

# Public Document Pack



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Wednesday 12 June 2024

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **1.00 pm** on **Thursday 20 June 2024**.

(A coach will depart the Town Hall, at 9:30 a.m to undertake site visits. The consideration of Planning Applications will commence at 1.00 pm in the Council Chamber.)

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

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

A handwritten signature in black ink, appearing to read "S Lawton".

**Samantha Lawton**

**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 James Homewood (Chair)  
Councillor Ammar Anwar  
Councillor Bill Armer  
Councillor Paul Moore  
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**

D Bellamy  
D Hall  
J Taylor  
C Holt

#### **Green**

K Allison  
A Cooper  
S Lee-  
Richards

#### **Labour**

M Ahmed  
S Ullah  
H McCarthy

#### **Liberal**

**Democrat**  
PA Davies  
J Lawson  
A Munro  
A Marchington  
A Smith  
C Burke  
D Longstaff  
A Robinson

#### **Community Alliance**

#### **Kirklees**

**Community  
Independents**  
JD Lawson  
A Arshad

# Agenda

## Reports or Explanatory Notes Attached

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**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. to the Committee membership.

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**2: Minutes of the Previous Meeting**

1 - 4

To approve the Minutes of the meeting of the Committee held on 16<sup>th</sup> May 2024.

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**3: Declaration of Interests and Lobbying**

5 - 6

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.

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**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.

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**5: Deputations/Petitions**

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

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

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## **6: Planning Applications**

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 17 June 2024.

To register, please email [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) or phone the Governance Team on 01484 221000.

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## **7: Site Visit - Application No. 2022/91477**

Hybrid planning application for the erection of an industrial unit for B2 /B8 use, with ancillary office space and associated access, parking, groundworks and landscaping in conjunction with an outline application for mixed use development use class E(b),B2 and B8, with ancillary office space and associated works Land off Lindley Moor Road, Lindley, Huddersfield.

Ward affected: Lindley

Contact: Nick Hirst, Planning Services

Estimated time of arrival on site: 9:45 a.m.

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## **8: Site Visit - Pre- Application 2024/20252**

Application for demolition and mixed use development at New Mills, Brougham Road, Marsden, Huddersfield

Ward affected: Colne Valley

Contact: Victor Grayson, Planning Services

Estimated time of arrival on site: 10:20 a.m.

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## **9: Site Visit - Application No: 2023/93449**

Planning Application 2023/93449 to Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the

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site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes  
Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor,  
Holmfirth, HD9 2RL.

Ward affected: Holme Valley South

Contact: Farzana Tabasum, Planning Services

Estimated time of arrival on site: 11:00 a.m.

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**10: Site Visit - Application No. 2023/92191**

Planning Application 2023/92191 for the erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping on land at Cliff Hill, Denby Dale, Huddersfield

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

Estimated time of arrival on site: 11:30 a.m.

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**11: Planning Application: Application No: 2023/92191**

9 - 72

Planning Application 2023/92191 for the erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping on land at Cliff Hill, Denby Dale, Huddersfield

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

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**12: Planning Application - Application No: 2022/91477**

73 - 116

Hybrid planning application for the erection of an industrial unit for B2 /B8 use, with ancillary office space and associated access, parking, groundworks and landscaping in conjunction with an outline application for mixed use development use class E(b),B2 and B8, with ancillary office space and associated works Land off Lindley Moor Road, Lindley, Huddersfield.

Ward affected: Lindley

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Contact: Nick Hirst, Planning Services

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**13: Planning Application: Application No 2023/93449**

117 -  
154

Planning Application 2023/93449 to Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth, HD9 2RL.

Ward affected: Holme Valley South

Contact: Farzana Tabasum, Planning Services

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**14: Pre-Application 2024/20252**

155 -  
178

Pre-Application for demolition and mixed use development at New Mills, Brougham Road, Marsden, Huddersfield

Ward affected: Colne Valley

Contact: Victor Grayson, Planning Services

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### **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.

Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### STRATEGIC PLANNING COMMITTEE

Thursday 16th May 2024

Present:

Councillor Bill Armer  
Councillor Moses Crook  
Councillor Eric Firth  
Councillor Carole Pattison  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal  
Councillor Mark Thompson

- 1 **Membership of the Committee**  
Councillor Eric Firth substituted for the Labour vacancy.
- 2 **Election of Chair**  
**Resolved –**  
That Councillor Eric Firth be elected Chair for the meeting.
- 3 **Minutes of the Previous Meeting**  
That the minutes of the meeting of the Committee held on 28<sup>th</sup> March 2024 be approved as a correct record.
- 4 **Declaration of Interests and Lobbying**  
No interests were declared.
- 5 **Admission of the Public**  
All items were held in public session.
- 6 **Public Question Time**  
No questions were asked.
- 7 **Deputations/Petitions**  
No deputations or petitions were submitted.
- 8 **Site Visit - Application No 2023/92191**  
Site visit undertaken.
- 9 **Site Visit - Application No 2023/93503**  
Site visit undertaken.

**10 Planning Application - Application No: 2023/92191**

The Committee considered Application 2023/92191 in respect of the erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping on land at Cliff Hill, Denby Dale, Huddersfield.

Under the provisions of Council Procedure Rule 36(3) the Committee received representations from Councillors Tim Bamford and Will Simpson.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Dominic Cunney, Emma Dimbylow and Helen France (in objection) and Will Marshall (on behalf of the applicant).

**Resolved –**

That consideration of the application be deferred and that the provision of further detail be requested in relation to:

- The amount of material that would be removed from the site.
- The amount of material that would be imported into the site, as grouting or other material.
- How the above operations would be carried out.
- How environmental impacts would be mitigated.
- Providing assurance in respect of the risk associated with combustible material being left on the site.

and that all conditions be set out in full, in the report, when the application is brought back to the Committee for determination.

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

For: Councillors Armer, Firth, Pinnock and Thompson

Against: Councillors Crook, Pattison and Sokhal

**11 Planning Application - Application No: 2023/93503**

The Committee considered Application 2023/93503, an outline application for residential development of 82 dwellings and associated works, with layout and access as considerations on land off Roslyn Avenue, Netherton, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Heather Peacock (in objection) and Sam Ruthven (on behalf of the applicant).

**Resolved -**

- (1) That approval of the application and the issuing of the decision notice be delegated to the Head of Planning and Development in order to:
  - (a) complete the list of conditions including those contained within the report, as set out below:
    1. Reserved Matters submission and timeframes.



## Strategic Planning Committee - 16 May 2024

2. Development to be carried out in accordance with the approved plans and specifications.
3. Updated Heritage Impact Assessment to be provided at Reserved Matters (scale, appearance, and landscape) stage.
4. Archaeological surveys to be undertaken.
5. Technical details of play equipment to be provided.
6. Details of boundary treatment between site and Dean Wood to be provided at Reserved Matters (landscape) stage.
7. Finished floor levels to be provided at Reserved Matters (scale, appearance, and landscape) stage.
8. Construction Environmental Management Plan (C(E)MP) (also referred to as a Construction Management Plan) to be provided prior to commencement and adhered to.
9. Technical specifications of internal access road to be approved and adhered to.
10. Technical specifications of access arrangements to be approved and adhered to.
11. Technical details of improvement to Roslyn Avenue / Henry Frederick Avenue junction to be approved and adhered to.
12. Each dwelling's parking spaces to be provided prior to occupation
13. Highway Condition Surveys and Remediation to be undertaken
14. Technical details of PROW and link connection surfacing to be provided and adhered to.
15. Full travel plan to be provided.
16. Cycle storage details per unit.
17. Reserved Matter (Landscape) to include treatment of PROW details.
18. Reserved Matters (landscape) details to be in accordance with approved Public Open Space Typology plan (minus parks and recreation area).
19. Private drive communal bin stores to be provided.
20. Construction phase waste collection strategy.
21. Full technical details of the proposed swale to be provided.
22. Full technical details of surface water drainage system to be provided.
23. Surface water flood routing plan to be provided and implemented.
24. Details of temporary surface water drainage to be provided.
25. Arboricultural Method Statement and Tree Protection Plan to be provided and adhered to.
26. Updated Ecological Impact Assessment to be provided at Reserved Matters (landscape) stage.
27. Ecological Design Strategy to be provided.
28. Construction Environmental Management Plan: Ecology (CEMP: Biodiversity) to be provided.
29. Provision of details of the proposed information boards at link paths, and their provision.
30. Provision of details of the ancient woodland information pack and their distribution.
31. Details of landscape to include lighting and crime mitigation strategy.
32. Development done in accordance with proposed Dust Mitigation Strategies.
33. Contaminated Land Investigation (Phase 2, Remediation, Validation stages).

## Strategic Planning Committee - 16 May 2024

- (b) secure a Section 106 agreement to cover the following matters:
  - (i) Affordable Housing: 16 units (20%) to consist of 9 Affordable Rent (55%) and 7 Intermediate Dwellings (45%), including 4 First Homes (25%).
  - (ii) Public Open space: Delivery of the on-site Public Open Space, a £1,000 inspection fee, and an off-site contribution to local Public Open space of £74,695.
  - (iii) Education: £134,748 towards education requirements arising from the development
  - (iv) Sustainable travel: £72,943 towards Sustainable Travel measures (including £41,943 for sustainable travel fund (such as metrocards), £21,000 towards bus stop improvements (on Meltham Road), and £10,000 towards travel plan monitoring).
  - (v) Management and maintenance: Management and maintenance of on-site Public Open Space in perpetuity, drainage features in perpetuity (unless adopted by Yorkshire Water), and Biodiversity Net Gain measures for a minimum of 30 years.
  - (vi) Footpath: Maintenance of public access to new link footpaths in perpetuity.
- (2) That, in the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution, 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, and, if so, the Head of Planning and Development be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Armer, Crook, Firth, Pattison, Pinnock, Sokhal and Thompson

Against: No votes

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8<sup>th</sup> December 2021).

### National Policy/ Guidelines

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20<sup>th</sup> December 2023 the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- 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 (as amended) 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 Committee have been made in accordance with the above requirements.**

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 20-Jun-2024

**Subject: Planning Application 2023/92191 Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping land at, Cliff Hill, Denby Dale, Huddersfield, HD8**

#### APPLICANT

Nick Gould, Urban Group  
York Ltd

#### DATE VALID

30-Aug-2023

#### TARGET DATE

29-Nov-2023

#### EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

All contributions are to be index-linked.

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

## **1.0 INTRODUCTION**

- 1.1 This application for full planning permission is presented to Strategic Planning Committee as a significant number of representations contrary to the case officer's recommendation for approval have been received.
- 1.2 A previous application (ref: 2022/91911) for a residential development of 48 dwellings was refused on 21/03/2023 in accordance with the Heavy Woollen Planning Sub-Committee's resolution of 16/03/2023.



1.3 The current application was considered by the Strategic Planning Committee on 16/05/2024. A decision was deferred for the following reasons:

*More detail be provided in relation to:*

- *How much material would be removed from the site;*
- *How much material would be imported into the site (as grouting or other material);*
- *How the above operations would be carried out;*
- *How environmental impacts would be mitigated; and*
- *Assurance in respect of the risk associated with combustible material being left on site.*

1.4 Members also asked to see fully-worded recommended conditions. These are provided at the end of this committee report.

1.5 In response to the reasons for deferral, on 31/05/2024 the applicant submitted a document addressing the five matters listed above, and later submitted additional information in further emails. A summary of this information is set out at section 4.0 of this committee report

## **2.0 SITE AND SURROUNDINGS**

2.1 The application site lies to northeast of Cumberworth Lane, to the west of existing dwellings on Leak Hall Crescent, and to the northwest of existing dwellings on Springhead Gardens. The application site is undeveloped, grassed agricultural land, and forms part of the northern edge of the village of Denby Dale. To the north of the application site is the green belt.

2.2 The application site slopes downhill from north to south, and measures approximately 1.9 hectares in size. A public footpath (DEN/61/10) runs along its northern boundary, beyond which there is further grassland and trees. The application site has a narrow street frontage between existing buildings on Cumberworth Lane. Although land directly to the south is also grassed, most land to the south is residential in character. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, and from trains passing over the railway viaduct to the west.

2.3 The application site comprises the majority of site allocation HS144 (allocated for residential development in the Kirklees Local Plan). Springhead Gardens, a parcel of land to the south of the application site, and a further parcel to the north of Leak Hall Crescent are within the same site allocation. The application site also includes strips of land outside the site allocation, on Cumberworth Lane either side of the site entrance.

2.4 In relation to minerals, all of the application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by the Coal Authority, while other parts are within the Low Risk Area. A 250m buffer zone (of a historic landfill site) extends into the western edge of the application site.

- 2.5 There are no designated heritage assets within the application site, however the Wesleyan Methodist Church to the west is Grade II listed.
- 2.6 The application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.
- 2.7 The Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site. A Tree Preservation Order (TPO 17/21/t1) protects a tree within the application site.
- 2.8 The application site is not located within an Air Quality Management Area (AQMA).
- 2.9 Regarding the social and other infrastructure currently provided and available in Denby Dale, the area has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the proposed entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes.

### **3.0 PROPOSALS**

- 3.1 A residential development comprising 62 dwellings, with associated access, open space and landscaping, is proposed.
- 3.2 To stabilise the site, the applicant proposes grouting and capping. Additionally, the applicant has stated that excavation may be necessary at the centre of the site.
- 3.3 The proposed site layout includes a vehicular access provided from Cumberworth Lane, with an estate road extending into the site, off which two branches are proposed. A mix of detached, semi-detached and terraced housing would line the development's roads. Open spaces are proposed at the site entrance and along the site's northeastern boundary.
- 3.4 Of the 62 units proposed, four would be detached. The following unit size mix is proposed:
- 3x 1-bedroom units
  - 12x 2-bedroom units
  - 24x 3-bedroom units
  - 23x 4-bedroom units
- 3.5 12 of the proposed dwellings would be affordable, provided as a mix of affordable rent homes, First Homes and other intermediate homes. These are proposed at units 8 to 13, 34 to 36 and 60 to 62, and would therefore be located at the site entrance and along the application site's northwestern edge.

- 3.6 10 house types are proposed. All dwellings would have two storeys, although some would have rooms in their attics, and some dwellings would have three-storey elevations at the rear where topography allows this. Roofs would be pitched. Eight dwellings would be provided with garages. External materials would include artificial stone (for the walls of most dwellings), natural stone (for the four dwellings at the western end of the application site), concrete slate-effect tiles (for the roofs), grey UPVC (for the windows and doors) and timber (for external entrance canopies).

#### **4.0 RESPONSE TO REASONS FOR DEFERRAL**

- 4.1 The following paragraphs summarise the applicant's response to the Strategic Planning Committee's reasons for deferral, and provides additional information.

*How much material would be removed from the site*

- 4.2 The applicant's response document states that, based on an extraction area of approximately 4,500sqm, a coal seam of between 1m and 2m in thickness, an assumed average seam thickness of 1.4m, and assuming that 30% of the seam has been worked, approximately 4,400 cubic metres of material is anticipated to be extracted. The applicant has stated, however, that this figure is likely to change as works progress and as more information becomes available.

*How much material would be imported into the site (as grouting or other material)*

- 4.3 The applicant's response document states that, based on approximately 300 primary holes and an additional 250 secondary holes being drilled, an anticipated hole depth of approximately 20m, and an approximate volume of 3 cubic metres of grout per treatment hole, a volume of 1,650 tonnes of material would need to be brought to the site. The applicant has stated, however, that this figure is likely to change as works progress and as more information becomes available, and that a more refined estimate may be calculated following additional borehole investigations.

- 4.4 The applicant has added that this material would consist of a mix of pulverised fuel ash (PFA), Ordinary Portland Cement (OPC) and sand.

*How the above operations would be carried out*

- 4.5 The applicant has submitted a site cross-section, illustrating the existing and proposed ground levels and the degree of change that would occur following excavation.

- 4.6 The applicant's response document states that different grouting treatments are proposed for different parts of the site, determine by risk. Grouting is not proposed beneath private gardens and open spaces, some grouting is proposed beneath the development's estate roads, and the highest degree of intervention is proposed beneath the new dwellings. A plan attached to the applicant's document (although based on a superseded layout) illustrates this approach.

- 4.7 On site, a mixing plant would be used to prepare the grout. The applicant proposes to use “large tracked rotary rigs” (similar in size to some 360 excavators – the applicant has provided a photograph) which would drill the treatment holes. Rubber grout pipes would carry the grout from the on-site mixing plant to the holes, and the grout would be injected into the holes. Tertiary holes may need to be drilled to check and prove the success of the grouting. Three rigs would be on site at any one time.
- 4.8 The removal of material from the application site would necessitate approximately 550 HGV loads being moved from the site (according to the applicant’s estimate).
- 4.9 The bringing of material to the application site would necessitate further movements to and from the site – the applicant has stated that, at worst, this would involve three deliveries a day (by HGV) for the duration of the drilling and grouting works.
- 4.10 Regarding works and construction traffic routing, officers have advised the applicant that this should make use of higher-order roads as much as possible. That would mean using Wakefield Road (the A636) and only 175m of Cumberworth Lane. It would also mean turning right into the site (across a lane of traffic) and turning left out of the site. Risks involved with HGVs crossing a lane of traffic when turning this can be addressed through signage, bankspeople and temporary traffic lights where appropriate.

*How environmental impacts would be mitigated*

- 4.11 The applicant has agreed to adhere to the working hours recommended by KC Environmental Health (namely: 07:30 to 18:30 hours Mondays to Fridays, 08:00 to 13:00 hours Saturdays, and no working on Sundays or public/bank holidays).
- 4.12 Conditions requiring the submission and implementation of a Groundworks Management Plan and a Construction (Environmental) Management Plan are recommended. These would secure measures regarding the control of noise, dust and other pollutants, and would control other matters relevant to environmental impacts including the prevention of mud and debris being spread along highways, and street sweeping.
- 4.13 Routing works and construction traffic along higher-order roads can additionally help to minimise amenity and environmental impacts.

*Assurance in respect of the risk associated with combustible material being left on site*

- 4.14 As with most fires, three elements would be needed for materials at the application site to combust: fuel, heat and oxygen. With a fuel (in this case coal) present at the site, a source of heat (such as a garden bonfire) could pose a risk if there was not an intervening non-combustible barrier that would prevent the heat and sufficient oxygen from reaching the fuel.
- 4.15 The applicant had asserted that 0.5m of inert cover would provide an adequate barrier, but has acknowledged the advice of KC Environmental Health that 1m of cover would be necessary, and that inert service trenches are also required. The applicant has agreed to provide these, and compliance with these requirements would be enforced through the recommended conditions.

- 4.16 With this inert cover in place, officers are satisfied that fire risks would be sufficiently reduced, and refusal of permission on these grounds is not recommended.

## 5.0 RELEVANT PLANNING HISTORY (including enforcement history)

- 5.1 Various applications relating to the different parts of the allocated site (HS144) have been considered, as follows:

### *Application site*

2022/91911 – Planning permission refused 21/03/2023 for a residential development of 48 dwellings with associated highways and landscaping. The seven reasons for refusal were:

*1. Insufficient information has been provided to satisfy the Local Planning Authority that the risks arising from land contamination resulting on the site can be adequately mitigated under the proposed land remediation strategy. Likewise insufficient understanding of the residual impacts of the site remediation, inclusive of an incomplete understanding of the site's characterisation, do not provide sufficient comfort to allow the proposed site remediation to be undertaken subject to appropriately worded planning conditions. The current submission therefore incurs unacceptable risks that could cause harm to people and/or the environment contrary to Kirklees Local Plan Policy LP53 as well as National Planning Policy Framework Paragraph 183 (clauses a, b and c).*

*2. It has not been demonstrated that the proposed development would be environmentally feasible or acceptable nor that the proposal would provide local or national benefits that would outweigh the resultant residual environmental impacts of developing the site for the purposes of winning and working minerals (coal) resulting from the site's remediation. Indeed, the proposed site remediation strategy creates unknown residual environmental impacts that have not been adequately assessed. There are therefore significant concerns with the proposed development in respect of the potential for adverse impacts on water resources, ground gas pathways, human health (noise & air quality in particular) as well as residential amenity more broadly. No overriding community benefits are identified which would make the extraction of coal acceptable from the site. Overall, the proposal is found to be contrary to mineral planning policy with particular regard to Kirklees Local Plan Policies LP36, LP51 and LP52 as well as National Planning Policy Paragraphs 211 (clauses b & c) and 217 (clauses a and b).*

*3. The proposed development layout does not achieve a net density of 35 dwellings per hectare that would be sufficient to use allocated housing land efficiently for a residential purpose. As such the proposal is contrary to Policy LP7 of the Kirklees Local Plan and Paragraph 124 of the National Planning Policy Framework as it does not seek to maximise housing delivery and is not overridden by mitigating reasons with regard to development viability, compatibility with its surroundings or meeting local housing needs. The lack of a sufficient density would also further undermine the Local Planning Authority's housing delivery target, which is subject to a Housing Delivery Test Action Plan.*

4. Proposed plots 35 and 36 are at a topographical level and distance from existing properties at 2 and 3 Springhead Gardens whereby their rear windows and garden terraces would significantly overlook and reduce the privacy of the existing residential properties at significant detriment to residents' amenity. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

5. It has not been demonstrated, through a lack of information, that the site's internal estate road is designed or is able to be designed to an acceptable layout/adoptable standard that would be safe for use by pedestrians and private vehicles or is operationally feasible to be serviced by a refuse collection vehicle. The proposed development is therefore contrary to the guidance contained within the Highways Design Guide SPD, as well as Policy LP21 – Highways and Access – of the Kirklees Local Plan (with specific regard to clauses a, d, e and f).

6. Insufficient information has been provided to evidence that Plots 42, 43, 44, and 45 would not incur unacceptable privacy issues in relation to the northern elevation of Cruck Cottage, given that the proposed dwellinghouses are set at a higher topographical level and within the 21m facing separation distance from the rear of the existing dwellinghouse. The identified impacts on privacy in respect of levels and separation distances are contrary to the Supplementary Planning Document – Housebuilders Design Guide (with particular regard to clauses 7.19 and 7.21) and Kirklees Local Plan Policy LP24 – Design.

7. Planning obligations directly related to the development have been identified by the Local Planning Authority as being necessary to make the development acceptable in planning terms. These obligations relate to delivery of on-site affordable housing provision, a financial contribution to provide educational capacity for increased school capacity in the local area, a financial contribution to off-set open space typology shortfalls, a financial contribution to offset biodiversity loss and provide a 10% biodiversity net gain, a financial contribution for the encouragement of sustainable travel alongside provision of requisite management of drainage infrastructure and shared spaces serving the proposed development. The terms of a legal agreement to secure these obligations has not been agreed and the weight of viability evidence provided by the applicant does not have full regard to the change in site circumstances (concerning the extraction of minerals) since the Kirklees Local Plan was adopted. By consequence the application is contrary to Policies LP11, LP20, LP28, LP30, LP49 and LP63 of the Kirklees Local Plan.

*Land accessed from Cumberworth Lane (south of the application site)*

2018/93309 – Outline application for erection of residential development – Appeal against non-determination dismissed 25/11/2019.

2019/93906 – Outline application for erection of residential development of up to 10 dwellings – Approved 07/01/2021.

2023/93714 – Reserved Matters application for the erection of 10 dwellings – Pending determination.

## *Springhead Gardens*

2017/93798 – Erection of six detached dwellings – Approved 06/06/2018.

2020/91506 – Variation of condition 2 (plans and specification) of previous permission 2017/93798 – Approved 20/11/2020.

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

6.1 Amendments were made to the applicant's proposals following the previous refusal of planning permission (ref: 2022/91911). With regard to the council's seven reasons for refusal, the key amendments were:

- 1) Further information submitted regarding site contamination.
- 2) Extensive mineral extraction is no longer proposed.
- 3) The number of dwellings proposed has been increased from 48 to 62.
- 4) The proposed dwellings have been moved away from 2 and 3 Springhead Gardens.
- 5) A revised internal road layout is proposed.
- 6) The proposed dwellings have been moved away from Cruck Cottage.
- 7) The applicant is willing to enter into a Section 106 agreement which would secure contributions and measures intended to mitigate the development's impacts and secure its benefits.

6.2 Further amendments were made during the life of the current application, including to the proposed road layout, the unit size mix, and the materials to be used on dwellings close to the site entrance.

6.3 Regarding the development's financial viability, Aspinall Verdi were commissioned by the council to review the applicant's information. They concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

6.4 Most recently, the development's affordable housing unit size mix and locations were confirmed by applicant.

### **7.0 PLANNING POLICY**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

#### Kirklees Local Plan (2019):

7.2 The application site comprises the largest part of site HS144, which is allocated for residential development in the Local Plan. For the entirety of the site allocation, the Local Plan sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.

7.3 Site allocation HS144 identifies the following constraints relevant to the site:

- Third party land required to achieve sufficient visibility splays
- The provision of a pedestrian footway is required across the site frontage at Leak Hall Lane
- Public right of way crosses the site
- Site is close to listed buildings
- Site is close to an archaeological site
- Part/all of the site is within a High Risk Coal Referral Area

7.4 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- 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
- LP29 – Management of water bodies
- LP30 – Biodiversity and geodiversity
- LP31 – Green infrastructure network
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

[Supplementary Planning Guidance / Documents and other documents:](#)



7.5 Relevant guidance and documents are:

- Highway Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Affordable Housing and Housing Mix SPD (2023)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Planning Applications Climate Change Guidance (2021)
- Viability Guidance Note (2020)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- Kirklees First Homes Position Statement (2021)
- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Public Rights of Way Improvement Plan (2010)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)
- Social Value Policy (2022)

Climate change

- 7.6 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 7.7 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

## National Planning Policy and Guidance:

7.8 The National Planning Policy Framework (2023) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposals. Relevant paragraphs/chapters are:

- 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
- Chapter 17 – Facilitating the sustainable use of minerals

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

7.10 Relevant national guidance and documents:

- National Design Guide (2019)
- National Model Design Code (2021)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Securing developer contributions for education (2019)

## **8.0 PUBLIC/LOCAL RESPONSE**

8.1 The applicant's Statement of Community Involvement details the public consultation that was carried out prior to the submission of the previous application (ref: 2022/91911), but notes that no further consultation was carried out following the refusal of that application and the submission of the current application.

8.2 The current application was advertised by the council as a major development, and as development affecting a public right of way and the setting of a listed building.

8.3 The application was advertised by the council via four site notices posted on 07/09/2023, a press notice on 15/09/2023, and letters delivered to addresses close to the application site. This was in line with the council's adopted Statement of Community Involvement. The end date for publicity was 05/10/2023.

8.4 54 representations were received in response to the council's consultation. These were posted online, and include representations submitted by the Upper Dearne Valley Environmental Trust (UDVET) and comments relayed by ward Members. The following is a summary of the comments made:

- Objection to principle of development.
- Previous reasons for refusal not addressed.
- Application should not be considered.
- Decision should not be made until Local Plan is reviewed.
- Local Plan was based on incorrect population predictions.
- Site should be redesignated as safeguarded land.
- Site was designated as Urban Green Space in the Unitary Development Plan.
- Site should be used for biodiversity net gains not being achieved on-site by other developments. Rewilding may be possible.
- Area lacks allotments.
- No need to build on this land.
- Alternative, sustainable development options should be developed.
- Applicant incorrectly refers to Denby Dale as an urban location.
- NPPF sets out a presumption against development in the green belt.
- Loss of green space.
- Applicant's information is contradictory.
- Site is incorrectly referred to as vacant.
- Unsustainable development.
- Objection to number of dwellings. Proposal represents overdevelopment.
- NPPF chapter 12 (design) should be complied with. Previous poor designs should not justify further mistakes.
- Three-storey houses inappropriate. Surrounding area is mostly two-storey or bungalows.
- Surrounding short terraces and staggered roof ridges are not reflected in the proposals.
- Flat dormers and timber porches are inappropriate.
- Dwellings should have chimneys to reflect surrounding development.
- Development would be visually prominent.
- Materials should reflect original village's character. Stone recently used on Barnsley Road should be used. Artificial stone and roof tiles are inappropriate here.
- Tall, close-boarded fencing is inappropriate here. Harmful to public footpath.
- Gabion baskets for retention are visually inappropriate, and short-lived.
- Query what foundations are needed for retaining walls, and how these would be maintained.
- Street scene would be dominated by parking.
- Housebuilder Design Guide SPD not complied with.
- Harm to character of Denby Dale.
- Lack of useable green space in proposals. No new opportunities for sport and recreation. Green space should be centrally located within the site, and not at its periphery.
- Inappropriate landscaping. Lack of native hedge planting.
- Overlooking of adjacent properties. Applicant admits that one dwelling wouldn't provide required separation distance.

