with this a review is required about any possible impacts of ecological enhancement on the existing playing fields provision to ensure no loss of playing fields would occur. Clarification of this will be provided in an update to Members following the outcome of the consultation on the acceptability of the proposals.

10.27 In respect of the impact on trees, there are two rows of trees that run parallel to either side of the existing pitch (north and south). The site is not within a Conservation Area and no trees within or immediately adjacent to the site have a Tree Preservation Order. The trees that run along the southern edge are located on top of the adjacent bank and are at a higher ground level than the sports pitch, whilst the trees that run parallel to the northern edge are located at the bottom of a bank and at a lower ground level to the pitch. The footprint of the proposal will remain the same on the north, east and southern boundaries (other than the goal recess areas, which will extend slightly beyond the existing pitch area). On the south-western side, the proposed pitch shall extend beyond the existing pitch by approximately 40m.

10.28 The applicant has submitted an Arboricultural Report. In respect of preliminary management recommendations some trees are advised to be removed due to decay, and poor physiological and structural condition. In respect of the impact of the proposed 3G pitch on the existing trees, the report confirms that minor pruning of tree canopies growing towards the proposal on the northern side will be required to create an adequate clearance distance to the proposed perimeter fencing. However, only small outer branches need to be removed and the impact is considered to be minimal if works are undertaken sympathetically and to BS 3998 guidelines. No building foundations are proposed within the Root Protection Area of any retained tree. There will be some impact on root protection areas in respect of the foundations required for the fence posts on the northern boundary around the goal recess areas, however the report concludes that by adopting sympathetic installation methods this would not result in any long-term impact on the heath of the trees.

No design restrictions are considered necessary and as recommended by BS 5837 a detailed methodology can be agreed in the form of an Arboricultural Method Statement to ensure trees are protected during the construction phase. This will be conditioned and subject to this it is not considered there would be any detrimental impact on the existing trees.

Climate change

10.29 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.

10.30 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.

10.31 The proposal is to upgrade the existing sports provision at Shelley College through the removal of the existing red blaes games area and the installation of a 3G pitch. It is intended the existing college car parking facilities will be utilised without any modifications, and Environmental Services note that in the interest of supporting and encouraging low emission vehicles and of air quality enhancement, the applicant should consider facilities for charging electric vehicles and other ultra-low emission vehicles in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. For reason that no amendments are proposed to the existing car parking provision, it is not reasonable to impose a planning condition to secure electric charging points however an advisory footnote will be included.

Representations

10.32 One representation has been received and the comments raised have been considered in the report above.

11.0 CONCLUSION

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

11.2 The existing school site is allocated as Urban Greenspace in the Kirklees Local Plan; however, it is considered that the proposal to remove an existing red blaes games area and to install a new 3G sports pitch meets the exceptions listed in LP61 of the Kirklees Local Plan and paragraph 99 of the National Planning Policy Framework. Furthermore, Sport England have confirmed the proposals meets exception 5 of Sport England's Playing Fields Policy and Guidance document. Therefore, the principle of the installation of a 3G pitch at this existing school site which would also be used by the wider community, is considered to be acceptable.

11.3 The proposal makes suitable mitigation to address issues of residential amenity through the imposition of conditions to secure an addendum noise report, details of ball sound mitigation, a noise management plan, restriction on hours of use and the methods of switching and controlling the artificial lighting. Highway Safety matters can be mitigated through the imposition of a condition to secure a schedule of the means of access to the site for construction traffic. A drainage scheme is proposed to serve the new pitch the final details of which will be secured by condition, and ecological mitigation is proposed to secure a 10% biodiversity net gain although final comments from K.C. Ecology on this matter are pending.

11.4 This application has been assessed against relevant policies in the development plan and other material considerations and is found to be acceptable. It is considered that the development would constitute sustainable development and is therefore recommended for approval subject however to delegation back to officers to address the outstanding matter of Biodiversity Net Gain as the proposals are currently being reviewed in respect of their acceptability.

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

1. Time limit for Development
2. Development in accordance with the approved plans
3. Community Use Agreement to be secured
4. Addendum Noise Report to consider the noise level from the side-line halfway marking.
5. Ball Sound Mitigation Condition
6. Noise Management Plan
7. Hours of Use
8. Installation of approved External Artificial Lighting
9. Methods of switching and controlling the lighting
10. Construction Site Working Times
11. Reporting of Unexpected Contamination
12. Schedule of the means of access to the site for construction traffic
13. Compliance condition with the Reasonable Avoidance Measures detailed in the Ecological Reports
14. Arboricultural Method Statement
15. Drainage Strategy

Background Papers

Application and history files available at:

https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022/90858

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Certificate A signed.

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