- Lack of affordable housing. Unclear whether any dwellings would be affordable. Applicant's proposals are contradictory.
- Dwellings would not be accessible to people with disabilities.
- Bungalows should be provided.
- Many empty properties demonstrate a lack of need for new housing. Development elsewhere in Denby Dale has stalled. No evidence of more housing being needed in Denby Dale.
- Congestion to surrounding roads. Traffic generated by adjacent site to south.
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked.
- Applicant's trip generation data understates the development's impact.
- Errors in applicant's junction modelling.
- Concern regarding cumulative impact (including impacts from other developments).
- Officers should confirm whether proposals are safe.
- Applicant's accident data is unreliable.
- Concerns regarding visibility at site entrance. Officers have applied the wrong visibility standard. Longer visibility splays are required. Cumberworth Lane is busy, large vehicles use it, and traffic is fast. Road narrows at this point. Vehicles are parked on the road, affecting visibility, progress of traffic and access. Guidance in Manual for Streets should not be applied in this situation, and instead guidance from the Design Manual for Roads and Bridges should be applied. The road cannot be made safer here.
- Road Safety Audit is flawed.
- Access should be provided off Leak Hall Lane, as agreed by officers and Inspector at Local Plan hearings.
- Application site does not reach Cumberworth Lane, therefore applicant can't provide the required 2m wide footway. Lack of a pedestrian crossing at site entrance. Wheelchair and pushchair users not taken into account. Risk to pedestrians.
- Highway safety risk at Cumberworth Lane / Wakefield Road junction. Junction should be re-aligned and improved.
- Internal road layout unacceptable. Circular layout required.
- Applicant incorrectly states there is a local cycle network.
- Public footpath should not be used by extraction or construction traffic. Risk to pedestrians (including school children) using the footpath.
- Lack of detail regarding construction traffic.
- Cumberworth Lane has already been damaged by HGVs accessing the application site.
- Inadequate measures to enable new residents to access village facilities on foot.
- Public footpath is unlit, and pedestrian connections to it would put residents at risk.
- Objection to loss of or alteration to public footpath. Objection to loss of safe walking route to school.
- Inadequate parking proposed, including visitor parking. Proposed garages are too small.
- Increased flood risk. Adjacent land already floods. River Dearne floods. Existing drains cannot cope. Grouting would make site non-permeable. Adverse impact on existing watercourses. Existing culvert is in a poor condition.

- Developments already under way in Denby Dale will use any spare sewer capacity.
- Separate surface water and foul water drainage systems are needed.
- Rainfall data has been collected at Birchencliffe, when data from Emley is available.
- Risk of water pollution.
- Damage to local soil quality.
- Unclear why gas boilers are proposed.
- Objection to coal extraction. Open cast coal mining still proposed. Applicant's coal mining proposals are unclear. Burning the extracted coal would release emissions. Contrary to green energy objectives. Lack of clarity as to how coal would be extracted. Disruption, noise, vibration, dust and pollution affecting health and amenity during extraction. Methane would be released. Risk of subsidence to adjacent properties. Investigation work has already caused subsidence. Coal extraction risks water pollution. Lack of information regarding grouting. Lack of details of maintenance, management and aftercare. No community benefit to coal extraction. If development here requires extraction, site is not fit for development.
- Gardens would not be grouted or remediated, risking the safety of new residents.
- Any remediation should be proposed under a separate application.
- Any remediation should be allowed to settle before the land is developed.
- Harm to local quality of life.
- Residents will no longer want to live in Denby Dale.
- Damage to neighbouring properties. Risk of subsidence.
- Impact on property values.
- Waste from Springhead Gardens development has been dumped on the site.
- Lack of detail as to how affected neighbours would be compensated.
- Owls, other birds, bats, deer, foxes, hedgehogs, toads and other wildlife are present and would be adversely affected. Site has been illegally cleared. Applicant's ecological information is unreliable.
- Proposed private gardens would impact upon watercourse wildlife corridor.
- Risk of rat infestation.
- Existing TPO-protected tree has been damaged during site investigation. Further risk of damage and pressure to prune. Development would affect roots.
- Schools are over-subscribed. Several developments will worsen situation. Children will not be educated locally. Surprise regarding KC Education advice and no primary school contribution being sought.
- Pressure on local surgeries.
- Loss of only location where air ambulance could land in an emergency.
- Council debts mean services would not be provided for new residents.
- Lack of publicity regarding the application. Some residents may not be aware of the proposals.
- Residents should have been reconsulted following deferral.

8.5 Cllr Tim Bamford submitted the following comments:

*I have several comments I wish to make on this application. I am a transport manager and have many years of experience in heavy transport, many of them driving.*

*Site access.*

*The proposed access goes against the Planning Inspector's concerns about the safety of the site access being on Cumberworth Lane and the planning department's confirmation that the frontage would be on Leak Hall Road, which provided a much safer junction with Wakefield Road and avoided the centre of Denby Dale. The Planning Inspector, Katie Child, accepted this site into the Local Plan on this basis.*

*Cumberworth Lane, at the proposed site entrance is very busy and quite narrow, especially by the Methodist Chapel where two HGV's or buses cannot pass. This is also exacerbated by parked cars.*

*There is a haulage company approximately one mile away, on Coal Pit Lane with a licence to operate fifteen HGV's and thirty trailers. This company regularly use this route operating 44t trucks. Cumberworth Lane is also the designated route for 32t clay trucks from Peace Wood Quarry to Naylor Clayware at Cawthorne, Barnsley. This is run on a campaign basis and can add hundreds of journeys per week over the campaign duration.*

*Trucks of these weights need a longer stopping distance, especially in the wet, approaching the site from Lower Cumberworth, as it is a steep downhill section of road. I also have concerns around the issue of getting an articulated vehicle into, and out of the site without driving on the pavements. The first of these vehicles will be very large, carrying plant and machinery to site.*

*There are several sites in the area that aren't built out yet, the traffic from these developments will add yet more traffic to Cumberworth Lane.*

*Accessing the site from Cumberworth Lane will be detrimental to the health and safety of Denby Dale residents.*

*Coal mining.*

*It is noted that there will be around 4150 m<sup>3</sup> of coal extracted from site which equates to two Olympic size swimming pools.*

*The developer says describes this as waste but it is still coal extraction and should be licensed by the Coal Authority who have substantive concern about the site.*

*If the coal is classed as waste will it be disposed of at landfill and recorded with waste transfer documents?*

*How does this release of carbon fit with the Kirklees Climate Emergency declaration?*

*This is not environmentally acceptable as required by para 223 of the NPPF.*

*The developer doesn't seem to know how much material will be removed at this stage, maybe a detailed site investigation report would remove this doubt. This could easily turn into the full scale opencast operation that was refused previously.*

*Without the Intrusive Site Survey how can the developer know how much grouting is required? This isn't a cheap exercise and could lead the developer into an untenable position financially.*

*In conclusion I am very worried that this supposedly detailed planning application has come forward with 42 conditions attached.*

*I am particularly worried that the remediation strategy and the intrusive site survey, amongst many others, are secured by condition. They should have been presented in this application.*

*This development has the potential to cause an environmental disaster for Denby Dale by destabilising the site and releasing contamination and posing a flood risk.*

*This site is extremely challenging and, in my opinion, not suitable for development and planning permission should be refused.*

8.6 Cllr Will Simpson (also speaking on behalf of Cllr Hannah McKerchar) made representations at the Strategic Planning Committee meeting of 16/05/2024.

8.7 Denby Dale Parish Council – Objection. The following is a summary of the comments made:

- No further public consultation carried out since previous application was refused.
- Errors in applicant's submissions.
- Controversial developments should be paused until Local Plan is reviewed.
- Mining still proposed. Unregulated open cast mine proposed.
- Site is incorrectly referred to as vacant.
- Increased flood risk. Existing sewers do not have capacity to cope with proposed development. Library car park floods.
- No strategy for existing springs, sinks and watercourse.
- Damage to biodiversity and protected species. Applicant's ecological information is lacking. Site accommodates birds (including owls), bats, frogs, newts, common toads and insects.
- Risk to trees.
- Remediation would cause noise, vibration, air and water pollution, and additional traffic (more than the many lorry movements associated with the Springhead Gardens development).
- Transport Assessment wrongly asserts that Cumberworth Lane is lightly trafficked. Disagree with assertions regarding vehicle movements, and construction traffic. Increased commuter traffic.
- Development is contrary to NPPF paragraph 111.
- Risk of subsidence.
- Risk of land contamination.

- Local housing need would not be met. Inappropriate housing sizes. Four-bedroom (and larger) dwellings are not needed for young couples or older people wishing to downsize.
- No housing would be affordable.
- Local Plan was based on incorrect population predictions.
- Many empty properties demonstrate a lack of need for new housing.
- 3-storey “type C” houses would overlook neighbouring residents.
- Proposed development would do nothing to aid the economy, locally or nationally. There are no opportunities for local employment.
- Pressure on local schools and surgeries.
- Destruction of rural community. Urbanisation of Denby Dale.
- No community benefits would be secured. There is no mention of a Section 106 agreement.

8.8 Responses to the above comments are set out later in this report, where necessary.

8.9 Submissions made by the applicant after the council consulted on the application did not necessitate public reconsultation.

## 9.0 CONSULTATION RESPONSES

### 9.1 Statutory:

9.2 Coal Authority – Objection withdrawn on 13/05/2024, subject to conditions, and on the basis that the proposed layout shows all built development avoiding the zones of influence of recorded mine entries. Further advice provided regarding Coal Authority permits, mine gas and drainage. Two conditions recommended.

9.3 Lead Local Flood Authority – Support proposals. A connection to watercourse can now be sanctioned as downstream improvements have been carried out. A proposed future connection at five litres per second is agreed in principle. A new headwall and trash screen, intention of improvement and formal design of drainage design can be conditioned. Provision of safety fences for open sections of the site’s culvert adjacent to parking areas will be required at detailed design stage. Watercourse improvements should be conditioned for detailed design stage. The watercourse/drainage ditch and associated ancillary structures will need to be maintained by a management company (secured via a Section 106 agreement) with an agreed maintenance plan. This is to ensure risk is reduced on- and off-site by formalising arrangements. A box culvert would be used in one section to provide access to the northernmost plots – this was agreed in a site visit. Separately from the watercourse, all surface water drainage should have a risk assessment and method statement applied concerning maintenance and management. This should be carried out by a management company until such a time as this infrastructure is adopted by the statutory undertaker, Yorkshire Water, or equivalent NAV. The management company should be required to maintain the watercourse for the lifetime of the site. Mine capping can cause less infiltration of water, particularly in the construction phase – measures should be taken to reduce related risk. Construction-phase drainage can be conditioned. Perimeter land drainage will need to be considered as part of an assessment to ensure that this development will not increase flood risk elsewhere. Safe flood routing is shown on submitted plans. Conditions recommended.



- 9.4 **Non-statutory:**
- 9.5 KC Ecology – Applicant’s ecological information should be updated. Particular regard should be paid to the Biodiversity Net Gain assessment which should update the baseline and post-development habitat units, in line with the updated proposals.
- 9.6 KC Education – £97,444 towards secondary provision required.
- 9.7 KC Environmental Health – Applicant’s findings regarding site contamination and ground gas are accepted, although further gas monitoring is required. All remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. Application site is not within an Air Quality Management Area (AQMA) or near to roads of concern. Proposed development does not require a construction dust risk assessment or an emissions damage cost calculation. Officers accept applicant’s assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> are predicted to be below the national air quality objectives. Applicant’s air quality methodology is accepted, and no further mitigation measures are required for this development. Adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. Construction Environmental Management Plan required (this can be conditioned). Regarding noise, works would be restricted to appropriate hours, and proposed construction methodology is acceptable, however temporary acoustic screens would be required. Further conditions recommended regarding noise, electric vehicle charging and site contamination (remediation).
- 9.8 KC Highways Development Management – The applicant has now satisfactorily addressed all of the outstanding issues, and KC HDM have no objection to the proposals, subject to conditions and Section 106 obligations being secured. Design of site entrance and site layout have been amended and are acceptable. Works to Cumberworth Lane represent an improvement on current situation. Conditions and Section 106 obligations recommended.
- 9.9 KC Highways Structures – Conditions recommended.
- 9.10 KC Landscape – Details of typologies and measured areas for all proposed open spaces required. In the absence of this information, and given some areas (such as the green space between units 14 and 29) shouldn’t be counted towards on-site provision until their details are provided, a contribution of £120,305 towards off-site open space is required. Inclusion of green space on-site is welcomed. Green spaces need to be designed to meet the needs of the widest possible range of users. Purpose of open space above attenuation tank is queried. Management and maintenance details required for green spaces. Extensive areas of hard surfacing are proposed. More soft landscaping (including street trees) is required. Proposals for trees are tokenistic. Details of root protection/barriers and soil volumes required. Potentially invasive species should be avoided. Landscape management and maintenance plan required. Images in Design and Access Statement do not correspond with drawings. Curtilages of units 39 to 42 (and the adjacent open spaces) should be better defined with defensible space. Locally Equipped Area for Play (LEAP) required. Four existing play spaces are within 720m of

(and a 15 minute walk from) the application site – the children and young people’s element of the open space contribution could be spent in those locations, subject to local consultation (including with Members). Retention of TPO-protected tree is welcomed, although there are concerns regarding its root protection area. Footpath connections required. Conditions and Section 106 obligations recommended.

- 9.11 KC Strategic Housing – 20% affordable housing provision required, and on-site provision preferred. Proposed 12 affordable units, and affordable unit size mix (3x 1-bedroom units, 7x 2-bedroom units and 2x 3-bedroom units) are acceptable. Given council’s 55% social/affordable rent / 45% intermediate (including First Homes) preference, provision should comprise seven social/affordable rent homes, three First Homes and two other intermediate homes. The affordable homes’ build quality and other relevant aspects should be indistinguishable from the market housing in the development.
- 9.12 KC Strategic Waste – There is one closed landfill site within 250m of the application site.
- 9.13 KC Trees – No objection in principle to site being developed. Location of dwelling in relation to TPO-protected tree may result in pressure to prune, however council would have control over an application to do so. A “no dig” cellular confinement system needs to be shown on plans and implemented for the footpath near to the tree. Conditions recommended requiring a final Arboricultural Method Statement and Tree Protection Plan.
- 9.14 KC Waste Strategy – Details of bin collection points acceptable. Looped layout preferred.
- 9.15 Northern Gas Networks – No objection. Generic advice provided.
- 9.16 West Yorkshire Archaeology Advisory Service – Condition recommended, securing a programme of archaeological recording.
- 9.17 West Yorkshire Police Designing Out Crime Officer – Detailed comments provided regarding external lighting, soft landscaping, rear access to properties and parking.
- 9.18 Yorkshire Water – A water supply can be made available under the provisions of the Water Industry Act 1991. Condition recommended regarding foul water connection. Flood Risk Assessment and Drainage Strategy is generally acceptable.

## 10.0 SUMMARY OF MAIN ISSUES

- Land use and principle of development
- Masterplanning
- Quantum and density
- Sustainability and climate change
- Urban design matters, heritage and landscape impacts
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues

- Environmental health considerations
- Site contamination and stability
- Ecological considerations
- Trees
- Open space
- Other planning considerations
- Planning obligations and financial viability

## 11.0 MAIN ISSUES – ASSESSMENT

### Land use and principle of development

- 11.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.

### *Housing need and delivery*

- 11.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 11.3 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling three-year period (the "pass" threshold is 75%).
- 11.4 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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. For decision making, this means:

*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.*

- 11.5 The council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development, however this has to be balanced against any adverse impacts of granting permission for a proposal.

- 11.6 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the ‘tilted balance’) unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.
- 11.7 A residential development of 62 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.
- 11.8 Full weight can be given to site allocation HS144, which allocates the majority of the application site for residential development. Allocation of this and other greenfield sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough’s brownfield land, however some release of greenfield land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site (which was previously allocated as Provisional Open Land in the Unitary Development Plan), in her report of 30/01/2019 the Local Plan Inspector stated:

*The site is contained by dwellings on three sides and is well related to the core of the village. At the hearing the council indicated that access may be facilitated via Leak Hall Lane, and this should be clarified. No fundamental constraints relating to heritage and other matters have been identified and, subject to the above modification, the allocation is soundly based.*

#### *Minerals*

- 11.9 The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. 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 1c of policy LP38 is relevant, and allows for approval of residential development here, as there is an overriding need (in this case, housing needs, having regard to Local Plan delivery targets) for it.
- 11.10 Paragraph 223 of the NPPF is also relevant, and states:

*Planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).*

- 11.11 As explored under the previous application ref: 2022/91911 (and reflected in the second reason for refusal), extensive coal extraction from the application site would risk significant impacts, largely due to the proximity of existing residents. The council's previous reason for refusal regarding this matter also noted that there were no overriding community benefits which would have made coal extraction from this site acceptable. This remains the case, and the applicant's intention to not carry out such extraction is considered appropriate.
- 11.12 Regarding the related matter of site stability, further commentary is set out later in this report.
- 11.13 Given the above assessment, the principle of residential development at the application site is considered acceptable, subject to the further discussion of other relevant matters later in this report.

### Masterplanning

- 11.14 Careful masterplanning of development sites can ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.
- 11.15 Ideally, the wider HS144 allocated site would have been the subject of a masterplan drawn up jointly by all interested parties. Such a masterplan would have then informed subsequent applications for the development of the various separately-owned parcels of land within the wider HS144 site.
- 11.16 However, as illustrated by the planning history detailed above, development proposals for the various parcels came forward at different times. Furthermore, the applicant for the current application was unable to secure the final parcel of land (to the north of Leak Hall Crescent) for inclusion in the scheme currently proposed. It is also noted that the Inspector determining an appeal relating to application ref: 2018/93309 concluded (in his decision dated 25/11/2019) that a masterplan was not needed for the HS144 site.
- 11.17 Although this means development proposals for the HS144 site have been piecemeal (and possibly not optimal in terms of efficient use of land), it is noted that the topography of the wider site may have limited opportunities for internal connections and consolidated open space or drainage attenuation in any case, such that – even with a masterplan – layouts may have been similar to those proposed to date under the approved and proposed applications. No land within HS144 would be sterilised if the current application were to be approved (of note, the final parcel of land to the north of Leak Hall Crescent could potentially be accessed from Leak Hall Lane). The council could not reasonably withhold planning permission on the grounds that the final (northernmost) parcel of land (and a vehicular connection through it, to Leak Hall Lane) has not been included in the scheme currently proposed. Finally, it is noted that the previous application relating to the current application site (ref: 2022/91911) was not refused on masterplanning grounds.

- 11.18 The current applicant has proposed useful pedestrian connections to the adjacent public footpath, such that movement through the application site would be enabled despite the final (northernmost) parcel not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application.
- 11.19 Regarding apportionment of obligations across the HS144 site, this is not a concern in relation to the current application, as the size of the proposed development (at 62 dwellings) means all relevant thresholds are triggered in any case, and no further obligations would be triggered by the total amount of development (namely these 62 dwellings, plus the six already built at Springhead Gardens, the 10 approved at land to the south of the application site, and the dwellings that may in time be proposed at the final parcel of land to the north of Leak Hall Crescent) that may be delivered across the HS144 site (although development at land to the north of Leak Hall Crescent is likely to trigger its own obligations). It is also noted that no major cross-HS144 infrastructure (that may disproportionately affect one of the parcels, and which should be fairly shouldered by all developers of the HS144 site) is needed.

#### Quantum and density

- 11.20 As noted above, site allocation HS144 sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.
- 11.21 To ensure efficient use of land, Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve. Any proposal at application sites capable of accommodating major development would be expected to make a significant contribution towards the quanta set out in the Local Plan.
- 11.22 It is noted that the previous application relating to the current application site (ref: 2022/91911) was refused partly due to its unacceptably low density (as set out in the council's third reason for refusal).
- 11.23 With 62 units now proposed in 1.9 hectares, a density of 32.6 dwellings per hectare would be achieved by the proposed development. This falls short of the 35 dwellings per hectare figure set out in Local Plan policy LP7 and which already takes into account likely on-site open space needs.

- 11.24 It is noted, however, that constraints applicable to this site have a significant bearing on what development can be achieved. In particular, the site's topography, coal mining legacy (three mine entries exist within the site), TPO-protected tree, sewer easement, and the need for on-site surface water attenuation have reduced the site's developable area, and have informed the proposed development's layout and quantum.
- 11.25 It is also noted that, at other sites, excessive numbers of large, detached units have driven down densities to the extent that land is not efficiently used. This, however, is not proposed at the application site – of the 62 dwellings proposed, only four would be detached, and no 5-bedroom (or larger) units are proposed.
- 11.26 Given the above, it is considered that the proposed density – while below the figure set out in Local Plan policy LP7 – is acceptable. The development represents an efficient use of scarce allocated land.

#### Sustainability and climate change

- 11.27 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. An assessment is necessary to ascertain whether the proposed development would achieve net gains in respect of all three of the NPPF's sustainable development objectives.
- 11.28 The application site is considered to be a sustainable location for residential development, as it is on the edge of an existing, established settlement that is served by public transport and other (albeit limited) facilities. As noted above, Denby Dale has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and other bus stops further to the south on Wakefield Road are served by several bus routes. Given these facilities, at least some of the daily, social and community needs of residents of the proposed development could be met locally (within walking distance), and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 11.29 A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, the specification of energy-efficient electrical goods, the provision of instructions for residents, the implementation of a carbon reduction plan during construction, the orientation of dwellings to maximise solar gain (where possible), the implementation of measures to reduce flood risk, the implementation of water-saving measures, and the inclusion of appropriate landscaping incorporating biodiversity enhancements.
- 11.30 Measures would be necessary to encourage the use of sustainable modes of transport, and to minimise the need to use motorised private transport. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Further consideration of these matters is set out later in this report, however it is noted that the proposed development includes (or would be required to include, in accordance with the recommended conditions):

- Pedestrian connections to the adjacent Public Rights of Way network;
  - Cycle storage;
  - Electric vehicle charging points;
  - A residential Travel Plan (to encourage the use of sustainable modes of transport) and related £10,000 monitoring fee; and
  - A Sustainable Travel Fund contribution of £49,335.88
- 11.31 Drainage and flood risk minimisation measures would need to account for climate change. This is addressed later in this report.
- 11.32 In relation to residential development, social sustainability largely concerns the creation of places that people will want to live in and remain living in, and that are convivial and create opportunities for interaction and community-building. Places offering low standards of residential amenity and quality are often inhabited by short-term and transient populations who do not put down roots – such places are less likely to foster a sense of community, civic pride and ownership. Design, residential amenity and quality, open space, and other relevant matters are considered later in this report.
- 11.33 In relation to residential development, economic sustainability can concern employment and training opportunities during the construction phase. The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements related to residential developments – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.
- 11.34 Following completion of construction, opportunities for local employment are relevant to the consideration of the proposed development's economic sustainability. Of note, the application site is within walking distance of employment opportunities in Denby Dale. In addition, buses and trains serving Denby Dale provide access to employment opportunities further afield.
- 11.35 In light of the assessment set out above and later in this report, it is considered that the proposal can be regarded as sustainable development.

#### Urban design matters

- 11.36 Local Plan policies LP2, LP5, LP7, LP24 and LP35 are of particular relevance to this application in relation to design, as is the text of site allocation HS144 and the council's Housebuilders Design Guide SPD. Chapters 11, 12 and 16 of the NPPF and the National Design Guide are also relevant. In relation to the Grade II listed Wesleyan Methodist Church to the west, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant.



### *Site context*

- 11.37 The application site is currently undeveloped, grassed agricultural land. It forms part of the northern edge of the village of Denby Dale. To the north of the application site are further areas of grassland and trees within the green belt. Land to the south is also grassed, but has planning permission for residential development, and most land to the east, south and west of the application site is residential in character. The application site slopes downhill from north to south. It has a narrow street frontage between existing buildings on Cumberworth Lane. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, including those on Barnsley Road (looking over the Churchfield open space, and the HS136 allocated site). The application site is also visible from trains passing over the railway viaduct to the west.
- 11.38 Existing development surrounding the application site is predominantly 2-storey, however there are several bungalows and chalet bungalows nearby, as well as 3-storey elevations on East Hill Way and Wakefield Road. Terraced, detached and semi-detached properties surround the application site. Most roofs are pitched, while roofs on Leak Hall Crescent are hipped.
- 11.39 Natural stone is the predominant material at the centre of Denby Dale and immediately adjacent to the application site's proposed entrance onto Cumberworth Lane, however other materials including brick, render, pebble dash and artificial stone have been used near to the application site.

### *Design assessment*

- 11.40 The proposed development would inevitably have a transformative effect on the appearance of the application site, as what is currently green space would be developed with new buildings and hard surfaces. This visual impact would, however, be softened by the implementation of soft landscaping and the inclusion of areas of open space. It is also noted the application site is largely surrounded on three sides by existing buildings, such that the proposed development would not read as a new, sprawling intrusion into the green space that surrounds Denby Dale. The impact of the proposed development on the character of Denby Dale (as defined by its appearance and layout) would not be significantly adverse.
- 11.41 The proposed development's internal layout is considered to be legible and logical. It appropriately responds to the site's topography (as far as is possible, given the need to achieve appropriate road gradients) and other constraints such as the TPO-protected tree. It is accepted that a looped road layout (which is normally preferred, as it reduces the need for refuse collection vehicles reversing, and can be more dementia-friendly) is not possible at this site due to its topography. The arrangement of dwellings around the proposed estate road would not appear regimented, and this would assist in helping the development reflect its surroundings (where existing development appears similarly unregimented).

- 11.42 The proposed typologies and house types are considered appropriate for this site. A welcomed mix of terraced, detached and semi-detached dwellings is proposed. This is reflective of the variety that surrounds the application site, and would ensure that a repetitive or monotonous street scene is not created. The proposed 2-storey height of the dwellings is suitably reflective of the majority of buildings nearby. The 3-storey elevations to the rear of eight units (at plots 39 to 46) are similarly considered to be suitably reflective of existing buildings nearby, as are those dwellings that would have rooms in their attic spaces. These taller elements would not appear unduly obtrusive in views from public vantagepoints (including in longer views from Barnsley Road).
- 11.43 The proposed elevations are considered acceptable for this location. The proposed pitched roofs and fenestration arrangements are suitably reflective of local vernacular, while other details (including the proposed forward-facing gables and timber entrance canopies) would add interest to the elevations and street scene.
- 11.44 Artificial stone is proposed for the majority of the dwellings. This material is considered acceptable in principle for this location, however it is recommended that a condition be applied, requiring the submission of details and samples of all external materials. This would ensure the council would have final control over the quality and appearance of the artificial stone. Natural stone is appropriately proposed for the four dwellings nearest to the application site's entrance on Cumberworth Lane, where most of the existing buildings are of natural stone. The other external materials proposed by the applicant (namely, concrete slate-effect tiles, grey UPVC and timber) are considered acceptable for this location, again subject to final approval at conditions stage.

#### *Heritage assets*

- 11.45 The Grade II listed Wesleyan Methodist Church to the west of the application site derives some of its historic interest from its context, although this mainly relates to its commanding location on the village's northern hillside, its prominence on Cumberworth Lane, and its relationship with the village of Denby Dale below. It derives little of its historic interest from its relationship with the application site's undeveloped, grassed appearance (which is not readily appreciated from Cumberworth Lane, due to a difference in levels and an existing retaining wall which limit views from the lane into the application site).
- 11.46 Longer views from the south take in both the church and the application site, and although the proposed development would change the heritage asset's context in these views, the effect would not be significant due to the proximity and extent of existing development which already crowds the church and occupies space between it and the open countryside that surrounds the village. The creation of a new vehicular entrance on Cumberworth Lane to the north of the church would also affect the heritage asset's context, however it is considered that the impact upon its historic interest would not be significant, provided that appropriate materials and landscaping (to be controlled by recommended conditions) is used. The setting back of the proposed dwellings away from the new site entrance would also help ensure the heritage asset is not crowded by new development, and the use of natural stone for those four nearest dwellings would be reflective of that part of the church's context. Given the above considerations, the proposed development would not cause demonstrable harm to the setting or appreciation of the listed building.

### *Crime prevention*

- 11.47 Regarding crime prevention, the proposed layout would generally provide good levels of natural surveillance of the public realm, and clear distinctions between spaces that are public and private. Most parking spaces would be overlooked by their users from their homes. Pedestrian access to the rear gardens of terraced dwellings can be secured with gates. Subject to landscaping and boundary treatment details (to be secured via recommended conditions), no parts of the proposed development would be particularly vulnerable to flytipping and other anti-social behaviour. Conditions regarding security measures and lighting are additionally recommended. Details submitted pursuant to those conditions would need to address the detailed comments of the West Yorkshire Police Designing Out Crime Officer.

### *Landscaping*

- 11.48 Soft landscaping is shown on the applicant's proposed site plan (rev P17). Street trees and hedges are proposed along the development's estate road where there are opportunities to provide them, having regard to the council's parking expectations and the site's topography which would necessitate retaining walls adjacent to the estate road in some places. In light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

### *Boundary treatments and retaining walls*

- 11.49 Details of proposed boundary treatments and retaining walls have been provided by the applicant in drawings 0205 rev P05 and 0210 rev P06. Boundary treatments proposed along the development's estate road are generally considered acceptable. Stone walls are proposed at the site entrance (these would need to be of natural stone), and metal railings (painted black) would separate front gardens. Away from the estate road, most rear gardens would be separated by 1.8m high timber fences. 1.8m timber fences are also proposed in places around the edges of the site, which may not be appropriate where the amenities of adjacent neighbours and the adjacent public footpath would be adversely affected, or where such boundary treatments would be prominent in views from outside the site (local residents have raised this concern in representations). For visual amenity and landscape impact reasons, the new green belt edge to Denby Dale (that would be established by the proposed development) should be lined with appropriate boundary treatments and soft landscaping.
- 11.50 Retaining walls are proposed in several locations, including between the termini of the two branches of the development's estate road, and along part of the application site's southern boundary. In these locations, the submitted drawing indicates that retaining walls of between 3m and 4m (in height) are proposed. This is significant, and risks causing harm in terms of visual and residential amenity (although it is noted that a retaining wall of a similar height has been constructed relatively recently nearby at East Hill Way). Given that the final heights of these retaining walls have not yet been determined by the

applicant, given the potential for harm to be caused, and given that there may be opportunities to reduce the height of these walls through adjustments to levels, it is recommended that a condition be applied, requiring the submission of full details and justification for all retaining walls. The same condition would also require details of the materials of the proposed retaining walls, and of adjacent soft landscaping which may help to soften their visual impact.

- 11.51 A further condition relating to boundary treatments is also recommended. Details submitted pursuant to this condition would additionally need to account for flood routing and the movement of hedgehogs.

#### Residential quality and amenity

- 11.52 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.

#### *Neighbour amenity*

- 11.53 The previous application relating to the current application site (ref: 2022/91911) was refused partly due to impacts upon the amenities of the occupants of existing neighbouring dwellings. The council's fourth and sixth reasons for refusal concerned the impact of the proposed development in relation to 2 and 3 Springhead Gardens and Cruck Cottage, which are residential properties located to the south of the application site.
- 11.54 The proposals were subsequently amended, and separation distances between the proposed dwellings and existing adjacent properties (as illustrated and annotated on drawing 0207 rev P04 and described in the submitted Planning Statement) would now be adequate to ensure no unacceptable loss of natural light, privacy or outlook would occur. Regarding Cruck Cottage, which is a bungalow located close to the application site boundary, the submitted Planning Statement notes that the rear elevations of the nearest proposed dwellings have been moved back by 2.3m. It goes on to note that while a 21m elevation-to-elevation distance would not be achieved (as is expected under the council's Housebuilders Design Guide SPD), there is an existing level difference, and "the possibility of looking into Cruck Cottage is considered to be entirely eliminated, with any overlooking from the proposed development being on the roof of Cruck Cottage and not into the dwelling or outside amenity space". This is accepted. Regarding 2 and 3 Springhead Gardens, in the current proposals 21m elevation-to-elevation distances (or slightly less) would be achieved by units 43 to 46. Where separation distances would fall slightly short of the SPD's expectation, this is considered acceptable due to the oblique angle at which the dwellings would be set in relation to the rear elevations of those existing neighbouring dwellings.
- 11.55 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses in relation to noise.

### *Construction management*

- 11.56 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.

### *Residential quality and amenity*

- 11.57 The quality and amenity of the proposed residential accommodation is also a material planning consideration.
- 11.58 All of the proposed dwellings would be dual aspect. This is welcomed, as dual aspect enables natural ventilation, and has amenity and outlook benefits.
- 11.59 All dwellings would have adequate privacy, outlook and access to natural light.
- 11.60 Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents.
- 11.61 Adequate distances would be provided within the proposed development between new dwellings.
- 11.62 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.
- 11.63 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 has become more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.
- 11.64 All of the proposed units would be NDSS-compliant.
- 11.65 All new units would have ground floor WCs, making those units at least visitable by people with certain disabilities.

### *Unit size mix*

11.66 The following unit size mix is proposed:

- 3x 1-bedroom units
- 12x 2-bedroom units
- 24x 3-bedroom units
- 23x 4-bedroom units

11.67 Within the above, 50 units would form the development's private (market) element, provided as 5x 2-bedroom units, 22x 3-bedroom units and 23x 4-bedroom units. This unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	SPD expectation	Proposed
1- and 2-bedroom	30-60%	10% (five units)
3-bedroom	25-45%	44% (22 units)
4+-bedroom	5-25%	46% (23 units)

11.68 The proposed mix for the development's private element does not fully accord with the expectations of the guidance set out in the SPD, in that a shortfall of smaller units and an overprovision of larger units is proposed. While this weighs negatively in the balance of planning considerations, it is not recommended that permission be refused on these grounds.

### Affordable housing

11.69 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split is expected.

11.70 First Homes, launched by the Government in 2021, are a specific kind of discounted market sale housing (and a form of affordable housing) which:

- must be discounted by a minimum of 30% against the market value;
- are sold to a person or persons meeting the First Homes eligibility criteria;
- on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
- after the discount has been applied, the first sale must be at a price no higher than £250,000.

11.71 First Homes are the Government's preferred discounted market tenure and should account for at least 25% of all affordable housing units delivered by developers through planning obligations. In response to this Government initiative, in December 2021 the council published a First Homes Position Statement, explaining how this tenure will be secured in Kirklees. Of particular note, the 25% requirement for First Homes will be expected to form part of the normally-required 45% intermediate element of a development's affordable housing provision.

11.72 Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.

11.73 20% of 62 dwellings is 12.4, therefore 12 affordable units would be required at this application site, in the form of:

- seven social/affordable rent units;
- three First Homes; and
- two other intermediate units.

11.74 The applicant initially proposed no affordable units, arguing that the development's financial viability prevented any such provision. However, in light of the council's consultant's findings (that the development could indeed provide the required 12 affordable housing units), and following further discussion with officers regarding the expectations of the council's Affordable Housing and Housing Mix SPD, the applicant agreed to provide the following:

Affordable Rent:

- 5x 2-bedroom units
- 2x 3-bedroom units

First Homes:

- 1x 1-bedroom units
- 2x 2-bedroom units

Other intermediate:

- 2x 1-bedroom units

11.75 These affordable homes would be provided at plots 8, 9, 10, 11, 12, 13, 34, 35, 36, 60, 61 and 62.

11.76 The proposed affordable housing unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

	Affordable rent SPD expectation	Affordable rent proposed	Intermediate SPD expectation	Intermediate proposed (as First Homes and other intermediate)
1- and 2-bedroom	60+%	71% (five units)	40-79%	100% (five units)
3-bedroom	20-39%	29% (two units)	40-59%	0%
4+-bedroom	0-19%	0%	0-19%	0%

11.77 Crucially, the proposed affordable rent element is SPD-compliant. The proposed intermediate element is not SPD-compliant (in that all units would have one or two bedrooms, and no 3-bedroom units are proposed), however this has not attracted an objection from KC Strategic Housing (officers of the relevant team in fact suggested the affordable housing unit size mix now proposed), and it is not recommended that permission be refused on the grounds that part of the affordable housing offer does not fully meet the expectations of the guidance set out in the SPD.

- 11.78 The proposed locations of the affordable housing units (at the termini of the two branches of the development's estate road, and at the site entrance) are considered acceptable. The development's affordable housing element would be well spread and provided in locations with good levels of amenity, and would not be clustered or isolated in an inferior or distinguishable part of the application site.
- 11.79 The design of the proposed affordable housing would also ensure it would not be visually distinguishable from the development's private element. Of the three house types proposed in the affordable element, two would also be used in the private element. The same materials would be used across the tenures (including at the west end of the application site, where natural stone would be used on private and affordable units at plots 1, 60, 61 and 62), and elevational detailing would be similar across the application site.

#### Highway and transportation issues

- 11.80 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 will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 11.81 Paragraph 114 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

#### *Existing conditions*

- 11.82 Existing highway conditions must be noted. The application site has no existing vehicular access points, other than via a field gate off the track to the north of the application site, adjacent to 275 Cumberworth Lane. The western end of the application site meets Cumberworth Lane, which slopes downhill from north to south, and lacks a footway on the application site side of the road (a footway exists on the opposite side of the carriageway). No parking restrictions apply along this part of the road. The posted speed limit on Cumberworth Lane in the vicinity of the application site is 30mph, which changes to the national speed limit (60mph) approximately 100m to the northwest. Further to the south, Cumberworth Lane bends as it approaches the junction with Wakefield Road. Bus stops exist on either side of the road at this bend.
- 11.83 Regarding public transport accessibility, Denby Dale railway station is a 600m walk (approximately) from the entrance to the proposed application site. Besides the above-mentioned bus stops on Cumberworth Lane (which are served by the D2 and X1 bus routes), bus stops on Wakefield Road are served



by several bus routes. Buses serving these stops provide a combined service frequency of at least three buses per hour to Huddersfield, an hourly service to Holmfirth and Wakefield, and limited services to Barnsley and Penistone.

- 11.84 A public footpath (DEN/61/10) runs along the application site's northern boundary. This forms part of the borough's existing Core Walking and Cycling Network, as defined in the Local Plan.

*Traffic impact and network assessment*

- 11.85 The scope of the submitted Transport Assessment (TA) was agreed between officers and the applicant during pre-application discussions, and is based on current guidance and industry standard methodology.
- 11.86 The TRICS database has been used to determine trip rates, for the AM and PM peak hours of 08:00 - 09:00hrs and 17:00 - 18:00hrs respectively. Traffic growth has been based on TEMPro growth rates with a future design year of 2028. In terms of traffic generation, this equates to 37 and 36 two-way vehicle trips respectively in the AM and PM peak periods (25 AM and 26 PM two-way trips would travel to/from the village centre to the southeast).
- 11.87 Traffic has been distributed on the highway network using origin and destination data from the 2011 Census' method of travel to work data set for the middle super output area (MSOA) in which the site is located. This shows that beyond the site access junction, traffic generated by the development would be less than 30 two-way peak hour vehicle trips in either direction, and the TA concludes that:

*Beyond the site access junction the traffic generated by the site is well within the normal daily fluctuations in traffic flows that could be expected on Cumberworth Lane. The impact of the traffic generated by the site is therefore considered to be negligible at the Cumberworth Lane / A636 Wakefield Road junction. This is further supported by the MCC results for the junction (Appendix D) which show that this is not a busy junction. As such, junction modelling has only been undertaken for the proposed site access junction.*

- 11.88 KC HDM officers generally agree with the above conclusions, and agree that the development is not anticipated to have any significant effect beyond the site access junction. To put this into context, development traffic would represent a maximum increase of 6.7% in vehicular traffic on Cumberworth Lane to the southeast of the access to/from the village centre (26 new vehicle trips compared to 371 existing PCUs in the 2028 PM peak baseline data).
- 11.89 The site access junction has been modelled using the PICADY function within the Junctions 9 software. This assessment demonstrates that the proposed site access junction would operate comfortably within practical capacity in the future design of 2028 and is therefore considered suitable to serve the proposed development.

- 11.90 It is considered that the impact of the traffic generated by the development would have no material or severe impact on the operation or safety of the local highway network.

### *Site access*

- 11.91 Much discussion with the applicant during the life of the application has concerned the design, adequacy and safety of the proposed site access on Cumberworth Lane.
- 11.92 The proposed site access takes the form of a simple priority T-junction, with a minor road carriageway width of 5.5m and 2m wide footways on both sides. 10m radii are proposed at the site access to accommodate the turning movements of the council's design refuse vehicle (11.85m long) to/from the site access, which has been demonstrated on the applicant's swept path drawings.
- 11.93 A 2m wide footway is proposed along the site frontage, which would connect the site access to the private access track that carries public footpath DEN/61/10 to the north of the site. To the south of the site frontage, the proposals include a new 1.5m wide section of footway that would front 1 Chapel Court and would connect to the existing footway network to the south. These footway improvements would provide a direct link to the wider footway network to the south from the development site, and would also provide improved provision for existing pedestrians walking between public footpath DEN/61/10 and the village centre. It is noted that the 1.5m wide section of footway is below the preferred minimum width of 2m, which cannot be provided in this location due to land constraints. However, this width is sufficient to allow two pedestrians to pass and also for guided pedestrians (e.g. parents with children) in accordance with guidance contained in the DfT's Inclusive Mobility document. Dropped crossing points are proposed at the site access junction, and on either side of the junction to assist pedestrians crossing Cumberworth Lane. These would be suitably located where there would be adequate pedestrian/vehicle inter-visibility. The proposed footway improvements at the site access and on Cumberworth Lane are considered acceptable and would provide a welcome improvement for existing and proposed highway users. It is also noted that the new footway would also have consequential benefits to junction visibility for properties accessed from the private track that carries public footpath DEN/61/10 (as the existing retaining wall that blocks visibility will be set back).
- 11.94 Notwithstanding the posted speed limit on this part of Cumberworth Lane, as on-site observations suggested that southbound approach speeds to the proposed site access junction were in excess of 30mph, the applicant provided speed survey data in their Transport Assessment (Appendix D) to determine the required junction visibility splay for approaching southeast-bound traffic. The speed survey was undertaken at a point approximately 100m north of the proposed site access (e.g. at the speed limit change), and identified 85th percentile southeast bound speeds of 34.8mph.
- 11.95 Based on the guidance contained in Manual for Streets Parts 1 & 2 (MfS), and taking into account the recorded approach speeds and gradient of Cumberworth Lane, a 2.4m x 59m visibility splay is required looking northwest from the proposed site access. This has been demonstrated on the proposed site access drawing 2111502-Rev I, with the splay measured to the nearside wheel track in accordance with MfS guidance. Given the proximity of the site access to the Wakefield Road junction and the built-up nature and geometry of the southern end of Cumberworth Lane, vehicles are observed to be

generally travelling within the posted 30mph speed limit in the northbound direction. Accordingly, a visibility splay of 43m commensurate with a 30mph speed limit is considered appropriate to the southeast of the site access, which has again been demonstrated on the proposed site access drawing.

- 11.96 Local residents have raised concerns regarding the proposed site entrance junction visibility and have suggested that the guidance in MfS should not be applied in this situation, and instead that guidance from the Design Manual for Roads and Bridges should be applied to Cumberworth Lane. However, Section 1 and 10 of MfS (Part 2) states that stopping sight distances (SSD) for roads where speeds are below 37mph (60kph) should apply the MfS guidance. Further guidance on this matter is also provided in the Kirklees Highway Design Guide SPD, which states: "For routes that carry over 10,000 vehicles per day and/or have vehicle speeds greater than 37mph, the visibility guidelines within the Design Manual for Roads and Bridges (DMRB) should be followed". As the recorded speeds are below 37mph and the two-way flow of traffic on Cumberworth Lane is well below 10,000 vehicles per day (based on the traffic data contained at Appendix D of the TA, the average weekday two-way flow was recorded at 3,507 vehicle per day), it is clear that the MfS guidance is applicable in this situation.
- 11.97 As vehicles speeds above 30mph have been recorded to the northwest of the site access at the entrance to the 30mph speed limit, the applicant has agreed to provide improved speed limit terminal signage on yellow backing boards on both sides of the carriageway (on offset brackets on the east side to avoid carriageway overhang), together with a 30mph speed limit roundel road marking on the carriageway, to highlight the speed limit change and encourage better compliance with the speed limit. These works would be implemented as part of the site access proposals, and it is recommended that they be secured by planning condition.
- 11.98 Local residents have also raised concerns about the narrow carriageway width on Cumberworth Lane within the vicinity of the proposed site access, suggesting that it is not wide enough to allow vehicles to pass. KC HDM officers have noted that the running carriageway width is circa 5.5m within the vicinity of the site access. As confirmed in MfS, this width is sufficient to allow two vehicles to pass, including HGVs passing light vehicles (cars/vans) or cyclists. Therefore, as the proposals maintain the running carriageway width of 5.5m past the site access, the development would not impact on passing traffic at the site access, and as previously mentioned, swept path analysis has been provided to confirm that the council's design refuse vehicle (the largest fleet vehicle) can safely turn to/from the access.
- 11.99 The proposed site access, footway and signing/road marking proposals on Cumberworth Lane have been subject to a Stage 1 Road Safety Audit. This did not raise any significant issues that cannot be addressed at the detailed design stage. The only issue of note that was raised was the location of one of the dropped pedestrian crossing points on Cumberworth Lane that has now been relocated to ensure that adequate pedestrian/vehicle inter-visibility would be provided.
- 11.100 In light of the above, the site access proposals and associated works on Cumberworth Lane are considered acceptable, and would provide an improvement over the current arrangements.

### *Road safety*

- 11.101 A review of personal injury collisions for the preceding five-year period, (January 2017 to December 2021) has been undertaken in the applicant's Transport Assessment, the findings of which indicate that there have been no collisions resulting in injury in the vicinity of the site access on Cumberworth Lane. The TA concludes that:

*This shows that in the study period, there have been no collisions resulting in injury in the vicinity of the site frontage on Cumberworth Lane or at the [Cumberworth Lane / A636 Wakefield Road junction]. It is therefore considered there are no safety concerns nor any problematic safety trends on this section of the local highway network in the vicinity of the proposed development.*

- 11.102 KC HDM officers generally agree with the above finding. It is also noted that some local objections have suggested that the Crashmap data included in the TA is incorrect, as there have been other incidents in the area that have not been identified. This is likely to be due to the collision data only including reported incidents that resulted in person injury, as these are the only incidents that are recorded in the DfT data used in Crashmap. As such, KC HDM officers have reviewed the more detailed personal injury collision data available to the council, which confirms that there have been no reported personal injury collisions on Cumberworth Lane within the vicinity of the site or its junction with Wakefield Road within the last five years of available data (noting that there is a time lag on the available data, so it may not include any very recent incidents).

### *Public rights of way*

- 11.103 The proposed new footway along the Cumberworth Lane application site frontage would connect to public footpath DEN/61/10, which runs along the northwest boundary of the site from Cumberworth Lane to Leak Hall Lane. This connects to public footpath DEN/61/20, which continues in a northeasterly direction to Gilthwaites Lane, where Denby Dale First School is located. The existing public footpath network offers a dedicated and virtually traffic-free route between the application site and the local school providing the potential for future residents to undertake journeys on foot. The internal site layout provides two new pedestrian links to DEN/61/10. In response to previous comments from KC HDM officers, the applicant has improved the alignment of the proposed new footpath link in the northern corner of the site. This link would connect the estate road to DEN/61/10 via a 2m wide footpath, with a maximum gradient of 1:20.
- 11.104 The new footpath connections to public footpath DEN/61/10 would be a benefit to the proposed development and to existing and future users of the public footpath, and are welcomed. As noted earlier in this report, movement through the application site would be enabled despite the final (northernmost) parcel of the allocated site HS144 not being included in the proposed development, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application. These aspects of the proposed development would help it to integrate with its surroundings, enabling sustainable and active travel. Final details of the footpath links (including drainage, construction specification and surfacing) and their delivery would need to be secured by condition, with public access rights secured via a Section 106 obligation.

### *Site layout*

- 11.105 The proposed site layout comprises a combination of traditional estate roads with footways on both sides, shared surface streets with hard margins and private drives. The overall layout takes the form of a series of cul-de-sacs terminating in service vehicle turning heads.
- 11.106 In response to previous comments provided by KC HDM officers, the site layout has been amended, it is now acceptable in principle, and it is considered to be suitable for adoption (subject to Section 38 team approval at the detailed design stage). The site layout has also been subject to a Stage 1 Road Safety Audit that has not raised any significant issues that cannot be addressed at the detailed design stage.
- 11.107 All junction and forward visibility requirements have been met. These are proposed to be contained within the adoptable highway extents. This includes adequate forward visibility at the bend adjacent to the TPO-protected tree in the northern corner of the site, which is to be protected with a highway verge and marker posts, rather than a footway or hard margin to minimise impact on the tree's root protection area. The site access and internal streets would all have gradients less than 1:20. This includes at the site access junction with Cumberworth Lane, which would have an initial gradient of 1:25 for the first 10m. Therefore, it has been demonstrated that suitable gradients can be provided, in accordance with local guidance.
- 11.108 The site layout proposals are considered acceptable, with final details secured by condition. Officers are satisfied that the council's fifth reason for refusal (under previous application ref: 2022/91911) has been sufficiently addressed.

### *Servicing*

- 11.109 The applicant has provided a full package of swept path analysis to confirm that the council's design refuse vehicle would be able to turn and circulate within the site. To achieve this, localised carriageway widening has been incorporated at bends to ensure that the refuse vehicle could pass parked cars. The comments of KC Waste Strategy (regarding looped layouts, and advising that the council's refuse collection vehicles currently reverse the length of both Leak Hall Lane and Leak Hall Crescent to undertake collections due to insufficient turning heads in those highways) are noted, however it is accepted that a looped layout is not possible at this site, and development at the application site does not provide an opportunity to remedy the existing problems experienced on Leak Hall Lane and Leak Hall Crescent.
- 11.110 Bin presentation points have been identified on the applicant's drawings, to confirm that bins can be presented adjacent to the highway on collection day, without causing obstructions.

### *Parking*

- 11.111 Parking provision across the site must reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership. The council has not set prescriptive parking standards for residential development. However, it is expected that development will provide parking in line with the recommended levels set in

the council's Highway Design Guide SPD, which requires two spaces for 2- and 3-bedroom dwellings, and three spaces for 4-bedroom (or larger) dwellings. Should garages be proposed, they must have an internal dimension of 3m x 6m to be taken into account as available off-street parking.

- 11.112 KC HDM officers previously raised concerns that some of the 4-bedroom dwellings were only proposed to have two parking spaces, and that some of car parking spaces were of insufficient length to accommodate large cars. The layout has therefore been amended to ensure that all car parking spaces are of an adequate size, and for all of the 4-bedroom dwellings that would only have two off-street parking spaces (this applies to 15 of the 23 4-bedroom dwellings), these do not include garages spaces (as these are often not used). For the remaining dwellings, the proposed off-street car parking provision is in accordance with the council's Highway Design Guide SPD recommendations, including suitably-sized garages (proposed for the remaining eight 4-bedroom dwellings).
- 11.113 16 visitor parking spaces have been shown within the proposed adoptable highway, in the form of dedicated laybys and other informal locations that do not block drives, bends or turning heads. This provision is considered to be adequate and is in accordance with the council's Highway Design Guide SPD, which recommends one visitor space per four dwellings.
- 11.114 Sufficient spaces are proposed to reduce the risk of new residents parking on nearby streets or in other inappropriate locations. Where possible, unbroken rows of parking spaces have been avoided, for visual amenity reasons.
- 11.115 Cycle parking is proposed for all dwellings in cycle sheds within secure garden areas that are accessible via external routes. These proposals are acceptable in principle, with the final details to be secured by a recommended planning condition, which would require secure cycle parking that can accommodate a range of cycle types to ensure that it is inclusive.

#### *Sustainable transport*

- 11.116 It is recommended that a Sustainable Travel Fund contribution of £49,335.88 be secured via the necessary Section 106 agreement. Although the calculation of this sum is based on 62 units multiplied by the cost of a bus-only MCard, the contribution would be secured flexibly, so that it could be put towards a range of measures intended to encourage the use of sustainable modes of transport.

#### *Travel planning*

- 11.117 Comprehensive and effective travel planning is required in connection with the proposed development, in compliance with Local Plan policies LP20 and LP51. As the development involves the provision of over 50 dwellings, a Travel Plan is required.
- 11.118 A Framework Travel Plan has been submitted with the planning application, which would need to be developed further prior to occupation, and would need to include reference to the Sustainable Travel Fund and associated measures to be agreed. As such, it is recommended that the details of the final Travel Plan be secured via the required Section 106 agreement, and that the Travel Plan be implemented upon first occupation. It is noted that the baseline Travel Plan Target should be to reduce single occupancy car trips by 10%, rather than 5% as suggested in the current Framework Travel Plan.

11.119 A Travel Plan Monitoring Fee would need to be secured as part of the Section 106 agreement. For a development of this scale (classed as a “small scale major residential development”) the fee would be £10,000.00 (£2,000 per year for five years).

#### *Construction management*

11.120 As well as for residential amenity and environmental health reasons, management plans relating to the proposed groundworks and the construction phase would be required in connection with highway considerations. These would need to secure the provision of wheel washing facilities, among other measures.

11.121 A further condition requiring highway condition surveys (carried out before after construction, and including public footpath DEN/61/10) is recommended.

11.122 Limited details were provided in relation to construction access, although the applicant had referred to the potential removal of material from the application site (approximately 4,150 cubic metres to be extracted over eight weeks, which would equates to around 10 loads per day based on 5.5 working days per week and 10 cubic metre loads). This information has recently been updated, and there have also been discussions with the applicant regarding HGV routing. For this element of the development process, it has been indicated that this would take place via the new access on to Cumberworth Lane. Therefore, further details of the construction access arrangements would need to be provided as part of the CMP. This would need to include adequate junction visibility and geometry (to be confirmed by swept path analysis), and measures to ensure the safety of pedestrians walking past the site access (the new footway would need to be provided along the site frontage, at least in a temporary form).

11.123 Local residents have expressed concern that construction access may take place via the private track that carries public footpath DEN/61/10 along the application site’s northwest boundary. However, this would not be acceptable, and construction access would only be acceptable via a suitably-constructed construction access on to Cumberworth Lane. An appropriate condition related to this is recommended.

#### Flood risk and drainage issues

11.124 In relation to flood risk and drainage, the requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, must be addressed. Drainage and flood risk (including provisions for flood routing) should be a key influence on any layout proposed for the application site.

11.125 The allocated site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site’s northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.

11.126 The application site is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy is required. These have been submitted.

- 11.127 It is accepted that surface water cannot be disposed of via soakaways at this site. The proposed surface water drainage system incorporates on-site attenuation in the form of an underground tank at the east end of the application site. Surface water run-off leaving the application site would be restricted to a run-off rate of 5 litres per second before it reaches the east corner of the application site and flows into the existing watercourse that runs along the application site's northeast boundary. The proposed surface water drainage strategy accounts for predicted rainfall events including an appropriate allowance for climate change. The applicant proposes to offer the development's main drainage to Yorkshire Water for adoption.
- 11.128 Flood routing (i.e., surface water flow during exceedance events) has been considered by the applicant. Water would be routed along internal roads to either Cumberworth Lane or towards the proposed attenuation basin and the east corner of the application site.
- 11.129 The applicant proposes to dispose of foul water via the public sewer in Leak Hall Crescent and an existing connection through the neighbouring residential development. The applicant intends to offer the main foul drainage system for adoption by Yorkshire Water.
- 11.130 The Lead Local Flood Authority (the LLFA) support the application, confirming that the proposed connection to watercourse can now be sanctioned as downstream improvements have been carried out. The LLFA have recommended conditions and Section 106 obligations relating to drainage, and these are included in the case officer's recommendation.
- 11.131 Yorkshire Water have not objected to the proposals.
- 11.132 A condition is recommended regarding temporary drainage during the construction phase.

#### Environmental health considerations

- 11.133 The application site is not within an Air Quality Management Area (AQMA) and is not near to roads of concern in relation to air quality. KC Environmental Health have advised that the proposed development does not require an emissions damage cost calculation. Officers in that team have accepted the applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, and these are predicted to be below the national air quality objectives. The applicant's air quality methodology is considered by KC Environmental Health to be acceptable, and no further mitigation measures are required for this development.
- 11.134 For air quality reasons, a condition requiring the provision of electric vehicle charging points for all dwellings is recommended. This condition would require the charging points to be made operational and to be retained thereafter (and, therefore, goes further than the relevant current requirements of the Building Regulations).
- 11.135 Regarding dust, KC Environmental Health have advised that the proposed development does not require a construction dust risk assessment. An adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. An appropriate condition is therefore recommended.



- 11.136 Regarding noise during the remediation and construction phase, works would be restricted to appropriate hours, and the applicant's proposed construction methodology (to the extent it has been detailed to date) is considered acceptable, however temporary acoustic screens would be required.
- 11.137 Cumberworth Lane is a source of traffic noise, and the applicant's acoustic consultant advised that acoustic screening would be required to protect residents of the nearest new dwellings (at the west end of the application site) from that noise. KC Environmental Health subsequently supported the erection of acoustic screening. However, it is considered that such screening would be visually harmful (at a location close to the site entrance), and in any case the applicant has more recently stated that – since those dwellings were moved away from west end of the site – no such screening is in fact required. A condition requiring the erection of such screening is therefore not recommended. Other dwellings within the proposed development are not considered to be at risk of amenity harm in relation to noise.
- 11.138 Notwithstanding the above commentary regarding dust and noise, it is noted that many residents remain concerned regarding the amenity impacts of the proposed site remediation, particularly in relation to the potential removal of approximately 4,150 cubic metres (pre-update figure) of material from the application site. These concerns are understandable.
- 11.139 To address these concerns, conditions are recommended requiring the submission of management plans for both the extraction and construction phases of development. Both plans would need to specify hours of working, and control noise and vibration, dust and artificial lighting to minimise impacts upon neighbouring residents.

#### Site contamination and stability

- 11.140 The application site is affected by previous coal mining activities. The applicant's Phase 2 Geo-Environmental Report details intrusive investigations carried out via boreholes at the application site, and describes ground conditions. Three areas of coal were discovered at the application site, together with related voided strata. These seams and voids range from 0.4m to 2.5m in thickness. The applicant has stated that these areas pose a risk to stability as there is insufficient thickness of competent rock cover above the workings to mitigate the risk of instability impacting the surface. Three mine entries also exist at the application site – one towards the southwestern corner of the site (where plot 58 is now proposed), and two towards the application site's northeastern boundary.
- 11.141 There is one closed landfill site within 250m of the application site.
- 11.142 Paragraph 189 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination (this includes risks arising from former activities such as mining). Paragraph 190 states that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

11.143 Local Plan Policy LP53 states that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that would potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.

11.144 To stabilise the application site, the applicant proposes the following:

- A drill and grout operation which would consist of drilling approximately 300 primary holes and 250 secondary holes which would then be injected with a grout mix to fill and strengthen the voids beneath the site.
- For the three mine entries within the application site, grouting (as described above) and capping with reinforced concrete that is twice the diameter of the entry.
- At the centre of the site, where ground levels would be lowered by up to 2.5m, excavation may be carried out to remove existing mineworkings or seams in full. The need for such excavation would be determined by final levels. Should such excavation be deemed necessary by the applicant, an extraction volume of approximately 4,150 cubic metres was anticipated (this has recently been revised to 4,400 cubic metres by the applicant). However, where this excavation is deemed impractical, the applicant proposes grouting as described above.

11.145 Further detail regarding these works is set out under section 4.0 of this committee report.

11.146 Of note, the above represents a reduced level of intervention in relation to ground works. Under the previous application (ref: 2022/91911), extensive excavation and backfill was proposed – the previous committee report noted that the applicant's submission referred to the extraction of 12,000 tonnes of coal (although in the most recent Planning Statement the applicant has said that 6,000 tonnes were to be extracted).

11.147 The ground works now proposed, including the potential extraction of approximately 4,150 or 4,400 cubic metres of material, are not unusual for a development of this size and nature, at a sloped site where there are existing voids and seams near to the proposed surface level, and where sub-surface space needs to be created for surface water attenuation. As noted in the comments of KC Environmental Health, coal remaining close to the surface of a development site is at risk of combustion, and its removal and covering with inert material may be necessary. At the volume suggested by the applicant, the potential extraction can be regarded as incidental to the residential development of the application site (accordingly, the applicant considers the material to be waste rather than a resource), and the development description did not need to refer to extraction. However, for sustainability and amenity reasons, the extraction of material from the application site should be minimised as far as is possible. It is also noted that the applicant previously

stated that it was not yet certain exactly how much – if any – material would be extracted. A condition is therefore recommended, requiring the submission of detailed information quantifying any such extraction, demonstrating the need for it (as opposed to re-use on site), explaining how it has been minimised, and explaining how its impacts would be mitigated.

- 11.148 The Coal Authority noted that the proposed grouting could be secured by condition. They additionally stated that one of the site's three mine entries (shaft 422408-015, located in front of where unit 39 to 42 are now proposed) would be remote from any built development and owing to past excavations is likely to have been removed in its entirety, therefore risks related to it would be low and do not warrant any further intervention.
- 11.149 However, in relation to the site's other two mine entries (422408-002 to the rear of where unit 58 is now proposed and 422408-016 towards the east end of the site where open space is now proposed), the Coal Authority raised concerns, noting that both require capping at rock head and grouting, and that the applicant's submission suggests that the proposed dwellings would avoid the entries, but not their zones of influence. Whilst the Coal Authority accepted that the remedial strategy proposed would effectively nullify the zones of influence, they were unclear as to how the mine entries, together with their treatments (i.e. the caps) would sit within the context of the development. Noting that building over the caps would be contrary to the Coal Authority's adopted policy, they requested amended information confirming the locations of the mine entries (and their treatments) in relation to the proposed development.
- 11.150 The applicant subsequently submitted drawings providing the requested information. This was forwarded to the Coal Authority by officers, and in response to the council's reconsultation, the Coal Authority withdrew their objection subject to recommended conditions being applied. It is considered that the submitted information adequately illustrates that built development is not proposed within the zones of influence of the site's mine entries.
- 11.151 It is recommended that other conditions relating to the remediation of the site's coal mining legacy be applied in accordance with the forthcoming further comments of the Coal Authority. Subject to appropriate details being submitted pursuant to these conditions, it is considered that the applicant's proposals would satisfactorily stabilise the site (in accordance with the NPPF and the Local Plan), rendering it able to accommodate residential development.
- 11.152 Regarding site contamination, KC Environmental Health have advised that the applicant's findings (including in relation to ground gas) are accepted, although further gas monitoring is required. Of note, KC Environmental Health have advised that all remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. The site contamination conditions listed in KC Environmental Health's comments are included in the list of recommended conditions.

#### Ecological considerations

- 11.153 The application site is undeveloped, grassed agricultural land, and slopes downhill from north to south. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent).

- 11.154 As noted above, the Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site.
- 11.155 The applicant's Ecological Impact Assessment found that habitats within the application site were of varying ecological value. The majority of the site's grassland was assessed by the applicant to be modified grassland of low distinctiveness. A small area of other neutral grassland was present to the east of site which supports greater species diversity. Scrub habitats and trees on site were found to be of value to local wildlife including breeding birds, invertebrates and mammals such as bats and hedgehog. Sections of hedgerow remaining on site comprise native species and were found by the applicant to be representative of UKBAP priority habitat (where identified to be over 20m in length). One hedgerow (H1) has the potential to meet the ecological criteria for importance under the Hedgerow Regulations 1997, qualifying as species-rich. Ground flora was found to be dominated by coarse grass species and ruderal vegetation including undesirable species such as thistles and nettles. The plant communities at the site were found to be of widespread occurrence and characteristic of the habitats present in the wider area and common nationally. No rare or locally uncommon plant species or invasive species as listed under the Wildlife and Countryside Act 1981 (as amended) were detected by the applicant at the site. The Spanish bluebell hybrid (regarded as a non-native invasive species) was recorded to the northern boundary of site. Bird species observed by the applicant during a site walkover included greenfinch, house sparrow, woodpigeon, starling, wren, dunnock, swift and kestrel, as well as several species that are not of conservation concern.
- 11.156 Several local residents have stated that other species are present at the application site, including deer, toads and owls.
- 11.157 A condition requiring on-site biodiversity enhancements is recommended.
- 11.158 A 10% net biodiversity gain should be demonstrated in accordance with chapter 15 of the NPPF, Local Plan policy LP30, and the council's Biodiversity Net Gain Technical Advice Note. Achieving biodiversity net gain within an application site is the preferred option. If this cannot be achieved within an application site (i.e., where it can be demonstrated that on-site compensation methods have been exhausted), applicants are required to secure off-site compensation. In those situations, as set out in the council's Biodiversity Net Gain Technical Advice Note (paragraph 3.4.1 onwards), applicants will need to demonstrate that sufficient off-site habitat creation or enhancement has been secured to achieve a minimum 10% biodiversity net gain. Off-site compensation can be secured through one, or a combination, of the following:
- Management of land within the control of the developer;
  - Purchase of the required compensation value from a habitat bank;
  - Payment of a commuted sum to the Local Planning Authority; or
  - A combination of all or some of the above.

- 11.159 In accordance with the council's Technical Advice Note, applicants are encouraged firstly to source and bring forward appropriate sites on which their biodiversity offsetting can occur. These should be reasonably close to the development site and have the potential to establish or enhance in-kind habitats to those due to be lost. For applications submitted prior to biodiversity net gain becoming mandatory (on 12/02/2024), if an applicant is unable to secure a site where adequate biodiversity offsetting can occur then a financial payment to the council, for use to enhance biodiversity on council-managed land, will be required.
- 11.160 Taking into account site constraints and other demands on space, officers are satisfied that on-site compensation methods have been exhausted. The applicant does not control any further land within the vicinity of the application site where further provision would be deliverable.
- 11.161 The applicant has submitted a biodiversity metric calculation. This sets out the application site's existing values (i.e., its baseline), as well as the site's post-development values, and the changes (in units and percentages), as follows:

Unit type	Existing (baseline)	Proposed (post-development)	Change in units	Percentage change
Habitat	14.35	9.36	-4.99	-34.75%
Hedgerow	1.14	1.91	+0.77	+66.95%
River	0.14	0.24	+0.1	+68.27%

- 11.162 Although it is noted that the site's hedgerow and river unit baselines are low, the respective 66.95% and 68.27% increases (which would be achieved on-site) are nonetheless welcomed. A condition securing the delivery of these gains is recommended.
- 11.163 Regarding the development's impact upon habitat units, in order to compensate for the 34.75% loss, and to achieve a 10% gain, 6.425 habitat units would need to be provided off-site. This can be achieved via a financial contribution of £147,775 (based on a £20,000-per-unit cost, and a 15% administration fee). It is recommended that this be secured via a Section 106 agreement.
- 11.164 Subject to the biodiversity net gain contribution being secured, and conditions being applied in relation to ecological mitigation and landscaping, it is considered that the proposed development is acceptable in terms of its ecological impact.

### Trees

- 11.165 Local Plan policy LP33 is relevant. Tree Preservation Order TPO 17/21/t1 protects an oak tree within the application site. An area of open space is proposed around this tree, and the nearest new dwelling would be unit 39. The applicant's drawings note that earth has been piled up against this tree. Excess soil will need to be removed, and the applicant has stated that compaction damage within the tree's root protection area would be remediated.

- 11.166 Regarding the development proposed around the tree, the applicant proposes a root protection barrier as part of the creation of the new estate road adjacent to the tree. KC Trees have advised that a “no dig” cellular confinement system will need to be shown on plans and implemented. KC Trees have also expressed concern regarding the location of unit 39 in relation to the tree, and the potential pressure to prune that may follow. However, officers note that the council would have control over an application to carry out any such pruning.
- 11.167 The applicant has submitted Arboricultural Method Statement and Tree Protection Plan, however a condition is recommended requiring the submission of final (amended) versions of these documents.
- 11.168 As noted earlier in this report, in light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

#### Open space

- 11.169 Three areas of publicly-accessible open space are proposed on-site in appropriate locations (namely, around the TPO-protected tree, above the development’s attenuation tank (where buildings cannot be erected), and either side of the site proposed entrance). Other, smaller spaces have also been annotated as “POS” in the applicant’s drawings.
- 11.170 Limited information has been submitted regarding the purpose, character, equipment and soft landscaping of the on-site open spaces. Therefore, only a basic assessment of the proposals against the council’s Open Space SPD is possible at this stage. Open space of various typologies, and a Locally Equipped Area for Play (LEAP), would be required of a residential development of this scale. Until further details of the proposed open spaces are provided, and given that some areas (such as the green space between units 14 and 29) shouldn’t be counted towards on-site provision at this stage, a contribution of £120,055 towards off-site open space would be required. This has been calculated in accordance with Local Plan policy LP63, and the methodology set out in the adopted Open Space SPD, and takes into account deficiencies in the Denby Dale ward. Members should be aware, however, that – should the applicant provide further information that would enable more of the proposed open space to be counted towards on-site provision, and/or would clarify that the proposed open space would indeed be of specific typologies – this contribution could be significantly reduced.
- 11.171 Similarly, if acceptable details of an on-site LEAP were to be provided, this element of the contribution would no longer be required. If, however, a contribution towards off-site provision is to be collected, it is noted that four existing play spaces are within 720m of (and a 15 minute walk from) the application site – the children and young people’s element of the open space contribution could be spent in those locations, subject to local consultation (including with Members).

11.172 It is recommended that further details of the on-site open space (and the final contribution, as well as an inspection fee of £250) be secured via the necessary Section 106 agreement. Details of the management and maintenance of these spaces would also be secured via the Section 106 agreement.

#### Other planning considerations

11.173 Regarding archaeology, the applicant has submitted an Archaeological Desktop Assessment. The West Yorkshire Archaeology Advisory Service (WYAAS) have noted that the northern part of the application site coincides with part of the presumed extent of a medieval settlement located to the south of Leak Hall. Earthworks identified here were considered to be evidence of medieval buildings and ploughing. This evidence was located in a sub-square field to the south of Leak Hall which is bisected by a trackway.

11.174 WYAAS have further noted that the condition of these archaeological earthworks has been reassessed more recently (in 2012 and 2022). On both occasions the earthworks were not visible due to scrubby growth. The south-western part of the area of interest had been obscured and possibly destroyed by spoil and vehicle movements associated with the construction of new dwellings off Leak Hall Road in the recent past. WYAAS have noted the difficulty of carrying out predetermination geophysical surveys due to the present ground conditions. Geotechnical assessment has identified evidence of coal mining within the site, and this activity is likely to have damaged any evidence of earlier activity.

11.175 WYAAS have recommended a condition be applied, securing a programme of archaeological recording. This may include strip and record excavation, excavation of archaeological trial trenches, and observation of geotechnical and other ground reduction works.

11.176 It is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted 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. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

11.177 The impact of proposed developments upon the values of existing nearby properties is not a material planning consideration.

11.178 A resident has stated that the application site is the only location in Denby Dale where an air ambulance (helicopter) could land in an emergency. However, officers note that the site is not protected for this purpose via any current planning policies, and alternative landing sites appear to be available in Denby Dale.

## Planning obligations and financial viability

11.179 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement:

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £250.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £49,335.88 contribution towards sustainable travel measures; ii) implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate road and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Contribution of £147,775 towards off-site measures to achieve biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

11.180 All contributions are to be index-linked.

11.181 Regarding the development's financial viability, the applicant submitted information in support of a claim that the development could not provide any affordable housing or Section 106 contributions. Aspinall Verdi were commissioned by the council to review the applicant's information. While many of the inputs and assumptions used by the applicant in their calculations were found to be reasonable, there was disagreement regarding some matters (particularly in relation to land value, where the applicant do not follow the "Existing Use Value plus premium" approach stipulated by the Government). Aspinall Verdi consequently concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

11.182 On 19/01/2021, in light of the Government's announcement that it will abolish CIL and replace it with a nationally-set infrastructure levy, Cabinet agreed to not adopt the CIL Charging Schedule in Kirklees at this stage.

## Conditions

11.183 Full wording of conditions are not normally set out in committee reports, however in response to Members' request (made at the Strategic Planning Committee meeting of 16/05/2024), a draft list of conditions is appended to this committee report.



- 11.184 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.
- 11.185 Other conditions are standard, and/or are explained earlier in this report.
- 11.186 The applicant's confirmation that all pre-commencement conditions are agreed is awaited.
- 11.187 It is recommended that authority to amend and add to this draft conditions list be delegated to the Head of Planning and Development.

## **12.0 CONCLUSION**

- 12.1 The majority of the application site is allocated for residential development under site allocation HS144, and the principle of residential development at this site is considered acceptable.
- 12.2 The applicant has satisfactorily addressed the concerns set out in the previous reasons for refusal (ref: 2022/91911), and concerns raised during the life of this application.
- 12.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations, heritage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.
- 12.4 Given the above assessment and having particular regard to the 62 homes (including 12 affordable homes) that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

## **13.0 CONDITIONS**

- 13.1 The following conditions are recommended (subject to authority to amend and add to this list being delegated to the Head of Planning and Development):

1. The development hereby permitted shall be begun within three years of the date of this permission.

**Reason:** Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and in the interests of visual amenity, residential amenity and other matters relevant to planning and to accord with the Kirklees Local Plan and the National Planning Policy Framework.

3. Prior to the commencement of development (including ground works), a Groundworks Management Plan (GMP) shall be submitted to and approved in writing by the Local Planning Authority. The GMP shall relate to the excavation, extraction, levelling and grouting works associated with the development hereby approved, and shall include the following details:

- Justification for all extraction, and details of how extraction has been minimised and how material would be re-used on site as far as is possible;
- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for works traffic (as stipulated by condition 7);
- Confirmation that no works traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Works vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during works;
- Mitigation of noise and vibration arising from all works, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all works and security of the site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction or other works be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the GMP so approved throughout the period of works and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided, and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

4. Prior to the commencement of development (including ground works), a Construction (Environmental) Management Plan (C(E)MP) shall be submitted to and approved in writing by the Local Planning Authority. The C(E)MP shall relate to the construction phase of the development hereby approved, and shall include the following details:

- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for construction traffic (as stipulated by condition 7);
- Confirmation that no construction traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Construction vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for construction workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during construction;
- Site waste management, including details of recycling/disposing of waste resulting from construction works;
- Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all construction-related activities and security of the construction site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

The development shall be carried out strictly in accordance with the C(E)MP so approved throughout the period of construction and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure the highway is not obstructed, in the interests of highway safety, to ensure harm to biodiversity is avoided,

and to accord with Policies LP21, LP24, LP30 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity and biodiversity impacts are devised and agreed at an appropriate stage of the development process.

5. Prior to the commencement of the development (including ground works), a survey (including photographic evidence) of the existing condition of the highway on Cumberworth Lane and Wakefield Road, and of public footpath DEN/61/10 (the extent of highway to be surveyed to be agreed in writing by the Local Planning Authority in advance) shall be carried out jointly with the Local Highway Authority and submitted to and approved in writing by the Local Planning Authority. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining. The submission made pursuant to this condition shall also include a timetable of works and a commitment (with responsibilities assigned to named parties) to undertake remedial works (the details of which shall be submitted to and approved in writing by the Local Planning Authority) to maintain the highway during the entirety of the works and activities referred to in conditions 3 and 4 to the condition documented in the pre-commencement highway condition survey. The final highway remediation works so approved shall be completed prior to the occupation of the 52<sup>nd</sup> dwelling.

**Reason:** In the interests of highway safety, to ensure the effective maintenance of the highway and to accord with Policy LP21 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure highways surrounding the site are appropriately surveyed prior to works commencing, and to ensure responsibility for remedial works can be fairly assigned with reference to evidence.

6. Prior to the commencement of development (including vegetation clearance and ground works) a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following.

- Risk assessment of potentially damaging construction activities that refers to the most up-to-date site-specific survey information and specifically to nesting birds, badgers and invasive plant species;
- Identification of “biodiversity protection zones” where appropriate;
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (these may be provided as a set of method statements);
- The location and timing of sensitive works to avoid harm to biodiversity features;
- The times during construction when specialist ecologists need to be present on site to oversee works where appropriate;
- Responsible persons and lines of communication; and
- Use of protective fences, exclusion barriers and warning signs, where appropriate.

The approved CEMP: Biodiversity shall be implemented and adhered to throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

**Reason.** To protect biodiversity during construction by avoiding impacts to protected species and preventing the spread of non-native plants, and to accord with Policy LP30 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to prevent or minimise biodiversity impacts are devised and agreed at an appropriate stage of the development process.

7. Prior to the commencement of development (including ground works), a vehicular access into the site shall be created at Cumberworth Lane for use by works and construction traffic. Prior to being brought into use, visibility splays at this access shall be cleared of vegetation and boundary treatments and visibility splays shall be kept clear of all obstructions to visibility above 0.6m measured from the ground thereafter. This access shall be used by works and construction traffic for the duration of the works referred to in conditions 3 and 4, and no other access to or egress from the site for works or construction traffic shall be provided, enabled or used unless approved in writing by the Local Planning Authority.

**Reason:** In the interests of amenity, to ensure adequate intervisibility is provided and maintained, to ensure the highway is not obstructed, in the interests of highway safety, and to accord with Policies LP21, LP24 and LP52 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid obstruction to the wider highway network, to avoid increased risks to highway safety, and to prevent or minimise amenity impacts are devised and agreed at an appropriate stage of the development process, and to ensure that adequate visibility is provided to enable works vehicles to enter and exit the site.

8. Prior to the commencement of development (including ground works) a scheme detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- Detail phasing of the development and phasing of temporary drainage provision;
- Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and details of how flooding of adjacent land would be prevented; and
- Include methods of preventing contamination of watercourses once the new drainage has been installed.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To ensure the risk of flooding does not increase during the construction phase, to limit the siltation of any on- or off-site surface water features, and to accord with Policy LP27 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure measures to avoid increased flood risk are devised and agreed at an appropriate stage of the development process.

9. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become

occupied prior to the completion of the development, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of those residential units. The temporary arrangements so approved shall be implemented prior to the first occupation of those residential units, and shall be so retained thereafter for the duration of the construction works unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure satisfactory arrangements are implemented in relation to waste during the works referred to in conditions 3 and 4, in the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

10. Prior to the commencement of development (including ground works), a written scheme of archaeological investigation (WSI) shall be submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include:

- A statement of significance and research objectives;
- A programme and methodology of site investigation and recording and the nomination of (a) competent person(s) or organisation to undertake the agreed works; and
- A programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure buried heritage assets are appropriately recorded and protected and to accord with policy LP35 of the Kirklees Local Plan and chapter 16 of the National Planning Policy Framework.

This pre-commencement condition is necessary as intrusive works on site have the potential to damage or disturb buried heritage assets.

11. Means of access to, from and within the site shall be consistent with the principles illustrated in the drawings hereby approved and shall be provided prior to first occupation of the development and thereafter retained and maintained for the lifetime of the development.

**Reason:** To ensure suitable access is provided, in the interests of highway safety and amenity, to achieve a satisfactory layout, and to accord with Policies LP20, LP21, LP24 and LP67 of the Kirklees Local Plan and the National Planning Policy Framework.

12. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the proposed pedestrian connections between the development's internal roads and public footpath DEN/61/10 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of gradients, any steps, surface treatments (and subsurface build-up), any handrails, any boundary treatments and safety measures. No dwellings on the part of the internal road from which the relevant connection would be made shall be brought into use until that connection has been completed in accordance with the approved plans and details or unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of creating a walkable and well-connected neighbourhood, encouraging and enabling active travel and the use of sustainable modes of transport, and to achieve a satisfactory layout in accordance with Policies LP20, LP21 and LP47 of the Kirklees Local Plan.

13. Prior to the first occupation of any specified dwelling hereby approved, details of secure, covered and conveniently-located cycle parking for use by residents of that dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details so approved and the cycle parking shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and encouraging the use of sustainable transport modes, and to accord with policies LP20, LP21, LP22 and LP24 of the Kirklees Local Plan.

14. Prior to development commencing on the superstructure of any dwelling hereby approved, a scheme detailing the dedicated facilities to be provided for charging electric vehicles and other ultra-low emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) for each residential unit that has a dedicated parking space; and
- One Standard Electric Vehicle Charging Point (of a minimum output of 16A/3.5kW) for every 10 unallocated residential parking spaces.

Dwellings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. The charging points installed shall be retained thereafter.

**Reason:** To ensure residents of the development are encouraged to use lower-carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

15. Prior to the commencement of superstructure works, details of storage and access for collection of wastes from the residential units hereby approved, and details of management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority. The details shall confirm that waste collection points shall not obstruct access to private driveways, and shall include details of management measures (including measures to control odour and vermin) and measures to discourage flytipping. The works and arrangements comprising the approved details shall be implemented prior to first occupation and shall be so retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual and residential amenity and highway safety, to assist in achieving sustainable development, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan.

16. Where highway retaining structures are necessary, prior to development commencing on the superstructure of any dwelling hereby approved, the design and construction details of any such structures (and any temporary highway retaining structures that may be deemed necessary) shall be

submitted to and approved in writing by the Local Planning Authority. The details shall include a design statement, all necessary ground investigations on which design assumptions are based, method statements for both temporary and permanent works and removal of any bulk excavations, together with structural calculations and all associated safety measures for the protection of adjacent public highways, footpaths, culverts, adjoining land and areas of public access. The development shall be completed in accordance with the approved details before any of the dwellings are occupied and shall be retained as such thereafter.

**Reason:** To ensure that any new retaining structures do not compromise the stability of the highway in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan.

17. Prior to the commencement of development, all remediation works and/or mitigation measures to address the shallow mine workings and mine entries beneath the site shall be implemented on site in full in order to ensure that the site is safe and stable for the development hereby approved.

**Reason:** To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that remedial and/or mitigatory measures related to the site's mining legacy are implemented at an appropriate stage of the development process.

18. Prior to any part of the development hereby approved being brought into first use, a validation statement/declaration related to mining legacy shall be submitted to and approved in writing by the Local Planning Authority. The statement/declaration shall be prepared and signed by a suitably competent person, shall confirm that the site is, or has been made, safe and stable for the development hereby approved, and shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past mining activity.

**Reason:** To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan.

19. Prior to the commencement of development, a drainage scheme restricting the rate of surface water discharge from the site to ordinary watercourse to a maximum of 5l/s shall be submitted to and approved in writing by Local Planning Authority. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 100-year storm events. The drainage scheme shall include a detailed design of the attenuation facility and a maintenance and management regime including the flow control device. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented thereafter.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.



20. Prior to the commencement of development, a scheme detailing the culverting of sections of the watercourse, general watercourse improvements, and land drainage connections to the watercourse within the site and the inclusion of a debris screen prior to exiting the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a detailed maintenance and management regime for the watercourse and debris screen for the lifetime of the development. No part of the development shall be brought into use until the watercourse enclosure works comprising the approved scheme have been completed. The maintenance and management regimes shall be implemented thereafter.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that details of drainage are agreed at an appropriate stage of the development process.

21. Overland flow routing shall only be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (Ward Cole Consulting Engineers, 10/5610 rev E, 11/07/2023) hereby approved, unless otherwise approved in writing by the Local Planning Authority.

**Reason:** To ensure the effective disposal of water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and chapter 14 of the National Planning Policy Framework.

22. Prior to the first occupation of any specified dwelling hereby approved, unless otherwise agreed in writing by the Local Planning Authority the approved vehicle parking area(s) for that dwelling shall be surfaced and drained in accordance with "Guidance on the permeable surfacing of front gardens (parking areas)", 13/05/2009 (ISBN 9781409804864) as amended or superseded, and shall thereafter retained throughout the lifetime of the development.

**Reason:** In the interests of highway safety and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

23. Prior to the commencement of development (including ground works, other than those required to inform a site investigation report) a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

24. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 23. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works in the affected area (other than

site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework. This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures are agreed at an appropriate stage of the development process.

25. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Verification Report shall be submitted to the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and the National Planning Policy Framework.

26. Prior to the first occupation of any dwelling hereby approved, all works (other than acoustic screens at units 1, 60, 61 and 62) which form part of the sound attenuation scheme as specified in the Noise Assessment (Noise Consultants, 13073B-20-R02-01, 27/06/2023) shall be completed and written evidence to demonstrate that the specified noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority. If it cannot be demonstrated that the noise levels specified in the aforementioned Noise Report have been achieved, a further scheme shall be submitted to and approved in writing by the Local Planning Authority. This further scheme shall incorporate further measures to achieve those noise levels. All works comprised within those further measures shall be completed and written evidence to demonstrate that the aforementioned noise levels have been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use. All such works shall thereafter be retained.

**Reason:** In the interests of amenity and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

27. Notwithstanding what is shown on the drawings hereby approved, prior to the commencement of superstructure works, details of all external materials to be used shall be submitted to the Local Planning Authority, and samples shall be left on site for the inspection and approval in writing of the

Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

28. Prior to the commencement of superstructure works, and notwithstanding what is shown on the drawings hereby approved, details of any electricity substations to be provided on-site in association with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plans, elevations and sections, and details of external materials and any boundary treatments. The substation(s) shall be constructed in accordance with the details so approved.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

29. Prior to the commencement of superstructure works, and notwithstanding what is shown on the drawings hereby approved, details (including sections and details of levels) of all boundary treatments, and any retaining walls and gabions, shall be submitted to and approved in writing by the Local Planning Authority. The details shall correspond with measures relating to flood routing, shall be designed to prevent and deter crime and anti-social behaviour, and shall provide for the movement of hedgehogs. The development shall be implemented in accordance with the details so approved. The approved works shall be retained thereafter.

**Reason:** In the interests of visual amenity, highways safety and biodiversity, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

30. Prior to the commencement of superstructure works, details of external air source heat pump units to be provided as part of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plans and specifications, shall confirm locations of the units, shall include screening measures where necessary, and shall include noise and maintenance information. The units shall be installed in accordance with the details so approved and shall be maintained in accordance with the details so approved thereafter.

**Reason:** In the interests of visual and residential amenity, and to accord with Policies LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.

31. Prior to the first occupation of any dwelling with external lighting (other than street lighting on streets to be adopted), details of the external lighting for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a scheme detailing street lighting to all private (unadopted) roads/drives/courtyards and shall not include low-level or bollard street lighting. The external lighting shall be designed to avoid harm to residential amenity, increased highway safety risk, risk of creating opportunities for crime and anti-social behaviour, and disturbance to wildlife. All external lighting shall be installed in accordance with the details (including specifications and locations) so approved, and the

external lighting shall be maintained thereafter in accordance with the approved details. No dwellings accessed from a private (unadopted) road/drive/courtyard shall be brought into use until the street lighting so approved for that road/drive/courtyard has been installed and brought into use, and the street lighting shall be retained as such thereafter. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

**Reason:** In the interests of residential amenity and highway safety, to prevent significant ecological harm, to safeguard habitat, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP30 and LP47 of the Kirklees Local Plan and the National Planning Policy Framework.

32. Prior to the commencement of superstructure works, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These shall include:

- Details of existing and proposed levels, and regrading;
- Planting plans, including additional treeplanting notwithstanding what is shown in the drawings hereby approved;
- Details of tree pit sizes and soils;
- Species schedules;
- Details of initial aftercare and long-term maintenance;
- Details of monitoring and remedial measures, including replacement of any trees, shrubs or planting that fails or becomes diseased within the first five years from completion;
- Details (including samples, if requested), of paving and other hard surface materials;
- Details of all on-site open spaces (including details of their purpose(s) and management) and of any areas for designated, informal, incidental and/or doorstep play;
- Details of all on-site play spaces;
- Details of covenants (or other suitable arrangements) regarding street tree retention, management and maintenance where these trees are not within adopted highways;
- Details of how soft landscaping has been designed to prevent and deter crime and anti-social behaviour; and
- Details of natural surveillance and windows overlooking publicly-accessible areas (including open spaces, pedestrian connections and public footpaths).

No part or phase of the development hereby approved shall be occupied until all hard and soft landscaping for that part or phase has been implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All approved landscaping shall be retained thereafter in accordance with the approved details and approved long-term maintenance, monitoring and remedial arrangements.

**Reason:** In the interests of local ecological value, visual amenity and highways safety, to ensure high quality open spaces are provided, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30, LP32, LP33, LP47 and LP63 of the

Kirklees Local Plan, and chapters 8, 12 and 15 of the National Planning Policy Framework.

33. Prior to the commencement of superstructure works, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the Local Planning Authority. The BEMP shall provide a minimum 66.95% net increase in hedgerow units on-site and a minimum 68.27% net increase in river units on-site post-development and shall include the following:

- Description and evaluation of features to be managed;
- Details of the extent and location/area of proposed enhancement works on appropriately-scaled maps and plans;
- Details corresponding with landscaping details to be submitted pursuant to condition 32;
- Details of ecological trends and constraints on site that might influence management;
- Aims and Objectives of management;
- Appropriate management actions for achieving Aims and Objectives;
- An annual work programme (to cover an initial five-year period capable of being rolled forward over a period of 30 years);
- Details of the management body or organisation responsible for implementation of the BEMP;
- Details of an ongoing monitoring programme and remedial measures; and
- Arrangements for the review and update of the BEMP every five years and its implementation for a minimum of 30 years.

The BEMP shall include details of the legal and funding mechanisms by which the long-term implementation of the BEMP will be secured by the developer through the management body responsible for its delivery. The BEMP shall also set out (where the results from the monitoring show that the Aims and Objectives of the BEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers conservation Aims and Objectives for the site. The development shall be implemented in accordance with the approved BEMP and all measures and features shall be retained in that manner thereafter.

**Reason:** To secure mitigation and compensation for the ecological effects resulting from loss of habitat and to secure a net biodiversity gain in line with policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that measures to ensure adequate enhancement and a biodiversity net gain are agreed at an appropriate stage of the development process.

34. Prior to the commencement of development (including ground works), an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the documents so approved.

**Reason:** To protect trees in the interests of visual amenity and biodiversity and to accord with Policy LP33 of the Kirklees Local Plan.

This pre-commencement condition is necessary to ensure that details of tree protection measures are agreed at an appropriate stage of the development process.

35. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless authorised in writing by the Local Planning Authority in response to evidence to be submitted in writing to the Local Planning Authority demonstrating that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

**Reason:** To prevent significant ecological harm to birds, their eggs, nests and young and to accord with Policy LP30 of the Kirklees Local Plan and chapter 15 of the National Planning Policy Framework.

36. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) no development included within Classes A, D and E of Part 1 and Class A of Part 2 of Schedule 2 to that Order shall be carried out at units 1, 2, 111 to 13, 28 and 47 to 62 without the prior written consent of the Local Planning Authority.

**Reason:** In the interests of visual amenity, and to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

37. Other than where indicated on the drawings hereby approved, and other than in relation to elevations not facing a highway, open space or green belt land, no cables, plumbing, foul pipes, vents, burglar alarm boxes, and/or CCTV cameras or related equipment and installations shall be located or fixed to any external elevation(s) of the development hereby approved. Should any such equipment or installations be considered necessary, details of these shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be completed in accordance with the details so approved.

**Reason:** In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

### **Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92191>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 20-Jun-2024

**Subject: Planning Application 2022/91477 Hybrid Planning Application for the erection of an industrial unit for B2 /B8 use, with ancillary office space and associated access, parking, groundworks and landscaping in conjunction with an outline application for mixed use development use class E(b),B2 and B8, with ancillary office space and associated works Land off Lindley Moor Road, Lindley, Huddersfield, HD3 3SX**

#### APPLICANT

2SH Developments

#### DATE VALID

09-May-2022

#### TARGET DATE

08-Aug-2022

#### EXTENSION EXPIRY DATE

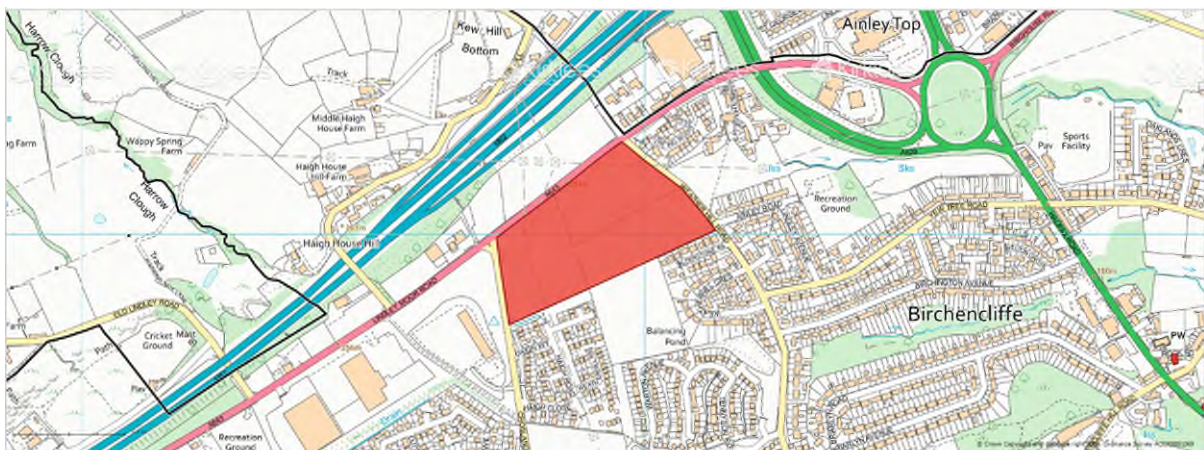
07-Sep-2023

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected:** Lindley

**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 in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

- Ecological net gain off-site contribution: £9,200.
- Travel plan monitoring: £15,000
- Sustainable travel contribution: £10,000 towards bus stop improvement
- Signal Timing Monitoring at Ainley Top: £24,000 (£12k x 2, at 50% and 100% occupation)
- Skills and education plan: Detailed strategy to be provided and implemented
- Management and maintenance arrangements: Drainage (unless adopted), on-site habitat (min 30 year).

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

**1.0 INTRODUCTION**

- 1.1 This is a hybrid planning application, including part outline (all matters reserved) and part full permission elements. Each relates to commercial uses, with the full application relating to a B2 / B8 use, and the outline comprising use classes E(b), B2, and B8.
- 1.2 The application is brought to the Strategic Planning Committee in accordance with the scheme of delegation as the proposal is a major development and a significant level of public representations, in opposition to officers' recommendation, have been received.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The application site has an area of 6.3ha and is roughly rectangular in shape. It is sited circa 450m west of Ainley Top roundabout, which provides connection to J24 onto the M62 motorway that is located circa 130m to the north of the site.



- 2.2 The site is bounded by roads to three sides. To the north is Lindley Moor Road, to the east is Weatherhill Road, and to the west is Crosland Road. To the west of the site, along Lindley Moor Road, are commercial uses. Residential development borders the site to the north-east, south-east, and south-west, while due south is a greenfield site that is unallocated in the Local Plan.
- 2.3 The site itself is unevenly subdivided into three smaller sections by thin lines of planting. The topography is uneven but broadly falls from west to east. PROW HUD/410/10 runs parallel to the southern boundary. Two electricity pylons are sited within the site, one to the west and one to the north-east. The aerial cables of these pylons do not connect to one another, but connect to another pylon to the north of the site across Lindley Moor Road. As a result, aerial cables are strung above two portions of the site.
- 2.4 The site is part of a larger mixed-use allocation MXS3 in the Local Plan which is 32.2ha in size (therefore the site is 19.5% of MXS3's total area). The mixed uses allocated are housing and employment. The rest of MXS3 allocation has already been built-out under various different planning permissions. The site forms the northeastern corner of the larger allocation.
- 2.5 As defined in the Castle Hill Settings Study, a significant ridgeline runs through part of the allocation's north-west section.

### **3.0 PROPOSAL**

- 3.1 This is a hybrid planning application seeking:
- Full permission for the erection of an industrial unit for B2 (general industrial) / B8 (storage or distribution) use, with ancillary office space and associated access, parking, groundworks. Access into and around the site forms part of this application's 'full permission' element.
  - Outline permission for mixed use development use class E(b) (restaurant), B2 and B8, with ancillary office space and associated works. The matters of layout, appearance, and scale within the identified outline areas are reserved. Landscaping has been applied for.
- 3.2 The pylons on site would be retained as existing.
- Full permission*
- 3.3 The full permission aspect of this application includes the site's vehicular and pedestrian points of access, the internal footways, road and points of access to the proposed plots, and the erection of the building identified as unit P, as well as associated works within the unit's curtilage.
- 3.4 Vehicle access would be taken from a single new priority junction from Lindley Moor Road. The new road would run through the approximate centre of the site, with a single main branch to provide access to the site's east and west halves. Accesses to the proposed plots would be interspaced along the new road's length.

- 3.5 A 2m wide footway would be provided along the whole frontage to Lindley Moor Road. Pedestrian footpaths would be provided from the new road to both Crosland Road and Weatherhill Road.
- 3.6 The unit P plot has a site area of 1.42ha (22.5% of total site) and is located in the south-east corner of the site. The building would have an internal area of 4802.6sqm, consisting of 4139.4sqm on the ground floor and 663.2sqm at first floor level. The following use breakdown has been provided:
- B2 Industrial: 2836.7sqm
  - B8 Warehouse: 909.8sqm
  - Ancillary office: 1,056.1sqm
- 3.7 The building would be 94.5m long and 43.8m wide. This consists of a main central section and two lower sections, one on each short side of the building. The main central section would have a shallow-pitched hipped roof with a parapet. The ridge of the roof would be 12.4m and the parapet 11.1m in height. The lower side sections would be flat roofed with a maximum height of 8.1m.
- 3.8 The building would have a plinth of blue brick, with the remainder of the building faced in varied modern metal cladding in shades of black and grey. Glazing would be located on the north elevation, with openings on the other elevations limited to escape doors and vehicle service bays. A canopy projecting 3m from the building would be sited above the vehicle bays. Rooflights are proposed in the pitched roof, with solar panels on the western pitch.
- 3.9 Car parking for 68 vehicles, including four accessible bays and 7 charging points, would be sited to the east / north-east of the building. The south-east would be a service yard aligning with the building's vehicle service bays. A cycle shelter for 10 bikes is to be located to the north of the building.
- 3.10 A parameter of 2.4m high paladin fencing would be around the plot, bar to the south-east where 2.0m high acoustic fencing is proposed. Outside of the fencing zone would be a buffer zone of landscaping, separating the site from the residential units to the south and Weatherhill Road to the east. A site wide indicative landscaping strategy has been provided and will be detailed below.
- 3.11 A drainage strategy has been provided which proposes, as part of the full application (to serve the road and unit P), two attenuation tanks. One would be located under unit P's car park / service area, the other in the landscaping area to the east of unit P.
- 3.12 The drystone wall along the south of Plot 1 would be set back 1.5m to widen the footpath of PROW HUD/410/10.

*Outline permission*

- 3.13 Outline permission for the E(b), B2 and B8 use, with ancillary office space and associated works, is sought for the remainder of the site. This would cover an area of 4.24ha or 67.6% of the total site. The considerations of appearance, scale, landscaping, and layout are reserved matters.

3.14 The 4.24ha is proposed to be subdivided between 14 plots, across the proposed use classes, as follows (**all figures in sqm**):

Plot	Use Class					Total floor space (sqm)
	E(b) – Restaurant	B8 – Trade Counter	B8 – Warehouse	Ancillary use – office	B2 – Industrial	
A					525	525
C	908					908
D		260				260
Da		330				330
E		525				525
F			2330	242		2572
G			2615	192		2807
H			314		157	471
I			314		157	471
J			314		157	471
K			314		157	471
L			314		157	471
M			614		232	846
N			307		614	921
<b>Total</b>	<b>908</b>	<b>1,115</b>	<b>7,436</b>	<b>498</b>	<b>2,156</b>	<b>12,049</b>

3.15 An indicative layout plan portraying the layout of the 14 units has been provided. These would be accessed via the road sought as part of the full permission. Units A, C, F and G would accommodate their own plots, while D, Da, E, and L – K would be sited across three shared plots. Each plot, individual or shared, would include dedicated or shared parking spaces and service facilities. While what is shown is indicative, it should be noted that the access road forms part of the detailed proposal which would dictate the layout to an extent.

3.16 A drainage strategy has been provided as part of the application and, for the outline, demonstrates that adequate discharge, flood routing, drainage layout, and attenuation, may be accommodated although the details are indicative.

3.17 An indicative landscaping strategy has been provided which covers the whole site (outline and full areas), along with Ecological Net Gain calculations. This includes the planting of 246 trees (standard or heavy standard), native scrub, species rich grassland, and ornamental planting throughout the site.

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

##### 4.1 Application Site

2000/93276: Outline application for erection of employment business park comprising industrial, commercial and storage units with ancillary facilities, roads and car parking – Withdrawn

2013/93433: Outline application for employment uses (B1b, B1c, B2, B8) – Granted

## 4.2 Surrounding Area

### *MAC's Truck Sales Ltd, Crosland Road*

2021/91700: Erection of extension to vehicle workshop, engineering operations to excavate and regrade land, formation of extensions to car park and external yard areas, erection of 2.4m high security fencing, external lighting and temporary construction access – Granted

### *Wappy Springs Inn, Lindley Moor Road*

2023/93031: Erection of mixed industrial development (Use Classes E(g)(i, ii, iii), B2 and B8); including demolition of existing structures, new yard, parking, landscaping, drainage features and ancillary structures – Ongoing

### *Various Locations - A629 Halifax Road, Huddersfield*

2021/92734: Improvement and widening of the A629 to include junction improvements, re-positioning of footways and footway improvements, pedestrian crossing provision, the alteration, demolition and erection of walls, construction of retaining walls, erection of fencing, hard and soft landscaping to include the removal of trees and replacement planting, replacement street lighting, change of use of land to highway and change of use to and formation of car park on land adjoining 103 Halifax Road (within a Conservation Area) – Granted

### *Land North of, Lindley Moor Road, west of Kew Hill, Birchencliffe*

2024/90811: Application for certificate of appropriate alternative development – Ongoing

### *Land at, Warren House Lane, west of Lindley Moor Road, Birchencliffe*

2022/92848: Application for certificate of appropriate alternative development – Issued

## 4.3 Enforcement (application site)

None.

## 5.0 **HISTORY OF NEGOTIATIONS**

5.1 The application was subject to a pre-application enquiry, referenced 2020/20447. The enquiry was submitted in October 2020. It proposed 15 buildings across the site, predominantly to be used class B2 or B8 (commercial), but also including a fast food, supermarket, restaurant, and two cafe / take away units.

5.2 The pre-application was presented to the strategic planning committee held on 24/02/2021, with the officer report having the following conclusion:

6.72 *In conclusion, bringing forward the remaining part of this mixed-use allocation is welcomed. The proposed B use class units would provide a mix of modern industrial buildings that are suitable for a range of businesses and situated in a strategic location. This element of the scheme would contribute towards the supply of industrial floorspace in the district and deliver economic benefits through job creation.*

6.73 *The proposal also includes a number of 'employment generating uses' (retail and leisure) which are not in accordance with the land's allocation. The inclusion of these uses restricts the ability of the site to more closely deliver the level of employment floorspace required by this allocation. Nevertheless, it is considered that there is scope for some flexibility with the uses on this site, but this will need to be robustly justified as part of a future planning application. Furthermore, those uses which are defined as main town centre uses will need to be subject to a Sequential Test and Impact Assessment.*

6.74 *The final scheme will need to fully address the urban design issues set out in this report as well as the advice provided by technical consultees.*

5.3 Members broadly supported the development and the support it would offer to local residents. However, one member questioned whether a doctor's surgery could be located on the site, while another raised concerns over the relationship between a unit on the south-east of the development and existing dwellings to the south-east.

5.4 The current planning application was submitted in May 2022. As initially submitted, the proposal included the various mixed uses sought at pre-application being kept. Following advertisement and consultation with technical colleagues, planning officers raised various concerns including (but not limited to) the traffic impacts, economic impacts, and impacts on nearby residents. This led to a period of negotiations and revisions which led to the supermarket and cafe / takeaway uses being removed from the proposal. Unit P (the building subject to the full planning permission element of the proposal) was reduced in size to improve its relationship with neighbouring properties and further details of the traffic implications of the proposal were provided and assessed.

5.5 As a result of the amendments made, the proposal was brought to a position which is considered to comply with all relevant local and national planning policies and may be supported by officers.

## **6.0 PLANNING POLICY**

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

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

- 6.2 The site is part (19.5%) of a Mixed-Use allocation on the LP Policies Map, under reference MXS3, for housing and employment uses. The allocation has an indicative housing capacity of 443 units and an employment floorspace of 41,702sqm.
- 6.3 The whole allocation is noted within the Local Plan to have the following constraints:
- Additional mitigation on wider highway network may be required
  - Improvements to local highway links may be required
  - Additional mitigation on the wider highway network may be required
  - Public rights of way cross the site
  - Air quality issues
  - Potentially contaminated land
  - Noise source near site
  - Odour source near site
  - Part/all of the site is within a High-Risk Coal Referral Area
  - Power lines cross the site
  - Listed buildings are within and close to the site
  - Site includes area of archaeological interest
- 6.4 The following is noted as an 'other site-specific consideration(s)':
- Residential amenity will need safeguarding through sensitive siting of buildings and landscape buffer areas
- 6.5 The following Local Plan policies are deemed most relevant to the current application;
- **LP1** – Presumption in favour of sustainable development
  - **LP2** – Place shaping
  - **LP3** – Location of new development
  - **LP7** – Efficient and effective use of land and buildings
  - **LP9** – Supporting skilled and flexible communities and workforce
  - **LP13** – Town centre uses
  - **LP19** – Strategic transport infrastructure
  - **LP20** – Sustainable travel
  - **LP21** – Highways and access
  - **LP22** – Parking
  - **LP23** – Core walking and cycle 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
  - **LP51** – Protection and improvement of local air quality
  - **LP52** – Protection and improvement of environmental quality
  - **LP53** – Contaminated and unstable land
  - **LP67** – Mixed use allocations

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

#### *Supplementary Planning Documents*

- Housebuilders Design Guide SPD (2021)

#### *Guidance documents*

- Kirklees Council Social Value Policy (2022)
- 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)

#### National Policies and Guidance

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

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 6** – Building a strong, competitive economy
- **Chapter 7** – Ensuring the vitality of town centres
- **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
- **Chapter 17** – Facilitating the sustainable use of minerals

6.8 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)

#### Climate change

6.9 The Council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

- 6.10 On 12/11/2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *The applicant's statement of community involvement (SCI)*

- 7.1 The application is not supported by a Statement of Community Involvement (SCI) and no pre-application public engagement was undertaken by the applicant, prior to the submission of this application.

### *Public representations*

- 7.2 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, and was advertised in the local press This is in line with the Council's adopted Statement of Community Involvement.
- 7.3 The end date for public comments was 19/08/2022. In total 36 public comments were received across a single public representation period.
- 7.4 The following is a summary of the comments received via public representation, with a full record being available on the application's webpage:

### *General*

- Development in the Green Belt should not be permitted. Development should be focused on brownfield land.
- This land (Lindley Moor) was gifted to the council 'to be preserved as common land for the use of local residents'.
- The provision of local shopping facilities will help local people who cannot make trips into town. An industrial use is preferable to housing, given the local shortfall in facilities such as schools and GPs.
- The proposal does not respond to local needs. Local residents need more GP services and school places, not industrial developments.
- Local facilities in Salendine Nook, Birchenclyffe, and Lindley are adequate and are not needed here. The proposal would take from existing businesses in the area.
- The proposal will contribute to negative air pollution that already exists. This will harm local peoples' health and has been linked to increases in asthma and dementia.
- There will be harm to local ecology and protected species.
- The proposal will not create new jobs, but will move them from elsewhere.



- The application includes inadequate details for residents to comment on and the consultation period has been inadequate and falls below statutory standards.
- The Kirklees Way passes directly through this area and covering the area in buildings and their ensuing traffic would be detrimental to people who wish to use the paths.
- There are watercourses in and around the site which will be harmed and/or affected by the proposal. Water flows from the site into neighbouring properties, which will be worsened by the proposed surfacing. This will lead to flooding of nearby properties.
- The proposal will affect local house prices.
- Local people won't want to use the on-site facilities, including the cafe, restaurant, and shop.
- The development would conflict with the national and council's climate change agenda.
- The proposal fails to adequately detail how it will support climate change measures and incorporate low / zero emissions arrangements.
- The site and area have issues with historic mine works which causes insurance issues for properties. Work on the site will affect local ground stability and impact the foundations of nearby houses.

#### *Amenity*

- The proposal is contradictory to the Kirklees Local Plan as it includes uses that are not classed as 'employment generating'.
- The proposal will harm outlooks for neighbouring residents.
- The proposal will cause noise pollution, from the internal operation of the buildings and external movements of vehicles (including HGVs), as noted in the submitted noise impact assessment. Acoustic fencing needed to mitigate the harm, including up to 4.0m in height in certain locations, will be unattractive and create 'dead zones' around the site and neighbouring boundaries.
- The development will cause odour pollution and attract vermin to the area.
- The proposal will cause light pollution towards neighbour dwellings.
- The proposal will cause harmful overbearing, overlooking, and overshadowing of neighbouring land.
- The large areas of car parking and proposed uses will attract crime and anti-social behaviour, both to the site and wider area.

#### *Urban design*

- The proposal will lead to development right up to the M62, being a mass of urbanisation, whereas Calderdale is open fields around the M62.
- Trees on the site would be felled, harming the attractiveness of the area.
- The proposal, specifically unit P, is an overdevelopment of the site. It would be akin to a four-storey building, out of scale with the nearby two-storey and bungalow properties.
- The proposed building is unattractive and out of keeping with the area.

## Highways

- The proposal will exacerbate issues at Ainley Top roundabout, which is heavily trafficked and congested both at peak times and outside of peak.
- The additional traffic of the proposal will invalidate recent highway improvement works by increasing traffic using them.
- The proposal will lead to congestion in the area, which is already oversaturated with vehicle movements. Local roads are not fit for purpose. No traffic calming measures are proposed. Lindley Moor Road is used as a diversion / ratrun for the M62 when it is closed or busy.
- The council is promoting cycling; however, this development will make using bikes in the area more of a risk.
- Local pedestrian safety will be prejudiced by the proposal.
- The proposal will harm or remove the PROW running through the site.

## 8.0 CONSULTATION RESPONSES

Calderdale MBC: No comments received.

K.C. Conservation and Design: No objection to the proposal, although due regard to impacts on local heritage assets will be needed at Reserved Matters stage.

K.C. Crime Prevention: Advise on crime mitigation offered and provided to the applicant. No objection subject to conditions.

K.C. Ecology: No objection subject to conditions and securing 0.4 off-site habitat units or £9,200 via S106 towards securing a development ecological net gain.

K.C. Environmental Health: Have considered various potential sources of pollution, including ground conditions, noise, light and odour. While initial concerns were held, based on amended proposals and further details, no objection subject to conditions.

K.C. Highways (Development Management): Initial concerns were held over both the internal layout and the level of details provided regarding the external impact of traffic associated with the proposal. The internal layout was revised to address these concerns, while additional details and justification pertaining to the offsite impacts were provided and found to be acceptable. As such, K.C. Highways offer no objection subject to conditions and a S106 for contributions.

K.C. Lead Local Flood Authority: No objection subject to conditions and a S106 covering management and maintenance arrangements.

K.C. Planning Policy: Have considered the impact of the proposal in terms of the use of a Mixed-Use allocation, as well as the retail impacts (via the retail sequential and impact assessments). In summary, with further details outlined in the main assessment, no objection subject to conditions being imposed.

K.C. Trees: The trees on site are not of significant public amenity value and their removal is not opposed. Likewise for the removal of hedgerow on site. The proposed replanting notably mitigates for the limited loss proposed. No objection subject to conditions.

National Grid: National Grid commented:

*Provided the statutory safe clearances are maintained from our overhead lines at all times (including during construction) there is no objection from NGET.*

They also provided a Technical Guidance Note regarding constructing near pylons. These comments and the advice note have been shared with the applicant.

National Highways: National Highways expressed an initial objection to the proposal due to insufficient details over the impact upon Ainley Top roundabout. On receipt of further details, National Highways have withdrawn their objection to the proposal, but requested that all parties note the following statement:

*'dialogue needs to be maintained and continued between all parties to ensure that any proposed changes to the signal timings that affect Ainley Top roundabout are acceptable in operational terms'*

The Coal Authority: The submitted Phase 2 Geo-Environmental Report has been reviewed. In summary, the report is considered sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has no objection to the proposed development.

The Environment Agency: No comments received.

West Yorkshire Archaeological Advice Service: The site was archaeologically evaluated in 2020 with negative results. Therefore, no further comment or objection is offered.

West Yorkshire Metro: No objection to the proposal. The site is well served by local bus services, which would not be detrimentally impacted by the proposal. A contribution of £10,000 towards local bus stop upgrades, to promote alternative methods of sustainable travel, is sought.

Yorkshire Water: No objection subject to conditions.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban Design
- Residential Amenity
- Highway
- Drainage and flood risk
- Ecology
- 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.

### *Development of a Mixed-Use allocation*

- 10.2 The site is part of Mixed-Use allocation ref. MXS3. Policy LP67 governs the assessment of Mixed-Use allocations, and states:

*The sites listed below are allocated for mixed use development in the Local Plan. Planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.*

- 10.3 The allocation, as a whole, sets out an indicative capacity of 41,702sqm of employment floorspace and 443 dwellings. The total amount of indicative floorspace and dwellings should be achieved from the allocation as a whole, with the application site amounting to 19.5% of MXS3's total area of 32.16ha. This application represents the last plot of the larger allocation to be developed.
- 10.4 The indicative housing delivery for the allocation has been achieved, via the following application:
- 2018/91078 for 82 units over 2.74ha
  - 2016/92055 for 109 units over 3.96ha
  - 2014/93136 for 252 units over 10.73ha
- 10.5 This combines for 443 dwellings over 17.43ha of the site, leaving 14.73ha for the employment uses.
- 10.6 The Local Plan formally defines Employment Use as;
- B1 Business
    - (a) Offices (other than those that fall within A2 (Professional and Financial Services))
    - (b) Research and Development of products or processes
    - (c) Light Industry
  - B2 General Industry
  - B8 Storage and Distribution

**Note:** Following an amendment to The Town and Country Planning (Use Classes) Order 1987 in September 2020 use class B1 has been replaced with use class E(g).

10.7 For employment uses, the following earlier applications have been approved and implemented:

- 2018/90074 for 5,563 sqm floor space over 3.0ha
- 2016/92870 (reserved matters to 2014/93136's outline commercial element), plus later extension via 2021/91700 for a total of 2,447 sqm floor space over 3.0ha
- 2016/90316 (reserved matters to 2014/93136's outline commercial element) for 6,512sqm over 1.92ha

10.8 These combined for 14,522sqm of Employment Use over 7.92ha, leaving the remaining 6.81ha of the site to deliver 27,180sqm of Employment Use. Note that the site area under consideration is 6.3ha, with 0.5ha presumably discounted as landscaping and/or buffer zones.

10.9 For the purposes of the principle of development, the full permission and outline permission elements of this proposal may be assessed together. While at outline, the application includes a detailed floor space breakdown for consideration, with the outline and full application floor spaces combined as follows:

Plot	Use Class					Total floor space (sqm)
	E(b) – Restaurant	B8 – Trade Counter	B8 – Warehouse	Ancillary use – office	B2 – Industrial	
A					525	525
C	908					908
D		260				260
Da		330				330
E		525				525
F			2330	242		2572
G			2615	192		2807
H			314		157	471
I			314		157	471
J			314		157	471
K			314		157	471
L			314		157	471
M			614		232	846
N			307		614	921
P (full)			910	1019	2840	4769
Total	908	1,115	8346	1453	4996	16,818

10.10 In total, the application seeks 15,910sqm of 'Employment Use' floor space (use Class B2 and B8, plus ancillary office use). The proposal would, therefore, cumulative with the other developments on the wider allocation, result in a shortfall in the Local Plan's indicative 'Employment Use' floor space figure of 41,702sqm by 11,270sqm.

- 10.11 This shortfall must, however, be considered in the context of the whole allocation. It is not reasonable to expect the last part of the allocation to disproportionately shoulder an excessive shortfall which may be partially attributed to earlier developments (many of which were approved prior to the Local Plan and the site allocation being adopted). Furthermore, the local plan's floor space is an indicative capacity, not a mandatory target. Each application must be assessed on its own merits and due regard given to any material planning considerations. The application site has significant constraints, including the overhead power lines, 2 associated pylons and topographical issues, which negatively affect the developable area. Due regard must also be given to the indicative layout and the design proposed. Officers consider the proposed indicative layout to be a reasonable and acceptable response to the site (from an employment delivery perspective), with no evident opportunities for additional buildings. To achieve additional floor space would require larger buildings, which would likely affect separation distances, landscaping, and the overall attractiveness of the site (considered further below).
- 10.12 Officers also consider the shortfall to be partly mitigated through the inclusion of 908sqm of E(b) restaurant use. The justification provided by the applicant for the non-B use class operations is that the operation would also generate employment, that a wider range of use classes provides economical sustainability for the site, providing additional services to staff located on or surrounding the site and providing facilities for the residential properties in the area who would be within walking distance of the site, which is more sustainable. While not an 'employment use', as defined by the Local Plan, officers acknowledge it would be an 'employment generating use', as defined by the Local Plan, and a modest provision of different use classes, to diversify the site and assist in the delivery of the proposal, is not deemed unreasonable in principle. However, as use class E(b) is considered a 'town centre use', consideration of the impacts on nearby local centres will be required to confirm the principle. This assessment is set out below.
- 10.13 Considering all these factors officers are satisfied that, despite the fact that the allocation would result in a shortfall from the Local Plan's employment floor space expectations the proposed development would represent an effective and efficient use of the allocation and is deemed to comply with the aims and objectives of Policy LP67.

*Town centre use: sequential test*

- 10.14 As the proposal includes a main town centre use that would not be within a defined centre as identified within the Local Plan, a retail sequential test and impact assessment (as the floorspace is above 500 sqm gross) are required to demonstrate compliance with policy LP13. The purpose of this is to protect the vitality of town centres through the reasonable concentration of economic activity.
- 10.15 The sequential test seeks to establish whether the application (i.e., what is proposed) could be reasonably accommodated at a sequentially preferable alternative location. The following locational preferences are applied for main town centre uses:

1. located in town centre locations
  2. edge of centre locations
  3. well-connected out of centre sites
  4. out of centre sites
- 10.16 Local Plan paragraph 9.12 provides further guidance on the scope of the sequential test. It outlines that applicants are expected to provide details of the business model for the development, an appropriate catchment that the business would seek to serve and an appropriate audit trail of any sequentially preferable sites that have been discounted with a robust justification.
- 10.17 The applicant has provided a Sequential & Impact Assessment Report which has been reviewed by a council appointed independent assessor [Nexus Planning]. It should be noted that these documents specifically related to an earlier revision of the proposal, which included a greater proportion of the site being allocated for main town centre uses (1.3ha compared to 0.63ha), as well as more varied uses (including retail and cafe / takeaway). Officers have considered the report in the context of the changes made to the proposal and are satisfied that the methodology and findings are not materially affected by the amendments, which are considered in the below summary.
- 10.18 First considering the business model intended, following amendments the proposed main town centre use consists of a single E(b) restaurant use. The applicant notes that the site is '*...strategically located proximate to the motorway network and, in addition, Lindley Moor Road is a busy route along the northern edge of the wider Huddersfield area resulting in a significant element of traffic passing the site*'. The applicant's submission identifies the proposal's business model as seeking to serve the following main functions:
- Roadside services and facilities to passing traffic;
  - Services and facilities to serve the existing and growing employment; and
  - Services and facilities to serve the new residential areas.
- 10.19 Considering these elements of the business model, the following local centres are considered an appropriate catchment area for the Sequential Assessment (e.g., the area of search for alternative sites) to take place in:
- Birchencliffe Local Centre
  - Salendine Nook Local Centre
  - New Hey Road Local Centre
  - Lindley District Centre
  - Marsh District Centre
  - Elland Town Centre
- 10.20 When reviewing the suitability of sites within these centres, both existing vacant units and undeveloped land may be considered. In terms of size, a site area of 0.63ha is proposed with an indicative GIA of 908sqm for the E(b) restaurant. Therefore, a similar sized location must be sought. However, the NPPF states that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale "*so that opportunities to utilise suitable town centre or edge of centre sites are fully explored*". To accommodate flexibility, a site search threshold of 10% above and below has been applied and is deemed reasonable (i.e., a site area of 0.57 - 0.69ha, or building of 817 - 999sqm).

10.21 With the catchment area and parameters established, each local centre was reviewed as follows:

**Birchenclyffe Local Centre:** There are no vacant units that fall within the identified size requirements. Undeveloped land in or adjacent to the centre is allocated as Urban Green Space and therefore not suitable.

**Salendine Nook Local Centre:** There are no vacant units that fall within the identified size requirements. The sole site that may be suitable would be the former Spotted Cow Public House, however in light of the recent approval for a new foodstore on this site, it is no longer considered to be available.

**New Hey Road Local Centre:** There are no vacant units that fall within the identified size requirements and no undeveloped land of an adequate size.

**Lindley District Centre:** There are no vacant units that fall within the identified size requirements. Four undeveloped sites were considered. The first two consisting of Daisy Lea Recreation Ground and the land associated with Church of St Stephen, are both designated as urban greenspaces within the adopted Local Plan and are therefore not considered to be suitable to accommodate commercial uses.

The third, the site north of Brian Street is situated to the west of the district centre, in an edge of centre location. The site measures approximately 0.3ha and although is brownfield land, is considered to be too small to accommodate the proposal, even when applying a sufficient degree of flexibility. Finally, the fourth site identified is situated to the west of Lidget Street, measures approximately 0.8ha and is allocated for housing development within the adopted Local Plan. Although the site is situated in an edge of centre location, it is a back land site, with a contradictory allocation and is a larger size to accommodate the proposal.

**Marsh District Centre:** There are no vacant units that fall within the identified size requirements and no undeveloped land of an adequate size.

**Elland Town Centre:** The largest vacant unit located within the town centre is a former office at 39-43 Southgate. The unit is being actively marketed and is therefore considered to be available. However, at 259 sq.m, the unit is not considered to be of a suitable size to accommodate the proposed development.

Turning to edge or better connected out of centre sites, we note that Unit 6 at Riverside Mills on Saddleworth Road is also being actively marketed and is considered to be available. The unit measures approximately 444 sq.m, and even when taking account of the adjacent car parking, it is not of a sufficient scale to accommodate the proposal. In any event, the site is situated off a B-road and is not therefore sufficiently prominent to suitably accommodate the proposed development

Finally, we are also aware of the vacant B1/B2/B8 commercial premise located within the Rosemount Estate (Bay 1) which is also being actively marketed. The ground floor of the unit measures approximately 1,709 sq.m and is situated in an edge of centre location in planning policy terms. The site forms



part of a wider, well-established industrial estate and is one part of a larger commercial building. We are satisfied that in light of the nature of the building and the likely limited opportunities to redevelop the site without significant wider implications to the overall estate, that the site is not considered to be a suitable alternative to accommodate the proposed development. Furthermore, the site does not benefit from prominent and direct road frontage, and would therefore be unlikely to attract the pass-by traffic as identified above.

- 10.22 Summarising the above, it is accepted that none of the centres identified include potential sequential sites which could be considered to be both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility in respect of format and scale. Officers are therefore satisfied that there is no sequentially preferable location which could support the proposal. It is therefore concluded that the application proposal accords with the requirements of the sequential test as per Policy LP13 of the Local Plan.
- 10.23 Separate to the above, the proposal includes three B8 units that are to operate as storage and/or distribution with trade counters. Subject to these operating as true trade counters, they would not be considered a main town centre use. To ensure they do not progress into a predominant retail unit, which would be a main town centre use that has not been assessed, it is considered reasonable and necessary to condition that the retail trade counter's floor space be limited to 10% of the building's overall floor space. This will ensure that the trade counter remains a subservient aspect to the overall B8 use.

*Town centre use: impact test*

- 10.24 Policy LP13 requires that developments for main town centre uses which are located outside of a defined centre, which exceed 500sqm in floor space (alongside other triggers) will require a Retail Impact Assessment. The purpose of this is to ensure a new out of centre retail stores do not prejudice the viability and vitality of the nearby local centres.
- 10.25 It should also be recognised that impacts will arise with all retail developments, but that these will not always be unacceptable, not least because development often enhances choice, competition and innovation. It is therefore necessary to differentiate between those developments that will have an impact and those that will undermine the future vitality and viability of established centres, i.e. have a 'significant adverse' impact. Paragraph 015 of the Town Centres and Retail PPG is also of relevance in considering how the impact test should be applied. It states that:

*'As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities.'*

The two key impact tests identified by paragraph 94 of the NPPF are considered below. The tests relate to:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).

The previous identified catchment, as defined in paragraph 10.21, remains relevant for the Retail Impact Assessment.

10.26 In their assessment, the council's independent assessor Nexus Planning confirmed that they are not aware of any existing or planned town centre investment which could be impacted upon as a result of the proposal, nor are officers. Officers are therefore satisfied that the proposal complies with the first part of the impact test. Regarding the second strand of the test, a detailed and comprehensive assessment is provided within the council's independent assessor's report. In summary, they offer the following conclusion:

*[The applicant's] analysis includes a review of the existing food and drink offer within the defined centres and sets out how the proposed development is qualitatively different to that which is provided within the centres.*

*Nexus Planning has also visited the key centres of relevance to the assessment and agrees with ID Planning's assessment. In this regard, we agree that the proposed coffee shops [since omitted from the proposal] and restaurant proposed at the application site would not compete directly with the type of food and drink offer which has been identified within the defined centres.*

*In this regard, the existing offer within the centres are focused more on small independent cafes and restaurants which are likely to have a dedicated customer base and which will likely form part of a wider linked-trip with other operators within the centres.*

*Furthermore, the proposed leisure floorspace at the application site will also draw direct trade from the surrounding existing and proposed employment floorspace, where the workers are unlikely to have been visiting the existing cafes, takeaways and restaurants within the surrounding defined centres in any event.*

*Given the above, we conclude that the proposal complies with the second strand of the NPPF impact test.*

10.27 Considering the above, officers are satisfied that the proposed development would not harm the viability and vitality of the nearby local centres. Officers consider that the proposal has passed the Retail Impact assessment and is deemed to comply with the objectives of Policy LP13.

- 10.28 The above assessment has been made on the basis of the proposed main town centre being an E(b) restaurant, which falls into the wider class E use class. Another class E use class, such as retail or offices, may have a materially different impact on the nearby local centres not considered during this assessment process. It is therefore considered reasonable and necessary, to protect the viability and vitality of the nearby centres, to limit the restaurant to be a restaurant only via condition.

#### *Sustainable Development and Climate Change*

- 10.29 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
- 10.30 The application is supported by a Climate Change Statement which details potential measures that could be employed at the site to promote sustainable development. The statement is structured under a number of themes, and summarises how the sustainability aspirations may be delivered by a series of strategies to address key environmental, social and economic issues.
- 10.31 The measures detailed within the document are welcomed. This includes the installation of solar panels on unit P, the building subject to the full permission element of this proposal. A condition requiring the installation of solar panels on this building, to promote renewable and low carbon energy production, is deemed reasonable. Regarding the outline element of this proposal, end users are unknown and the indicative details provided are subject to change at reserved matters stage. A condition is therefore recommended requiring a Climate Change statement at RM stage which details specific measures, built upon the sustainability statement submitted at OL stage.
- 10.32 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

#### Urban design

- 10.33 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'*.
- 10.34 The application site is currently undeveloped, undulating agricultural land. The area is on the settlement edge, transitioning to the open countryside to the north. As part of a Mixed-use allocation to host commercial units, it is accepted that the development of the site would lead to a notable change in the

character of both the site and immediate vicinity. Nonetheless, the proposal will need to be carefully considered so as to respect the topography and character of the area, without appearing overly dominant. The elements of the proposal are considered below:

*Unit P and access road (full submission)*

- 10.35 Unit P and the site's access road are subject to a full application and therefore a detailed assessment may be made on their visual impacts.
- 10.36 The new road would take the form of a typical modern estate road, running from the point of access at Lindley Moor Road into the centre of the site. Branching internal access points would provide access to Unit P and the plots associated with the outline application units (considered further below). While no street-trees are proposed at present as part of the full permission, the indicative landscaping strategy submitted with the outline element of the proposal shows ample opportunity for tree planting, amongst other means of landscaping, around the highway as part of subsequent phases that would result in an attractive setting.
- 10.37 Unit P is sited in the site's south-east corner of the application site. It would be set back from the Weatherhill Road frontage, with the car park and landscaping areas between, so as not to overly dominate the streetscene. Nonetheless, by the simple virtue of its size and its nature as an industrial building, the proposed building will be prominent within the wider environment. It would also be seen alongside residential dwellinghouses, of a much smaller scale. The characteristic of larger commercial buildings along Lindley Moor Road has however been established via the allocation and the units within the allocation constructed to the west of the application site. The scale and height of unit P would be commensurate to the scale of the nearby existing commercial units. Nonetheless, the evident height of the building has been reduced through the use of a parapet and shallow pitch roofing system, along with the side sections being notably lower than the main core of the building. Considering this, and the generous landscaping buffer zones around the site, officers consider that the scale of the building would be well accommodated within the site and not appear either unduly prominent or unattractive within the area.
- 10.38 The appearance of the buildings is typical for contemporary industrial units and would not appear out of place alongside the appearance of the other commercial buildings along Lindley Moor Road. It is proposed to be faced in a modern cladding system in shades of grey. Grey is considered preferable to green (or other colours) on the grounds that green cladding does not necessarily sit comfortably within the natural landscape. Instead, being an artificial green colour set against a natural environment of green; it can contrast with it and be more visible as a result. Typically, when viewed from a distance, the colour finish should be of a tonality that is equal to, or a degree darker than, the dominant background tonality to avoid any adverse visual effects arising from contrast and reflection. A dark grey can therefore be effective in reducing the impact of the building on the surrounding area in terms of visual dominance. Samples are to be secured via condition, to ensure suitable end products are used. The introduction of glazing details, and small areas of brick, to the front elevation and around the edges of the building is particularly welcomed as it would add an appropriate level of visual interest. Overall, whilst functional, the appearance of the Phase 2 building is appropriate to its use and would deliver a sufficiently high quality of design fitting to its context

- 10.39 Regarding the external works, the unit's car park would be sited between the building and Weatherhill Road which, as noted above, creates a welcome separation. The car park itself is typical in form and appearance for such a development. Officers are satisfied that the level of surfacing is not excessive, being commensurate to the scale of the host building, with open space for landscaping to break up the hard surfacing, which is desirable. Boundary treatment is to be a mixture of 2.4m high paladin fencing and 2.0m acoustic fencing (see paragraphs 10.68 – 10.69 regarding noise pollution). Neither of these are atypical for a commercial development, but positively each are set well into the site and away from the boundary.
- 10.40 The submitted landscaping strategy around Unit P (and therefore forming part of the 'full application', with the rest of the site's landscaping being a reserved matter (considered below)) includes a mixture of species grassland, native scrub, and tree planting. This includes 37 standard trees. The siting of an attenuation tank on the eastern open space prohibits the planting of a larger number of trees in and around this area (due to maintenance conflicts between subterranean tanks and tree routes), however this open space will be planted with species rich grassland and host trees, where feasible. This will provide an attractive setting to the front of unit P and mitigate its visual impact when viewed from Weatherhill Road. The proposed landscaping (for unit P) is considered attractive and acceptable, although a condition for a fully detailed strategy, to include management and maintenance arrangements, is recommended.
- 10.41 An indicative landscaping strategy for the areas subject to an outline permission has been provided. This demonstrates that the landscaping within unit P's curtilage, and therefore subject to the full permission, may form a combined and coherent landscaping strategy with the remainder of the site that would result in an attractive, well planted and natural setting for the development as a whole.
- 10.42 In summary, it is acknowledged that the proposed works that are subject to the full planning permission, alongside those that comprise the outline proposal, would notably change the character and appearance of the site and, to a lesser degree, the wider area. Nonetheless, the proposed development is deemed to be designed to a high standard and would not prejudice the character and attractiveness of the area. The proposal would represent an attractive continuation of the urban environment. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the Local Plan.

*Units A – N (outline submission)*

- 10.43 The remainder of the site and the 14 commercial units comprise the outline aspect of this proposal, where the matters of appearance, scale, layout, and landscaping are reserved for latter consideration. However, while specific details are not available at this time, officers must consider whether any prohibitive reasons exist why appropriate details could not be provided later. An indicative layout plan with GIA figures has been provided, to demonstrate how the site may be arrayed.

- 10.44 The indicative plan demonstrates that the plots would be accessed from within the site, via the new road (subject to full approval, as outlined above). Each plot is shown to host either individual or groups buildings, with dedicated or communal parking areas and servicing facilities. From an urban design perspective, and based on the details held at this time. The indicative layout portrays a typical modern industrial estate. There is an established characteristic in the area for commercial developments on Lindley Moor Road alongside residential properties to the rear / south.
- 10.45 Plots A, C and D are sited along the Lindley Moor Road frontage, akin to the recent commercial developments to the west of the site (the other commercial elements of the Mixed-Use allocation) and would be suitably set back. Plots G – N are sited within the centre / rear of the site and would be largely screened from public view. Overall, the indicative layout is considered to have good spacing between units and around the site in general, allowing opportunities for quality landscaping within the site and around the perimeter which would contribute to enhancing the site's appearance.
- 10.46 Considering heights, it is accepted that typography will be a challenge for the site given its existing levels. Nonetheless, development upon Lindley moor is characterised as a settlement built upon a hillside, with varied ground levels and heights are not unusual. Careful consideration would be needed over the massing, scale, eaves and ridge heights of new buildings at reserved matters stage. Nonetheless, in this setting, there are no concerns that an appropriate design response to the levels could not be realised. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.
- 10.47 On the matter of appearance, which is the external built form of the development, such as aspects of architecture, materials, decoration, lighting, colour and texture, the units are expected to have a typical modern commercial design that would replicate, or at least harmonise, with unit P (considered above) which is considered acceptable in principle. This is with the exemption of Unit G, which is to be a restaurant and would have a less commercial aesthetic. Nonetheless, officers are satisfied that there are no prohibitive reasons why appropriate appearance details could not be provided at the reserved matters stage.
- 10.48 Notwithstanding the above, officers hold reservations over unit F's layout as shown on the indicative layout, specifically its proximity to Crosland Road and existing dwellings to the south on Haigh Way and Haigh Road (in so far as it relates to urban design; see the below section for considerations of residential amenity). It is considered, at the separation distances shown, the unit may be unduly prominent and visually dominant, particularly at the presumed height. This is, however, dependent on the final layout, scale and massing of the building, and the effectiveness of any landscaping as screening. Officers do not consider this concern, based on an indicative plan, to represent a fundamental issue that would prevent an outline application being approved. A thorough and detailed assessment of unit F (as with all units) would take place at Reserved Matters stage, when all relevant details are available.
- 10.49 The proposal includes indicative level details that demonstrate that retaining walls will be required through the site, principally to accommodate the east / west fall. Given the scale of the buildings being considered, they would be necessary to enable reasonable development plateaus. Full details would

come forward at the reserved matters stage, but based on the indicative details held, no prohibitive concerns are held. On boundary treatment, this is expected to be typical commercial security fencing but, as per the indicative layout, could be set back into the site as opposed to on the boundary, which is deemed reasonable in principle. A 4m high acoustic fence is indicatively suggested to mitigate noise attributed to unit F. Officers have elsewhere raised concerns over the size and location of plot F and would add this to those concerns. Given the suggested fence is indicative, with a wide range of considerations being uncertain at this time, officers do not have a fundamental concern over this, but would consider the matter further at reserved matters stage.

- 10.50 In summary, officers are satisfied that there are no probative reasons why appropriate details of landscape, scale, appearance, or layout could not be provided at the reserved matters stage. It is considered that the outline submission complies with the requirements of Local Plan policies LP2 and LP24 although final approval would be subject to a full and detailed assessment of the details provided at Reserved Matters stage.

#### *Historic environment*

- 10.51 Policy LP35 confirms that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty in respect of listed buildings in exercising planning functions. In considering whether to grant planning permission for development which affects a heritage asset or its setting the LPA should 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.
- 10.52 There are no designated heritage assets on the site itself, although to the west of the Lindley Moor Road and Crosland Road junction is a Grade II\* listed guide stoop and the Grade II listed Haigh Cross is on land further south to the west of Crosland Road.
- 10.53 The impact of the development on the setting of the designated heritage assets above is limited to buildings A and F which are located near the west boundary of the site. The map of 1854 indicates that the guide stoop was on the east corner of the junction, and more recently on a traffic island in the centre of the widened junction. It is currently located on the west corner on land of the now traffic-light controlled junction, adjacent to a new footway. The setting of the guide stoop has been altered significantly due to changes to the road layout and addition of street furniture, although the stoop is still located on its original junction. The proposed location of Building A, a proposed single storey structure, is near this corner of the site with car parking providing a buffer between the unit and listed guide stoop,
- 10.54 Building F is a substantial two-storey structure which is directly opposite Haigh Cross. The setting of the cross has been eroded significantly with the development of a large commercial building directly to the west. The area between the cross and Crosland Road has been landscaped to allow the cross

to remain visible from this road. The construction of Building F on land to the east of the road will further harm its setting by the loss of more historic open fields.

- 10.55 Based on a review of the indicative layout, officers consider that to reduce the harm unit F would ideally be reduced in scale, with careful consideration of materials and details on the west elevation, along with the drystone wall on the west boundary being retained with attractive landscaping. However, as noted the details pursuant to unit F are indicative only, with the matters of scale, layout, and appearance reserved for later consideration and therefore subject to change and further consideration at a later date.
- 10.56 It is considered reasonable and necessary to require that an updated Heritage Impact Assessment be submitted to support any Reserved Matters application for the units near to the western boundary. This is to ensure a thorough and detailed assessment on the proposal's impacts upon the identified heritage assets may be undertaken, when full details are held.
- 10.57 While a detailed assessment would be required at application stage, without prejudice to any subsequent assessment and Heritage Impact Assessment to be provided, at this time officers consider that the proposed development would likely lead to less than substantial harm to the setting of the Grade II\* listed guide stoop and the Grade II listed Haigh Cross. Nonetheless, there is considered no fundamental impact that could not be overcome at Reserved Matters stage through appropriate design and consideration. This is based on the available details the harm is expected to be low due to previous changes in context and setting, and the proximity of the site on the opposite side of the Crosland Road. This anticipated low level of harm to the identified assets would be clearly outweighed by the public benefits of providing employment opportunities and commercial space.
- 10.58 Considering other heritage assets, as defined in the Castle Hill Settings Study, a significant ridgeline with views towards the Castle Hill (an Ancient Monument with Victoria Tower, a grade 2 listed structure), runs through part of the allocation's north-west section of the allocated site. These ridgelines are important vistas towards Castle Hill and should be preserved where feasible. However, it should be noted that the ridgeline is currently below a pylon, where access is restricted (for safety), and on private land that is not publicly accessible. Therefore, the ridge is of restricted existing value. Nonetheless, with the development of the site, opportunities to open up views from the ridge are possible (albeit that the pylon is to be retained). As the ridgeline falls within the outline aspect of the proposal, a full and detailed assessment cannot be made at this time. Officers would expect possible views towards Castle Hill from within the site to be considered as part of the revised Heritage Impact Assessment, in the interest of enhancing the development. However, for the avoidance of doubt, the proposal is not considered harmful to the heritage value of either Castle Hill or Victoria Tower.
- 10.59 In conclusion, giving due regard to Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 and the general duty it introduces in respect of listed buildings, the requirements of Chapter 16 of the NPPF, and LP35 of the Kirklees Local Plan, officers acknowledge that the proposal may result in less than substantial harm to the Grade II\* listed guide stoop and the Grade II listed Haigh Cross. However, this matter is not considered of fundamental concern, subject to conditions for updated Heritage Impact Assessments and



appropriate design mitigation being secured at Reserved Matters stage. In the event that less than substantial harm is caused, it is concluded that the public benefits of the proposal would clearly outweigh the harm caused, in compliance with the aforementioned policies.

#### Impact on residential amenity

- 10.60 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.

#### *Unit P and access road (full submission)*

- 10.61 Unit P forms the full permission element of the proposal. Therefore, full details on this building's appearance, scale, and layout are known. This enables a detailed assessment of the impacts. Unit P would be located in the application site's south-east corner, with existing dwellinghouses being located to its south, south-east, and north-east.

- 10.62 The building would be sited in excess of 60m away from the dwellings to the north-east, on Stirling Wood Close, and 80m to the properties to the south-east on, Ainley Road. Notwithstanding the application site being on a higher ground level, and the notable height of the building, officers are satisfied that these separation distances, plus the respective orientation of the dwellings and their windows towards the site offering only oblique views towards the site, plus the intervening Weatherhill Road, are sufficient to prevent concerns of overbearing, overshadowing, or overlooking.

- 10.63 The properties to the south of the site, on Alderstone Rise, are notably closer to unit P, particularly nos. 12 – 16. While other properties on Alderstone Rise (which includes bungalows) back onto the site, these are set at a more oblique angle to the new building. Nos. 12 – 16 would have a clear view towards unit P, which would be sited directly behind them and therefore be prominently visible. While these properties currently have an unobstructed outlook onto a field, there is no right to a view within the planning system. However, due regard must be given to material planning considerations relating to residential amenity, such as whether overbearing, overshadowing, or overlooking may be caused.

- 10.64 When considering overbearing, due regard should be given to the separation distance and respective heights (including ground level) of the buildings in question. These are as follows:

- No. 12: 25.0m away and set 1.2m lower than the proposed building.
- No. 14: 25.5m away and set 0.4m lower than the proposed building.
- No. 16: 26.6m away and set 2.8m higher than the proposed building.

The different ground levels are by virtue of Alderstone Rise being sloped and the application site having being plateaued.

- 10.65 The large size of the proposed building compared to the residential dwellings is noted, as is its higher ground level to no. 16; however, following amendments the new building has been designed to mitigate the impact on the dwellings in question. In addition to amendments which set it further away

compared to that originally proposed, the lower flat roofed side section was introduced to further move the massing of the building away from nos. 12 – 16. The flat roofed side section nearest the neighbouring dwellings has a height of 8.1m, not too dissimilar to a two-storey dwelling. This sets back the parapet roof section, which has a height of 11.1m, by a further 7.0m. By virtue of the sloped roof, the full height of the building (12.4m to ridge) is set a total of 12m away from the side elevation closest to nos. 12 – 16. Therefore, the full height of the building would be between 37.0m and 38.6m away from nos. 12 – 16. Officers are satisfied that this stepping of heights and distance is sufficient to prevent materially harmful overbearing upon the neighbouring properties, including nos. 12 – 16, but also the other properties on Alderstone Rise backing onto the site. A condition requiring the building's finished floor level be as per the submitted plans is recommended.

- 10.66 No windows are proposed on unit P's south elevation, preventing concerns of overlooking. The removal of PD rights for alterations on this elevation via condition is recommended, to retain this arrangement. As unit P would be due north of nos. 12 – 16, at the separation distances identified, the structure would not interfere with sunlight to result in harmful overshadowing.
- 10.67 Boundary treatment consists of 2.4m high paladin fencing and 2.0m high acoustic fencing, where needed as identified by the Noise Impact Assessment (considered further below), to define the site's compound. The fencing is set into the site, with the landscaped buffer zone to the plot's south and east separating the fencing from neighbouring properties. The fencing proposed raises no concerns regarding overbearing or overshadowing.
- 10.68 As a commercial development, unit P has the potential to cause noise pollution. K.C. Environmental Health has reviewed the applicant's initially submitted Noise Impact Assessment. This was tailored for a specific end user, who was seeking to operate 24-hour operations each day, with external yard activities taking place between 0700 - 1800 all days. Subject to internal noise mitigation, external acoustic screening and external plant noise levels each being secured by conditions, K.C. Environmental Health concluded this to be acceptable and would not result in materially harmful noise pollution to nearby residents.
- 10.69 Since the review of the initially submitted Noise Impact Assessment the intended occupier has been lost. Therefore, the applicant has submitted a revised, general purpose Noise Impact Assessment. While the initial report demonstrated that appropriate arrangements may be secured and noise is not a prohibitive issue, comments from K.C. Environmental Health on the updated report is pending and is to be reported within the update to members prior to the committee.
- 10.70 A detailed external lighting strategy has been provided for unit P. This has been reviewed by K.C. Environmental Health and confirmed not to result in harmful light pollution to nearby dwellings. A condition requiring that the external lighting be installed with the submitted details is recommended.
- 10.71 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 note regarding hours of noisy construction work is recommended. This would apply to both the full and outline elements of the proposal, with the CEMP either being site wide or per phase.

- 10.72 In conclusion, officers are satisfied that the elements of the proposal that consist of the full submission (namely unit P, works within its curtilage, and the access road) would not result in material harm to the amenity of nearby residents, subject to the recommended conditions. Therefore the full permission would comply with the aims and objectives of LP24, LP51, and LP52.

*Units A – N (outline submission)*

- 10.73 Outline planning permission is sought for the remaining units, and as a consequence, the wider layout plan is preliminary, although it should be noted that the access road forms part of the detailed proposal and that this will dictate the layout to an extent. Nevertheless, given that scale, layout, landscaping, and appearance are reserved matters, full details of the proposals are not under consideration at this time. However, due regard may be given to whether any prohibitive issues may exist that would prevent appropriate and reasonable Reserved Matter details coming forward. Furthermore, an indicative layout has been provided for consideration, demonstrating how the site may be developed in the future.
- 10.74 Properties adjacent to the outline elements of the proposal include those to the south-east on Haigh Way, Haigh Road, and Weatherhill View. These properties would be adjacent to units F and G (on the indicative layout). The properties on these streets predominantly do not face towards the site, presenting side elevations to the site. Furthermore, a buffer zone was incorporated into the residential development, separating the dwellinghouses from the site boundary. The one exemption regarding orientation is no. 1 Weatherhill View, which has a rear elevation facing unit G, at a separation distance exceeding 36m.
- 10.75 By virtue of the orientation of most neighbouring properties, the indicative separation distances, and that both the application site and former housing development included a reasonable buffer zone in each of their respective parcels, most of the dwellings on Haigh Way, Haigh Road, and Weatherhill View would not have a clear or close view towards the development site. Notwithstanding the anticipated scale of the proposed buildings, which would likely be evident from certain angles from the dwellings, officers are satisfied that appropriate details may be provided at the reserved matters stage that would result in no materially harmful overbearing.
- 10.76 Because the site is due north of the properties on Haigh Way, Haigh Road, and Weatherhill View, and given the indicative separation distance, there are no concerns of overshadowing. Window location on the new buildings falls under the remit of the reserved matter 'appearance', and therefore cannot be assessed at this time. However, there is no fundamental reason why either unit G or F would require windows on their south elevation that may cause overlooking, and therefore no immediate concern is held.

- 10.77 To the north-east, across Weatherhill Road, are properties on Stirling Wood Close. These units would be closest to plots D, Da, and E.
- 10.78 The properties on Stirling Wood Close are in excess of 60m away from the nearest unit, unit E. This is with Weatherhill Road and one of the site's pylons intervening, along with an area of landscaping indicatively shown between. Officers are satisfied that this separation distance is sufficient to prevent concerns of overbearing, overlooking, and overshadowing upon occupiers of Stirling Wood Close.
- 10.79 Details of boundary treatment, levels, and landscaping would be provided at the reserved matters stage. At this time there are no fundamental concerns and officers are satisfied adequate details could be provided as part of a reserved matters application.
- 10.80 As a commercial site, all of the proposed units have the potential to generate noise pollution. This includes via internal production processes and external serving. The application is supported by a Noise Impact Assessment which has been reviewed by K.C. Environmental Health. As all matters specific to design of the units are reserved (including the layout (therefore proximity to neighbouring properties) and appearance (therefore windows and opening)), the report highlights the limitation of certainties at this time. Nonetheless, reasonable assumptions have been used to determine the impact the development site may have on noise sensitive receptors and K.C. Environmental Health is satisfied that the report makes reasonable assumptions to reach its conclusion. This includes mitigation measures being proposed that, based on the assumption, would suitably control noise so as not harm the amenity of nearby residents. Of note, this includes a 4m high close-boarded acoustic fence installed along the southern boundary of unit F's yard, which has been considered separately (from a design perspective) in paragraph 10.49. From an amenity perspective, officers are satisfied that such a fence would not result in material harm to the living standards of nearby residents, based on its indicative location.
- 10.81 While not disputing the indicative conclusions of the Noise Impact Assessment, K.C. Environmental Health considers it premature without the actual particulars being provided. However, they accept there are no fundamental noise concerns, subject to appropriate mitigation being installed. A condition is therefore recommended for a further noise impact assessment, at Reserved Matters stage, once details on the particulars are known. This includes the hours of use. A condition relating to mechanical plan and limiting noise it may produce is also recommended.
- 10.82 A condition for the reserved matters submission to include an external lighting strategy is recommended. This is to ensure no detrimental light pollution to nearby dwellings.
- 10.83 Unit C is intended as a restaurant and therefore would include cooking on site. As such, odour is a potential pollutant. An odour assessment has been submitted as part of the application and considered by K.C. Environmental Health. While the report concludes there are no fundamental issues relating to odour pollution, mitigation would likely be required. However, as the end user and design of the restaurant is unknown, as it forms part of the outline

permission, the exact impacts and therefore mitigation is unknown. Officers therefore recommend a condition that requires the relevant reserved matters submission, which includes the restaurant, include a dedicated odour impact assessment.

- 10.84 In conclusion, officers are satisfied that the elements of the proposal that consist of the outline submission (namely units A - N and their respective curtilages) would not result in material harm to the amenity of nearby residents, subject to the recommended conditions. Therefore, the outline permission would comply with the aims and objectives of LP24, LP51, and LP52, although final approval would be subject to a full and detailed assessment of the details provided at Reserved Matters stage.

Impact on highway safety

- 10.85 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.
- 10.86 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. The NPPF continues that that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.87 First considering traffic generation, the (total, across both outline and full aspects of the proposal) floor space proposed is expected to generate the following vehicle movements:

	<b>Arrivals</b>	<b>Departure</b>	<b>Two-way</b>
<b>AM Peak</b>	127	77	204
<b>PM Peak</b>	110	135	245

- 10.88 These movements would include a mixture of private vehicles, LGVs and HGVs. Due regard has been given the impacts these movements would have on the local highway network. Principally this relates to the nearby Ainley Top roundabout.
- 10.89 K.C. Highways conclude that whilst the existing traffic situation on Ainley Top has some extensive queuing and indeed an increase in the forecast year of 2032. Based on the data gathered and comments received within the public representations it is accepted that the roundabout is busy at peak times. However, paragraph 115 of the NPPF sets out the following test:

*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

Both K.C. Highways and National Highways are satisfied that the impact would not be severe, and therefore the proposal would not conflict with the test of paragraph 115. However, to ensure the roundabout operates as effectively as possible officers recommend that two periods of traffic light signal monitoring at the roundabout be secured via the application, at the applicant's expense at £24,000 (£12,000 per period of investigation). These would take place at 50% and 100% occupation, and enable the lights to be modified if the traffic attributed to the development affects their current use.

- 10.90 Given that the majority of traffic is anticipated to exit the site via Ainley Top roundabout, there are no concerns over impacts on other nearby junctions or routes.
- 10.91 Concluding on the traffic impact of the proposal, based on the junction modelling assessments that have been provided, it has been identified that development traffic can generally be accommodated on the local highway network without any significant capacity impacts, subject to the abovementioned review at different occupation points. However, the above assessment has been made on the submitted floor space figures and use classes. A condition is therefore recommended to limit the development, via the subsequent reserved matters, to the maximum floor spaces as set out in paragraph 10.9.
- 10.92 Regarding traffic during the construction period, given the scale and nature of the development officers recommend a Construction Management Plan (CEMP) be secured via condition. This is to ensure the development would 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 accordingly.
- 10.93 The proposed access point onto Lindley Moor Road and the internal road layout, which form part of the full application, have been subject to a Road Safety Audit which has been reviewed and accepted by K.C. Highways. The proposed highway arrangements are deemed to comply with the standards of the Highway Design Guide SPD. Furthermore, there is no prohibitive reason preventing a road scheme to an adoptable standard (although not necessarily to be adopted) being brought forward. Full technical details of the new access road, to an adoptable standard, would be secured via condition.
- 10.94 The proposal includes the provision of a 2m wide footway along the site's frontage with Lindley Moor Road. Currently only the north side of the road has a footpath, with there being none along the site frontage. This provision would provide an improvement to pedestrian movements, which welcomed, but also secure the adequate sightlines for proposed access. The provision of this footpath, to an adequate standard, may be secured via condition.

- 10.95 The applicant has demonstrated that the site could accommodate a refuse vehicle accessing and turning. As a commercial development, waste collection arrangements would be a private matter for the applicant to facilitate. Nonetheless, in the interest of ensuring appropriate arrangements for the storage and collection of waste are considered, a condition requiring these details be provided is recommended.
- 10.96 Considering car parking and servicing, the details submitted as part of the full application for unit P are acceptable. Adequate parking provision for staff would be provided while adequate space is provided so that larger vehicles could effectively access and exit the site in a forward gear. For the other units subject to the outline element of the proposal, their respective parking demand and arrangements would be considered separately at the reserved matters (layout and scale) stage.

*Sustainable travel*

- 10.97 Policy LP20 of the Kirklees Local Plan states:

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

- 10.98 As the site was allocated in the Local Plan for commercial (and residential) development, the potential accessibility of the site was assessed as part of the Local Plan adoption process. The site is within the urban environment (albeit on the edge), being within an acceptable walking distance of Lindley local centre (circa 810m), Birchcliffe local centre (circa 610m), and Salendine Nook (circa 1.1km), while being adjacent to the moderately dense urban environment of Oakes and Lindley. This allows for good connectivity for local workers.
- 10.99 Regarding pedestrian movements, as set out in paragraph 10.94 a 2m wide footway is proposed along the site frontage, which will support pedestrian movements. In addition, as part of the full application, links through the site towards Weatherhill Road and Crosland Road are proposed. These are welcomed and would promote pedestrian movements in and through the site; the delivery of these connections, to an appropriate standard, is recommended to be secured via condition.
- 10.100 Specific to Crosland Road, in the interest of promoting safe pedestrian movements in and around the site, the following improvements / updates are to be secured via condition:
- an assessment of the existing signalised junction of Lindley Moor Road/Crosland Road, to determine if an additional pedestrian phase can be added across to the site access and, should this be deemed workable, the implementation of such a change.
  - the delivery of a 2m wide footway along the site’s Crosland Road frontage (as part of a subsequent reserved matters phase).

These improvements would result in a coherent pedestrian environment that connects the site's proposed pedestrian access onto Crosland Road to the new footway on Lindley Moor Road and the footway on Crosland Road provided as part of the new residential development, while the lighting works (if feasible) would support pedestrian crossings at the Lindley Moor Road/Crosland Road junction.

- 10.101 PROW HUD/410/10 runs along the site's southern boundary, mostly outside of it but partly within. The proposal would only provide a pedestrian link onto the PROW at the same point as where it adjoins Weatherhill Road, however as the PROW simply links Crosland Road to Weatherhill Road, which the proposal would also do internally, there is deemed no need for a direct connection elsewhere within the site.
- 10.102 The route of the PROW would be unaffected by the proposal; however, due regard must be given to the amenity of the PROW. The portion of the PROW adjacent to, but not within, the site boundary roughly aligns with the element of the application subject to outline consideration. Based on the indicative layout, there are no fundamental concerns that the reserved matter details (i.e., the proximity of the buildings or landscaping adjacent to the PROW) would cause harm to the PROW, subject to a detailed assessment at the reserved matters application stage. Regarding unit P and the element of the proposal under full consideration, it is proposed to set the site's boundary wall back to increase the width of the PROW by 1.5m. This is a welcomed improvement that will make the PROW more attractive and usable, and may be secured via condition.
- 10.103 Regarding other methods of travel, opportunities for cycle improvement in the area (within the scope of this application) are limited. Nonetheless, the provision of cycle storage facilities per unit is recommended to be secured via condition, as is the provision of Electric Vehicle Charging Points. This is to promote alternative, low emission, methods of travel.
- 10.104 West Yorkshire Metro advises that a contribution of £10,000 be secured towards sustainable travel incentives to encourage the use of sustainable modes of transport. This would be put towards the installation of a Real Time Information battery at a nearby bus stop (stop ID 22783, on Weatherhill Road).
- 10.105 Notwithstanding the above measures, as the development includes over 1,000sqm, a Travel Plan is required. Whilst the applicant has submitted a draft Travel Plan, it lacks the level of detail expected for a full Travel Plan. Therefore, it is recommended that a fully detailed Travel Plan be secured via planning conditions with a contribution of £15,000 towards ongoing (5 years) monitoring to be secured within the S106.
- 10.106 The site is within a sustainable location. Furthermore, the proposal includes highway conditions and contributions that are expected to promote sustainable means of transport, as well as a contribution towards public bus infrastructure. Other conditions relating to cycle storage and EVCP are proposed. As such, the development is deemed to comply with the aims of policy LP20.



### *Highways, conclusion*

10.107 Overall, it is concluded that the proposal is acceptable with regard to the matter of access and highway impact. Subject to relevant conditions and the planning obligations specified above, 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 appropriately mitigated. The development would not result in a severe cumulative highway impact given the proposed mitigation. It would therefore comply with Policies LP20, LP21, and LP22 of the Kirklees Local Plan.

### Drainage and flood risk

10.108 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach (where necessary). Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.

10.109 As the site area exceeds 1ha a site-specific flood risk assessment has been required to support the application. The site is wholly within Flood Zone 1 and is therefore not considered to be at risk from fluvial (watercourse / ocean) flooding sources. As such, neither a sequential approach nor exemption test are necessary to inform the location of the development.

10.110 Considering pluvial (surface water) flooding, an indicative surface water drainage strategy has been submitted by the applicant. This, in principle, addresses both the full application portion of the development (unit P and the access road) and the remaining outline aspects of the proposal. The strategy would discharge attenuated surface water flows at the equivalent greenfield run-off rate from the new development, or 10.5l/s in this case. This would be achieved via several attenuation tanks across the site, with individual limits of 2.5l/s. This figure has been accepted by the LLFA and Yorkshire Water. Due regard has been given to the drainage hierarchy in identifying the water discharge point. Infiltration has been discounted due to the ground conditions, however an indirection connection to a watercourse, via requisition to public surface water sewer, has been identified as feasible. A more preferable route via third party land ownership has also been identified, but relies on the applicant coming to a private arrangement with the land owner. This may be explored further, with full details to be provided as part of the technical design, to be secured via condition, however it is reiterated that an adequate fall-back position has been found in case reasonable agreement cannot be reached on the third-party land.

10.111 The submitted strategy proposes the use of crate storage for attenuation. This is a cause for concern for officers, as crate storage has issues of long-term management and maintenance when compared to a traditional concert tank. While not fully ruling out the use of crate storage, there is considered a high bar for applicants to demonstrate their suitability and that their ongoing management, for the lifetime of the development, can be secured. Nonetheless, this is considered a matter which can be resolved at discharge of condition stage.

- 10.112 Foul water is to be discharged via an existing foul sewer on Weatherhill Road, which Yorkshire Water has not opposed.
- 10.113 As the submitted drainage strategy incorporates both full and outline aspects of the proposal, a set of conditions requiring full technical details of each phase's drainage strategy, to comply with the principles established as part of this application, would be needed. Such conditions are recommended by officers.
- 10.114 It is feasible that the various units on site would be sold to various parties. Given the potential for different land owners, 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.
- 10.115 Flood routing for exceedance events has been considered. This demonstrates flood water flowing via the new carriageway towards Weatherhill Road and away from neighbouring dwellings and their gardens. For the southern boundary, which is shared with neighbouring properties, a land drain would be installed to redirect any flood water. These provisions are considered acceptable, and may be secured via conditions.
- 10.116 Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.117 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 LP27, LP28 and LP29 of the Kirklees Local Plan.

#### Ecology

- 10.118 Local Plan Policy LP30 requires that planning decisions 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.
- 10.119 The application is supported by an Ecological Impact Assessment (EclA) and Preliminary Ecological Appraisal (PEA) which have been reviewed by K.C. Ecology. The submitted reports provide a comprehensive assessment of the site and lay out the potential impacts on ecological receptors, brought about by the proposed development. Overall, the site is of limited ecological value consisting of species poor modified grassland with limited opportunities for protected species, given the intense grazing regime currently undertaken at the site.
- 10.120 Given that schemes secured via outline permissions may be progressed over a longer period, it is not uncommon for conditions for re-assessments at reserved matters stage to be required. In this case, given the poor state of the site and the limited opportunity for enhanced ecology in the foreseeable future, no such re-survey work is deemed reasonable or necessary.

- 10.121 The development and operation of the site would not unduly harm local species, protected or otherwise. Nonetheless, construction can also cause impacts. A condition for a Construction Ecological Management Plan is recommended, to ensure construction activity is managed in a considerate way.
- 10.122 The above considers the proposal's direct impacts on local habitat and species. Policy also requires development to result in a net gain to local ecology, in this case a 10% gain using the DEFRA Metric. While large portions of the site are made at outline, landscaping has been applied for as a consideration and therefore allows for a detailed assessment on net gain.
- 10.123 The application's Biodiversity Net Gain metric calculates that post-development, 0.90 (or a 6.91% gain) habitat units may be provided on site, the delivery of which may be secured via condition (with appropriate regard to phasing). However, this falls below the target of 10% net gain by 0.4 habitat units. There are limited options to maximise the availability of habitat units within the site, and officers are satisfied that these have been considered and discounted. As such, off-setting will be required in order for the development to achieve a biodiversity net gain of 10%. A 0.4 habitat unit shortfall amounts to an off-site commuted sum of £9,200 in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. This may be secured within the S106.
- 10.124 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, represent an ecological net gain. Furthermore, the proposal would have no significant impacts upon local species. 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.

#### Other matters

##### *Air quality*

- 10.125 An air quality impact assessment (AQIA) has been submitted as part of the application and has been reviewed by K.C. Environmental Health. The site is adjacent to the council's Air Quality Management Area 3 (Ainley Top) which is split between land to the south-east of Ainley Top (on Halifax road) and land to the north-west of Ainley Top (on Lindley Moor Road, north-east of the site).
- 10.126 For the operational phase detailed dispersion modelling using ADMS-Roads (V 5.0.1.3) was used to determine changes in pollutant concentrations at 16 sensitive receptor locations. The receptor locations were chosen as being in the vicinity of road links likely to be most affected by changes in traffic flows because of the development. Traffic data provided by Paragon Highways, in addition to data obtained from the Department for Transport (DfT) and monitoring data obtained by Kirklees Council was used in the model to predict changes in Nitrogen Dioxide (NO<sub>2</sub>), and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>).

- 10.127 The report concludes that all modelled pollutant concentrations at all sensitive receptors are predicted to be below the National Air Quality Objectives (NAQO). It goes on to state that overall, the road traffic emission impacts because of the proposed development are negligible and not significant in accordance with the Institute of Air Quality Management (IAQM) guidance.
- 10.128 Notwithstanding the above, in accordance with the West Yorkshire Low Emission Strategy (WYLES) - Technical Planning Guidance, a damage cost calculation has been provided to determine the amount (value) of mitigation required to offset the detrimental impact that the development would have on air quality. The calculation was undertaken in accordance with DEFRA guidance at the time of writing and provides a five-year exposure value to the sum of £55,604 to be used for site specific mitigation measures. No mitigation measures have been included in the report but may be secured via condition, along with the inclusion and retention of Electric Vehicle Charging Points per plot.
- 10.129 For the construction phase of the development, the AQIA acknowledged that dust pollution may be caused. This is not unusual and may be addressed via a dust mitigation strategy to be included within the Construction Environmental Management Plan (CEMP) recommended to be secured via condition.
- 10.130 Subject to the given condition, officers are satisfied that the proposal would not harm local air quality, nor would occupiers suffer from existing poor air quality, in accordance with Policy LP51 of the Kirklees Local Plan.

#### *Contamination*

- 10.131 The site is identified as being potentially contaminated. Therefore, the application is supported by a Phase 1 and 2 Geoenvironmental Risk Assessment and Remediation Strategy, which have been reviewed by K.C. Environmental Health.
- 10.132 K.C. Environmental Health considers the methodology and findings of the reports to be acceptable. While some sources of contamination have been identified, appropriate remediation to mitigate the impacts have been proposed. The delivery of the remediation strategy may be secured via condition, alongside a condition for a validation report to demonstrate the remediation has been successful. Subject to these conditions, officers are satisfied that the proposal complies with Policy LP53 of the Local Plan.

#### *Coal legacy*

- 10.133 The site is within the defined High-Risk Coal Zone. Therefore, the application is supported by a Coal Mining Risk Assessment which has been reviewed by the Coal Authority. In summary, the Coal Authority is satisfied that the investigations undertaken have reasonably demonstrated that the site is, or can be made, safe and stable for development, with no specific planning conditions sought. Further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application, but this falls outside the remit of planning. Accordingly, officers are satisfied that the site's coal legacy raises no conflict with policy LP53 of the KLP.

### *Crime Mitigation*

- 10.134 The West Yorkshire Police Designing Out Crime Officer has made a number of comments and recommendations, particularly with regard to security features and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. Initial concerns were held over the inclusion of cafe / fast food uses, but these have since been omitted.
- 10.135 A condition is proposed for crime mitigation details to be provided, per phase. This will require consideration of the site's boundary, finding an appropriate balance between an attractive design which does not prejudice amenity with security being adjacent to a public area, and consideration of the security for the bike / car parking area, including lighting.

### *Employment and skills*

- 10.136 A number of quality and skilled jobs, including apprenticeships, would be expected at the application site. Details of these would be considered further at Reserved Matters stage and/or when occupants are identified, having regard to Local Plan Policy LP9. Opportunities for local employment should be maximised. Local Plan policy LP9 states that the council will work with partners to accelerate economic growth through the development of skilled and flexible communities and workforce in order to underpin future economic growth to deliver the Kirklees Economic Strategy. It adds:

*Wherever possible, proposals for new development will be strongly encouraged to contribute to the creation of local employment opportunities within the district with the aim of increasing wage levels and to support growth in the overall proportion of the districts' residents in education or training. Applicants should reach an agreement with the council about measures to achieve this, which could include: provision of specific training and apprenticeships that are related to the proposed development or support other agreed priorities for improving skills and education in Kirklees or the creation of conditions to support a higher performing workforce, increasing productivity and the in-work progression of employees. The Council will therefore seek to secure an agreed training or apprenticeship programme with applicants [where specified thresholds are met by proposed developments].*

- 10.137 On 21/09/2022, Cabinet approved a Social Value Policy which defines social value as:

*...the broad set of economic, social and environmental benefits that may be delivered in addition to the original goods or service being provided. They may include jobs and training, support of local businesses and community organisations, and to our environment. These benefits may be delivered through procurement, our employment practices, our grants and investments or other processes.*

- 10.138 The Social Value Policy confirms that the council will consider social value in relation to planning and development, particularly major planning applications. The council will negotiate social value obligations for all major developments,

within the existing Local Plan policy framework and subject to meeting legal tests of the Section 106 process, and will use Section 106 agreements and other levers to ensure commitments are achieved.

- 10.139 The applicant has not yet identified developer partners or final occupiers for the proposed units; however, it is recommended that provisions be secured (via a Section 106 agreement) requiring the applicant to, in turn, require those future partners to actively participate and engage with the council in delivering social value measures of benefit to the people of Kirklees, and in particular those residents in the areas surrounding the application site. This engagement may take the form of entering into an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes.

#### *Mineral Extraction*

- 10.140 The site is within a wider mineral safeguarding area (SCR with Sandstone and/or Clay and Shale). 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.
- 10.141 The applicant has made no commentary or assessment on this subject. However, officers note that policy LP38's requirement does not apply on site's 'there is an overriding need for the development'. As land allocated for development, this is considered to be the case for the site. Furthermore, it is not considered practical for this site to include mineral extraction, given the proximity of residential properties (with the site's narrow shape and steepness limiting the feasibility of appropriate separation distances and bunds. Accordingly, it is considered that the proposal complies with the aims and objectives of policy LP38 regarding mineral safeguarding issues.

#### Representations

- 10.142 Most matters raised via the representation period have been addressed elsewhere within this report. The following are matters not previously directly addressed.

#### *General*

- Development in the Green Belt should not be permitted. Development should be focused on brownfield land.

**Response:** The site is not Green Belt land and neither local or national policy establishes a requirement for brownfield land to be developed prior to greenfield.

- This land (Lindley Moor) was gifted to the council 'to be preserved as common land for the use of local residents'.

**Response:** Officers have not verified this claim. Regardless this would be a private legal matter and outside the remit of planning.

- The proposal does not respond to local needs. Local residents need more GP services and school places, not industrial developments.

**Response:** The site is allocated for mixed-use commercial or residential, although the residential indicative capacity has been reached, indicating a commercial expectation. Furthermore, officers must assess the scheme based on that submitted and not alternative options.

- The application includes inadequate details for residents to comment on and the consultation period has been inadequate and falls below statutory standards.

**Response:** Officers consider that the public representation period complied with all statutory requirements.

- The Kirklees Way passes directly through this area and covering the area in buildings and their ensuing traffic would be detrimental to people who wish to use the paths.

**Response:** The Kirklees Way does run along HUD/410/10. The proposal's impact on the PROW has been considered and found to be acceptable: this would be applicable to the route as part of the Kirklees Way too.

- The proposal will affect local house prices.

**Response:** This is not a material planning consideration.

#### *Amenity*

- The development will cause odour pollution and attract vermin to the area.

**Response:** An odour impact assessment is to be secured via condition for the restaurant use. Regarding vermin, this is speculation. There is no intrinsic reason why such issues would occur and should they, it would be subject to separate control.

- The large areas of car parking and proposed uses will attract crime and anti-social behaviour, both to the site and wider area.

**Response:** A condition for crime mitigation measures, per unit, is recommended.

## **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 application site is the last part of a Mixed-Use allocation intended for employment and residential use to be developed. The residential use has been achieved elsewhere in the allocation. The proposal, along with the employment development approved elsewhere on the allocation, would fall below the indicative floor space expectations of the Local Plan, however as set out within the report, this is not considered a cause for concern. Overall, the proposal would represent an effective and efficient use of a Local Plan allocation and would promote local employment, which is welcomed. As the

proposal includes a main town centre use, due regard has been given to the impact on nearby local centres, which has been concluded to be acceptable. Accordingly, the principle of the development is found to be acceptable.

- 11.3 The proposal is a hybrid application, including elements seeking 'full' planning permission and others seeking 'outline', with all matters reserved. For both elements of the proposal due regard has been given (in so far as it is feasible for the outline elements) to the relevant material planning considerations, such as the development's potential impacts on urban design, residential amenity, ecology, highways, and drainage, and consideration of whether any prohibitive reasons would prevent acceptable details coming forward at reserved matters stage. No issues have been identified and the proposal is deemed to comply with the relevant local and national policies.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

## 12.0 CONDITIONS

The following is a summary list. The full wording of conditions, including any amendments/additions, is to be delegated to the Head of Planning and Development. As a hybrid application, careful application of the conditions, between the full, outline, and shared elements of the proposal would be required. The following is therefore reiterated to be a summary and subject to change:

### Full Permission

1. 3 years to commence development
2. development to be done in accordance with plans
3. technical details of road and access (including footpaths)
4. Solar panels to be provided
5. material samples to be provided and approved.
6. remove PD rights for alterations (i.e., new windows) on south elevation
7. Internal, external, and plant noise mitigation to be implemented (subject to update).
8. Submitted finished floor levels to be adhered to.
9. External lighting to be as per submitted plans
10. Crime mitigation measures to be submitted and approved.
11. Drainage strategy to be done in accordance with FRA
12. footpath on frontage to Lindley Moor Road to be provided.
13. Site southern boundary wall to be set back 1.5m to widen PROW, with technical details to be provided.
14. Landscaping strategy, including management and maintenance arrangements, to be submitted and approved.
15. Cycle facilities as proposed to be provided.



### Outline Permission

1. 3 years for RM to be submitted, 2 years for RM dev to be commenced
2. development to be done in accordance with plans
3. Restaurant to be E(b) use only.
4. Limit on retail floor space of unit D, Da and E's trade counter.
5. Each RM phase to include a Climate Change Statement
6. Floor space not to exceed Area Schedule
7. Each phase to have its own Heritage Impact Assessment
8. Crime mitigation measures per phase
9. Lighting strategy to be submitted per phase.
10. Restaurant RM to include an odour assessment.
11. Lighting strategy per RM phase
12. Noise Impact Assessment, to include hours of operation, per RM phase
13. Noise limitation of external plant per unit.
14. Details of Layout, per phase, to include updated drainage strategy complying with indicative strategy and flood routing from outline
15. Details of layout to include cycle facilities.

### Shared

1. Air quality mitigation measures including EVCP, prorated based on floor space to the identified value, to be detailed and implemented.
2. Construction Environmental Management Plan per phase
3. Construction Ecological Management Plan per phase
4. Biodiversity Management Enhancement Plan per phase
5. Temporary surface water during construction per phase
6. Development to done in accordance with remediation
7. Validation report to be submitted per phase.
8. Waste storage and collection details to be provided per phase

**Note:** Outlining concerns with layout of unit F.

**Note:** Recommended hours of construction

### **Background Papers**

#### Application and history files

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2022%2f91477>

#### Certificate of Ownership

Certificate A signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 20-Jun-2024

**Subject: Planning Application 2023/93449 Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth, HD9 2RL**

#### APPLICANT

C Barber, Windy Ridge  
Recycling Ltd

#### DATE VALID

28-Nov-2023

#### TARGET DATE

27-Feb-2024

#### EXTENSION EXPIRY DATE

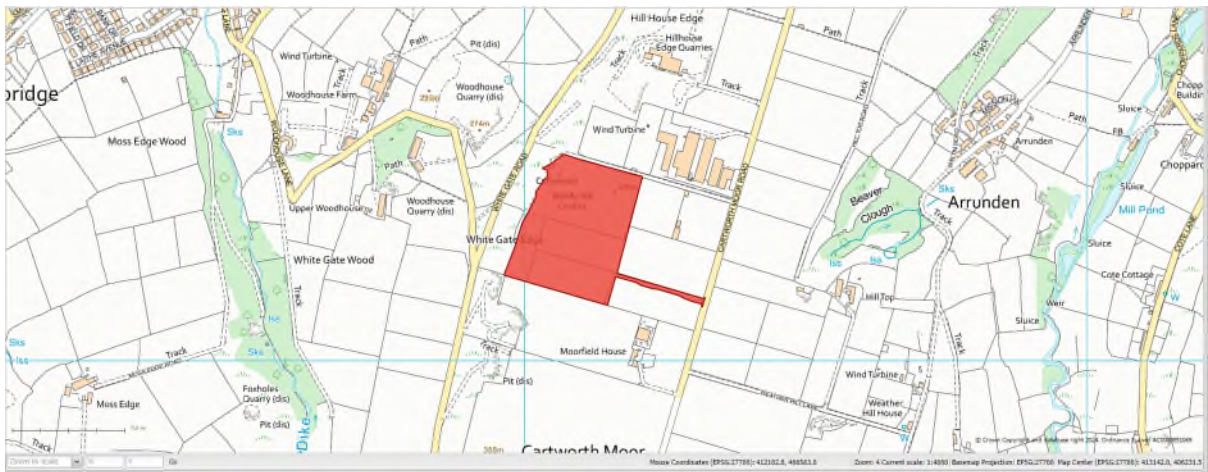
15-Mar-2024

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Holme Valley South**

**Ward Councillors consulted: Yes**

**Public or private: Yes**

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**RECOMMENDATION: Approve**

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

1. Annual highway maintenance fees of £50,000 (to be split between Kirklees and Barnsley Council) to mitigate against the potential damage and deterioration of the highway infrastructure as shown on HGV routing drawing 10193/S106 Traffic Route/CJB/120324, from the intensified use of HGV's in association with the proposals.

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

**1.0 INTRODUCTION:**

- 1.1 The application is submitted in full to deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes.
- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination, in accordance with the delegation agreement, as a significant number of representations contrary to the case officer's recommendation for approval have been received.
- 1.3 A previous application (ref: 2022/93230) for an identical scheme was refused in accordance with the SPC's resolution of 02/03/2023. This application is a resubmission of that refusal.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 Windy Ridge Quarry is situated on the western edge of Cartworth Moor, approximately one kilometre to the southwest of Holmfirth. The Quarry lies at the top of the eastern slope of the River Holme Valley, between 330 and 346 metres above ordnance datum (AOD). The Quarry is currently accessed via a bridleway HOL/94/10 which adjoins Cartworth Moor Road, 520 metres to the

south of its junction with Gill Lane/Cartworth Bank Road. There are a number of other quarries in the vicinity, of which two are currently operational; Hillhouse Edge Quarry, which lies immediately to the north of this site and has seen significant restoration in its southern sector in recent years, and Woodhouse Quarry down slope to the west.

- 2.2 Public Right of Way (PROW) HOL/94/10, which is a bridleway, bounds the site to the west and north as it progresses from Whitegate Road to its junction with Cartworth Moor Road
- 2.3 The application red line includes within it a former landfilled area which forms part of the existing operational quarry and a previously restored part of the landfill quarry area which does not form part of the extant planning permission. The proposals under this current application include works to both these areas and have been carried out in retrospect. See paragraphs 3.1 (bullet points 5 and 6) 10.7 and 10.26 below.
- 2.4 The closest independent dwelling/farmstead is approximately 60 metres from the application southeast boundary. This is known as Moorfield House. There are other dwellings farmsteads approximately 137 metres from the site boundary.

### **3.0 PROPOSAL:**

- 3.1 As stated above, this is a re-submission of an earlier application 2022/93230 which was refused by Members of the SPC on 02/03/2023 on four grounds of refusal.

As on the 2022/93230, the proposals in brief, seek to:

- deepen the existing quarry by approximately 10 meters to a maximum depth of 313m AOD, (total depth approx. 26m)
- and extending it onto 1.75ha of agricultural land to the south-west of the existing operation,
- close the existing access to quarry traffic, following the completion of the proposed new access onto Cartworth Moor Road, after 24 months from permission being granted
- notwithstanding the supporting statement, an increase in the number of HGV movements permitted per day from 16 to 30 (15 in and 15 out),
- retrospective approval for the recovery of materials from the landfill in the southern part of the permission area, to allow access to mineral beneath
- temporarily store material in 4m high mound, that cannot be recycled from previous landfill area (these appear to be 5m high, according to recent Phase 1 report received) on part of the previously restored quarry area (retrospective). This operation was formed prior to the consideration of planning application 2022/93230. This still does not appear to have been grassed as previously it was stated to be in winter 2022/3. This stockpile is again stated to be removed by December 2024.
- restore the site by infill with construction, demolition and excavation wastes,
- recycle imported construction, demolition and excavation wastes through the use of crushing and screening plant, and
- placement of 3m (top and sub soil) high bunds along the southern and eastern perimeter of the proposed extension part of the site.
- Extraction of the stone reserve expected to take approximately 10 years, with backfill to be completed within an additional 10 years. Final restoration is anticipated to be achieved by 31<sup>st</sup> December 2043.

3.2 The applicant is also agreeable to enter into a Section 106 Legal Agreement to provide highway maintenance payment of £50, 000 annually, to mitigate for the potential damage and deterioration to the highway infrastructure that follows the proposed HGV routing as shown on drawing 10193/S106 Traffic Route/CJB/120324. The HGV routing includes highways in both Kirklees and Barnsley district.

3.3 The four reasons of refusal on the 2022/93230 planning application are set out below, in full:

1. The proposals through the construction of a new access road will result in the encroachment of urban development into the countryside. This together with its use as proposed would constitute inappropriate development failing to preserve the openness of the green belt and would conflict with the purpose of including the land within the green belt. Very special circumstances (which clearly outweigh this inappropriateness and other harm) has not been sufficiently demonstrated. The proposal is therefore contrary to policies LP32 and LP36, Part 2 (a) of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

2. The proposals will result in an intensified use in HGV movements on the surrounding highway network including Cartworth Moor Road. Consequently, this will result in the further structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified HGV movements. Cartworth Moor Road in part forms a core walking and cycling network. The intensified HGV's movements is likely to result in significant highway safety concerns from conflicts between HGV and other road users including vehicular, equestrian, cyclists and pedestrians, failing to safeguard and undermine the safety of all other users. The proposals as such are contrary to guidance in the NPPF and Kirklees Local Plan Policies LP21, LP23, and LP36 Part 2 (points c, d and f).

3. The carrying out of the proposals will result in unacceptable noise nuisance to the occupants of the nearest noise sensitive receptor known as Moorfield Farm. It has not sufficiently been demonstrated how the detrimental impact from noise nuisance on the occupiers of Moorfield Farm can be mitigated against adequately. The proposals as such fail to comply with Kirklees Local Plan Policies LP36, Part 2(c) and LP52 and guidance in the National Planning Policy Framework

4. The submitted information fails to demonstrate sufficiently how the proposals would avoid causing potential detrimental effects on the existing private water supplies serving a number of properties in the vicinity of the application site, to accord with Kirklees Local Plan policies LP34, LP36 Part 1 (c) and Part 2 (e) and guidance in the National Planning Policy Framework.

3.4 The submission documents accompanying this application comprises details to address the previous reasons for refusal which are discussed in more detail in the appraisal below.

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

4.1 The site produces a mixture of blockstone, walling stone and aggregates and currently operates under an extant planning permission which allows continuation of mineral working and subsequent landfill to restore the site.

4.2 The following planning applications are considered relevant to this proposal:

HO/4320 – for “Permission to Continue Stone Quarrying was approved on 20 May 1964

79/05800 – for “Quarrying Stone Extraction” was approved 22 January 1981

91/00024 – for “Quarrying - stone extraction” was approved 9 September 1994

94/91020 – for “Use of land as a skip hire depot” was refused 12 August 1994

94/91802 – for “Variation of condition 3 relating to backfill of worked out quarry on previous planning permission (HO/4320) for continuation of quarrying of stone” - approved 7 May 1996

2002/91421 – for “Variation of condition 2 on previous permission 91/62/00024/W0 to permit the continuation of mineral extraction and landfill Until 31 December 2026” - approved 13 March 2003. However, this permission was time restricted by planning condition until 31 March 2013.

2002/91422 – for “extraction of sandstone, associated ancillary activities and restoration by means of infill with overburden and inert waste” - approved on 28 March 2003

2012/93305 - Continue the extraction of sandstone and deepen the quarry to 323m AOD to restore the quarry to agricultural use by means of infill and to recycle construction, demolition and excavation waste – granted in March 2013. Mineral extraction to cease and the site to be restored in accordance with approved plan 8973/04 and details to be agreed as set out in condition 21 of the permission by 31st March 2028. - Appeal upheld in March 2014 to omit condition no. 4 and reword condition nos. 7 and 8 to refer to Heavy Goods Vehicles.

2020/92410 - Variation conditions 7 and 8 on previous permission 2012/93305 to continue the extraction of sandstone and deepen the quarry to 323m AOD to restore the quarry to agricultural use by means of infill and to recycle construction, demolition and excavation waste – granted 05 January 2021

2022/93230 - Deepen and extend windy ridge quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes- refused 02/03/2023

4.3 Enforcement- Breach of condition notices sent 20/02/2023 (in relation to conditions 5, 6, 9, 12, and 28 of planning permission 2020/92410

- (5) All commercial vehicles leaving the application site shall have their wheels and chassis cleaned before they enter the public highway.*
- (6) The total number of heavy good vehicles (HGV's) to and from the site shall not exceed 16 per day (8 in and 8 out).*
- (9) All loaded Heavy Goods Vehicles leaving the site shall have their loads sheeted.*
- (12) No waste, mineral or soils shall be stockpiled nor plant located above the original level of the ground.*
- (28) Except in emergencies to maintain safe quarry working (which shall be notified to the Mineral Planning Authority as soon as practicable):*
- (a) no operations, other than water pumping, servicing, environmental monitoring, maintenance and testing of plant shall be carried out at the site except between the following times 0800 hours and 1730 Monday to Friday; and 0800 hours and 1230 Saturdays;*
- (b) no operations other than environmental monitoring and water pumping at the site shall take place on Sundays or Bank or National Holidays.*

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

- Officers requested evidence of the supply & demand for the mineral sourced from the site- received 12/02/2024
- Details relating to private water supply for Moorfield House – received 09/02/2024
- Final HGV routing plan received 12/03/2024
- Wheel bath location drawing received 14/03/2024
- Agreement of applicant to pay the requested £50K annually instead of 25K – received 03/05/2024
- Stage/phase 1 Geo-Environmental Desk Study Report, authored by ARP Geotechnical (ref: CQL/01r1) -received 08/05/2024
- Confirmation that passing places on Cartworth Moor Road created – received 13/05/2024
- Negotiations have also continued through the course of the application which resulted in the applicant agreeing to increasing the number of HGV trip to 30 (15 in and 15 out) instead of 40 as initially proposed.
- Extension of time to allow the applicant to submit additional information as listed above and determine the application.
- Agreement that submitted restoration plan not acceptable as it does not show 10% biodiversity net gain – 07/06/2024.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).
- 6.2 The site lies in the Green Belt. Excluding the proposed extension area, the existing established operational quarry largely forms part of an allocated mineral extraction area and is also a waste safeguarded disposal site in the adopted Kirklees Local Plan.



- 6.3 Relevant Local Plan policies are:  
LP21 – Highways and access  
LP23 – Core walking and cycling network  
LP27 – Flood Risk  
LP28 – Drainage  
LP30 – Biodiversity and Geodiversity  
LP32 – Landscape  
LP34 – Conserving and enhancing water environment  
LP36 – Proposals for mineral extraction  
LP37 – Site restoration and aftercare  
LP43 – Waste management hierarchy  
LP44 – New waste management sites  
LP45 – Safeguarding waste management facilities  
LP46 – Waste disposal  
LP51 – Protection and improvement of air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land

- 6.4 Supplementary Planning Guidance / Documents:  
National Planning Policy for Waste 2014

- 6.5 National Planning Policy and Guidance:  
The National Planning Policy Framework (2023) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposals.

- 6.6 Relevant paragraphs/chapters are:  
Chapter 6 – Building a strong competitive economy  
Chapter 8 – Promoting Healthy and safe communities  
Chapter 9 - Promoting sustainable transport  
Chapter 11- making effective use of land  
Chapter 13 - Protecting Green Belt land  
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 17 – Facilitating the sustainable use of minerals

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

- 7.1 The application was publicised by the erection of 3 site notices in the vicinity of the site and the posting of 15 neighbour notification letters. 61 representations are received from the public, the concerns of which are summarised below:

### Impact on Green Belt:

- Proposals will cause detrimental effect on green belt
- The site should not be turned into an industrial waste disposal plant in a pleasant moorland green belt area.
- The detrimental effect on the area is continuing

### Impact on environment:

- Runoff of sand onto surrounding highway network ending up in river Ribble & blocking road drains and potential for flooding damage to private properties

- Blocking of and contamination of private water supply
- *“threat to the water table, aquifers / aquicludes and water courses, including residential drinking (potable) water supplies”*
- *“The spring water flow rate has decreased, and no recent chemical and biological tests have been carried out. The water quality information provided in the Supporting Statement is out of date by a decade.”*
- Quarry excavations should not be permitted to go deeper *“we have noticed sandy silt coming through the pipes when it started to run again. The flow of water is still very slow and has nearly run of again”*
- Water supply to existing springs dried up as a result of on going works at the application site and damaged caused to springs
- Dust creation from operations and movement of HGV’s will impact on air quality in the area
- On-going light, noise nuisance and vibrations can be felt causing detrimental impact on local inhabitants
- Stockpiles can be seen from distant views & processing plant equipment often located above original ground levels
- The road and surface destruction at the quarry, without a suitable drainage system has led to a change in the surface water drainage in the local area.
- Following heavy rainfall there is a river of stone coloured water with the appearance suggestive of oil or diesel contamination that originates from the quarry junction that runs down from Cartworth Moor Road and onto Cartworth Bank Road.

#### Impact on highway and safety concerns:

- Significant highway safety concerns from proposed increase in HGV movement on pedestrians, cyclists and equestrians as well as other vehicle users on Cartworth Moor Road, (which is in part a core cycling and walking route) and the surrounding highways network
- Since current site operator took over site, roads showing signs of erosion where track/bridleway meets Whitegate Road, due to HGV driving over edges/grass verges to pass
- Road edge has sunk, broken up and crumbled in some places
- Concerns relating to *“HGV’s speeding and recklessly driven HGV’s accessing the quarry”* frequently, in excess of the current permitted numbers outside permitted hours
- Claims are made that there has been up to 100+HGV movements on one day recently and that the additional passing places proposed are to accommodate this level of HGV movement
- HGV movement should not be increased due to conflict concerns between non motorised users and HGV’s
- Very dangerous to walkers, bikers and equestrians around Cartworth Moor with the amount of HGV’s movement & mud/sludge in wet weather conditions with brick debris too
- The increased activity of HGVs along this route is at odds with point B6 of the 2025 Kirklees Transport vision:
- Locals using the roads been forced off the road and into the verge by drivers of HGV
- HGV ‘s witnessed using the route past Holmfirth JIN School which is equally unsuitable.
- No kerbs on CMR and surrounding highways to prevent further damage and erosion

- A blatant disregard for public rights of way and public safety in relation to the destruction of bridleway
- Whitegate Road, Bare Bones Road and Linshaw Road is part of a national cycle route which is damaged due to recent influx of HGV's movements
- The unsurfaced section of Cartworth Moor Road and nearby roads suffers badly from erosion in wet conditions, which will get worse due to proposals
- Increasing HGV movement will exacerbate the above concerns
- Parked vehicles daily block access to bridleway HOL/94/10 and at times restrict access to Weatherhill Lane and Copthurst Road
- Parking of wheel washer on bridleway making it almost unusable for walkers, cyclists and equestrians

Other concerns:

- Unauthorised excavation of bridleway
- Unauthorised works have been carried out, for which retrospective planning permission is now sought through this application
- Current operations on site are beyond permitted boundary
- *“change of use of the site from commercial extraction of rock / stone products to an acceptor of huge volumes of commercial waste, claimed to be inert in the planning application but there will be little to no oversight of this by council / other compliance parties – rather than fill a void with potentially dangerous detritus from a myriad of unknown and potentially contaminated sources”*
- *“How will the increase in HGV's movements be monitored?”*
- impact on the immediate environment, including habitats, soil depth, biodiversity, protected birds soil pollution with hydrocarbons
- inaccuracies/discrepancies and out of date information in the submitted Hydrogeological assessment, the validity of which is undermined and questioned.
- Breach of planning conditions in relation to existing planning permission including working as late as 21:00hrs Saturday afternoons and all day Sunday and parking restrictions of HGV not being adhered to
- already breached the permitted depth at the northern edge of the quarry, and has reopened a previously restored part of the quarry on the southern side without planning permission
- The accompanying Transport Assessment *“notes nothing about increased risk to non-vehicular road users”*
- No mention of any restoration of the damage to the bridleway, grass verges, drystone wall footings exposed and damage to surrounding highway network
- There should be no extraction of mineral 21m below ground level as permission on adjacent quarry
- There is no security procedure in the proposal to ensure that the imported waste will not be contaminated
- There is no regard to conditions on the current planning permissions for the site
- *“Quarry excavations already appear to have gone deeper without permission which is effecting private water supplies and polluting the streams and farm water supply ”*
- Deeper excavation will impact on water table/aquifer
- Monitoring of site/ operations should be carried out

- Potential for depositing non inert waste
- Non quarry vehicles parked at site, “suggesting other business operated from site”
- According to the Supporting Statement (3.17) the backfill will not be completed until 2044 and the site will continue to be an industrial treatment plant long after all the stone has been extracted in 2034.(3.11)

None planning related concerns:

- Operations involve requiring appropriate Environmental Permits
- Breaking of national speed limit on CMR and surrounding highways
- productivity of a business should not be considered over the impact on direct effects of mental and physical wellbeing and quality of life of local residents.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

KC DM Highways – Support subject to securing highway maintenance fees through a S106 Legal Agreement and conditions including for:

*Highway Works:*

Reconstruction of the unsealed “maintained in character” only section of Cartworth Moor Road (a length of approximately 980m) including detail of proposed passing places, to a specification agreed in writing by the Mineral Planning Authority. The agreed scheme of works shall be implemented in full prior to the intensified use of this road by HGV’s in association with the quarry operations as proposed. Thereafter, six monthly joint inspections to be carried out on this section of Cartworth Moor Road and any identified defect works to be carried out at expense of applicant within three months of completion of inspection/survey. e.

*Section 106:*

Annual maintenance fee £50,000 towards to the maintenance of the highway infrastructure (in Kirklees and Barnsley) as shown on the proposed HGV routing plan, in association with the proposed quarry operations.

KC Local Lead Flood Authority (LLFA) – The proposed works are unlikely to affect any chartered watercourses and does not appear to increase the risk of flooding to the site or surrounding properties due to infiltration into the underlying permeable soils/strata. Support the proposals. No specific conditions suggested.

The Environment Agency – No objections. Advisory notes to be included on decision notice in the event of approval, to bring attention to the applicant that proposals are likely to require Environmental Permit/s

### 8.2 Non-statutory:

KC Public Rights of Way (PROW) – Object to the proposals (see assessment below)

KC Ecology – support subject to provision of Biodiversity Net Gain (see assessment below)

KC Environmental Health – No objections, subject to conditions.

West Yorkshire Archaeology Advisory Service - advises that a geophysical survey is undertaken on the site to determine if any archaeological remains are present. The survey should be undertaken on all areas of the site that have not been previously worked by the quarry. This may be followed by further evaluation or mitigation works depending on the results of the geophysical survey. See assessment below.

## 9.0 MAIN ISSUES

- Background and proposed scheme of works
- Principle of development
- Green belt/landscape issues
- Site restoration and safeguarded waste
- Environmental issues (ecology)
- Local amenity issues (noise, dust, air quality and contaminated land)
- Drainage/flood risk & private water/watercourses pollution issues
- Highway/ PROW issues
- Representations
- Other matters
- Planning Obligations
- Conclusion

## 10.0 APPRAISAL

### Background and proposed scheme of works

- 10.1 The Planning Application covers an area of 4.31 ha, including the 1.9 ha of permission 2020/92410. The permitted activity at this site is lawful by virtue of permissions 2012/93305 and 2020/92410 respectively; continued extraction of sandstone, deepening of quarry, recycling of construction, demolition and excavation waste and restoration to agriculture by means of infill (2012) and variation of conditions to permit 16 HGV movements (8 in and 8 out) per day (2020). Mineral extraction under this current permission is to cease and the site to be restored by 31<sup>st</sup> March 2028.
- 10.2 The 2012 permission allowed a vertical extension to extract a known valuable mineral resource and extend the operational life for a further 15 years to 2028.
- 10.3 The sandstone worked at Windy Ridge Quarry is the Huddersfield White Rock, one of the primary sources of high quality masonry stone in West Yorkshire. The supporting information states:
- “at Cartworth Moor, the White Rock is approximately 26 metres thick and consists of a succession of alternating layers of shale, sandy shale and flagstone. The most important horizon is a 5 metre thick bed of fine-grained, grey, massive sandstone, which can be described as “Hard York Sandstone”, and lies towards the base of the White Rock. It is this bed that provides the high quality masonry stone that can be sawn to create building and architectural products”.*
- 10.4 The operator now seeks to deepen the quarry by a further 10m to 313m AOD to provide access to the "Hard York Sandstone", and to extend the working area to the south. This will enable the Quarry to continue to produce block stone in addition to walling stone, garden stone and aggregate. The proposals also seek retrospective permission for the removal and recycling of the contents of the former landfill, to enable the stone reserves below to be recovered.

10.5 Information provided with the application:

*“ The permitted reserve of stone remaining in the Quarry is small and the depth increase would release an additional quantity, including the stone underneath the closed landfill. The southern extension would add a further reserve which on the same basis would bring the total reserve up to approximately 500,000 tonnes, assuming 2.3 tonnes/m<sup>3</sup> and 20% wastage. The 20% rejects at 44,000m<sup>3</sup> would be backfilled into worked out areas of the Quarry..*

*Previous sales of walling and garden stone products averaged 1,350 tonnes per annum and aggregate sales have averaged 2,650 tonnes per annum. However, the increase in HGV movements sought would allow the Applicant to increase production to 50,000 tonnes per annum The sandstone reserve, if the planning application was to be approved, would provide sufficient stone for around 10 years.*

*The existing planning permission allows for the restoration of the quarry by means of infill with inert waste, comprising construction, demolition and excavation materials. The southern parts of the Quarry had been infilled under the terms of a waste management licence, but the landfill had to close in the early 2000s due to the costs of transferring to a new environmental permit. The permit has been surrendered.*

*The recovery of stone from under the landfill in the south west corner of the Quarry required the removal of the landfill. The landfill consisted of inert waste deposited in the period before 2005, primarily demolition rubble and soils. The Applicant treated the deposited waste to manufacture aggregate and reserved the reject materials ("soils"), to redeposit in the quarry.*

*The Environmental Permitting regime has now changed and it would be possible to fill the quarry in order to give final long-term stable side slopes under the provisions of a "recovery" permit. This would be a bespoke environmental permit, which allows the use of waste materials to perform the obligation contained in the planning permission to restore the Quarry to the approved restoration landform. To complete the restoration process, soils will need to be screened from the imported inert wastes, both in the form of subsoils and topsoils.”*

10.6 Of note, is that the assertion that any infill cannot be put into the Quarry until sufficient working space is available within worked out areas, and it is unlikely that any significant fill capacity will be available for at least the next five years. Meaning backfilling will commence after five years. To bring the site to back to its original levels an anticipated total backfill volume of approximately 370,000m<sup>3</sup> (415,000m<sup>3</sup> was stated on the 2022/93230 refused application) is stated to be required. This current proposal would extend the operational life of the existing operational quarry and proposed extension area for a further 15 years from the date of the existing permission, to 2043.

10.7 Paragraph 4.3 of the supporting statement refers to the retrospective part of the proposals which states:  
*“Excavation of the former landfill has been completed and recycled aggregate and soils sold off site. The materials within the landfill that could not be recycled have been temporarily stockpiled above ground on the restored surface of the landfill to the south of the existing quarry. The stockpile is 4m in height and will be grassed during winter 2023/4.”*

- 10.8 There is some ambiguity about the height of the stockpile, as this is quoted to be 5m in height in the recent Phase 1 report received 08/05/2024. Furthermore, at the time of writing the stockpiles remain unseeded.
- 10.9 Section 4 of the supporting statement sets out in detail the proposed method of working and advises that stone extraction has preceded at a faster rate since the takeover by the new site operator in 2021.
- 10.10 Drawing 10193A/03 shows the maximum extent of excavation, with cross sections shown as Drawing 10193A/06A. Excavation and infill would take place in three phases as shown in Drawings 10193A/03A P1, 10193A/03A P2 and 10193A/03A P3, with corresponding cross-sections on Drawings 10193A/06A P1, 10193A/06A P2 and 10193A/06A P3.
- 10.11 Phase 1 (from year 1 to 5) would see the excavation beginning to move southward into the extension area and infill in the NW corner. As infill progresses to the extent where the new access road is to be formed with a ramp down onto the quarry floor, the use of the existing access road is proposed to be ceased. The Bridleway is then proposed to be re-instated to a design to be agreed with the Mineral Planning Authority. Phase 2 (from year 5 to 10) will see the infill close to original ground levels at the northern end of the quarry as excavation proceeds southward. Phase 3 (from year 10 to 15) sees infill progressing further in a southward direction with extraction reaching its maximum extent. Following completion of infilling restoration works will take place in this part of the site including the removal of the access road. The final phase would be the complete infill of the quarry in accordance with only the levels shown on drawing 10193A/04 Rev A. The soft landscaping details shown on this drawing are not appropriate as these details do not include for the required 10% Biodiversity Net Gain. (discussed further at paragraph 10.51)
- 10.12 As works progress and sufficient space is created within a worked out part of the quarry, imports of suitable waste materials are to commence, with recyclable materials being removed and processed through a crusher/screening plant, to manufacture secondary aggregate and soils for sale. The remaining materials are stated will be processed as required to manufacture a "civil engineering fill" to be used to backfill the excavation. Of particular note is the crusher screening plant is proposed to be below surrounding ground levels in order to minimise noise and dust impacts. It is stated that in the event predicted noise levels at Moorfield House rise above 55dBA, the crusher and screen would be removed off site and only waste suitable for deposit without treatment would be imported. Noise concerns are discussed further below.
- 10.13 HGV vehicles associated in carrying out quarry operations are proposed to cease use of the existing access/track on completion of the proposed new access road, onto Cartworth Moor Road, within 24 months of planning permission being granted. (discussed below under highway matters). The proposals also include the provision of two new passing places on Cartworth Moor Road indicated to be formed within 12 months of the grant of planning permission. The supporting statement makes reference to the details of these passing places to be submitted and approved prior to the increase in HGV movements. There is some ambiguity on this matter, as in an email dated 13/05/2024, the applicants Highway consultant advises these passing places have been completed retrospectively, as shown on the revised drawing 1769 001A – Highway Improvements. (discussed further below).

- 10.14 The Site office/amenity cabin which currently serves the existing quarry is proposed to be moved to the position shown on Drawing 10193A/03A P1. Cabin elevations are shown on Drawing 10193A/05. A wheel bath will be located at the end of the access road within the quarry site, as shown on drawing 10193A/03B. No details of the wheel bath are provided.
- 10.15 Maximum excavation limits are stated to have been determined by the updated Hydrogeological Risk Assessment accompanying the application, the recommendations of which include;
- Limiting the depth of excavation to the base of the Huddersfield White Rock in all areas of the Site;
  - Retaining a minimum unsaturated zone of 5m (increasing to 18m at the southern boundary);
  - Installation of an artificial clay lining system on the excavation floor and faces with minimum specification of 0.5m thickness and hydraulic conductivity of  $1 \times 10^{-9}$  m/s (or 1.0m thickness and  $k = 1 \times 10^{-7}$  m/s); and
  - Installation of a restoration drainage scheme based on discharge of surface runoff to undisturbed ground by use of peripheral soakaway systems.
- 10.16 The applicant advises the above measures will need to be incorporated into a design to form part of an application to the Environment Agency for an environmental permit.
- 10.17 The Hydrogeological Risk Assessment accompanying the application recommend three new groundwater monitoring boreholes to be installed around the site perimeter. These are proposed to be installed subsequent to planning permission be granted. This matter can be addressed by condition.

#### Principle of development

- 10.18 Section 17 of the NPPF (Facilitating the sustainable use of minerals) indicates that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and the goods that the country needs. It also indicates that as minerals are a finite natural resource and can only be worked where they are found it is important to make the best use of them to secure their long-term conservation.
- 10.19 Paragraph 217 of the NPPF requires that great weight should be given to the benefits of mineral extraction, including to the economy. In considering proposals for mineral extraction, minerals planning authorities should consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and when dealing with small scale building stone quarries, MPA's should adopt a flexible approach with regard to the duration of planning permissions which recognises the intermittent or low rates of working typically characterised by such sites.
- 10.20 The impact of the proposals on the amenity of the area is considered further in the assessment with reference to Local Plan policy LP36, however with regards to the principle of mineral extraction paragraph 15.7 of the Kirklees Local Plan states that the blockstone (in the case of this site Huddersfield White Rock) produced in the western side of Kirklees represents high quality building stone which is in demand across the UK for a range of building projects. The applicant states that this quarry is an important source of high- quality masonry stone



and the proposals would enable the applicant to continue the supply of aggregate, walling stone and block stone nationally, where as aggregate is stated to be supplied within West and South Yorkshire.

It is noted that the production of aggregates and walling stone will be secondary to the supply of high-quality block stone, which is a scarce resource and referred to as being in much demand for architectural purposes.

- 10.21 The preamble to LP36 requires that Kirklees will seek to maintain a landbank of permitted reserves of aggregates and also seek to maintain its contribution to meeting its share of the aggregates demand in the region on the advice of the Yorkshire and Humber Aggregates Working Party, unless exceptional circumstances prevail. Whilst the mineral resources extracted from the quarry will primarily be used for masonry, walling and gardens, some of the mineral resources will only be suitable for use as aggregate and will be extracted for such purposes. Therefore, this site will be making a contribution towards the crushed rock landbank.
- 10.22 The application seeks to extend an existing operational quarry. The stone quarried here is of high-quality and great weight should be afforded to minerals extraction especially this type of stone. In addition, the production of aggregates will assist in maintaining the landbank. Consequently, it is considered that the development of the site for mineral extraction is acceptable in principle subject to there being no significant conflict with local or national planning policy guidance/advice.

#### Green Belt/landscape issues

- 10.23 NPPF paragraph 155 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. These include criterion a) mineral extraction, criterion b) engineering operations and criterion e) material changes in the use of land. Criterion e) material change in the use of land would in this instance facilitate the quarry operation on the extended part of the site and will be considered on that basis.
- 10.24 As mineral extraction may not be inappropriate provided openness is preserved and there is no conflict with the purposes of including land in the green belt. It must follow that the operations necessary for the extraction of the mineral, including despoiling of the site, noise, disturbance, machinery and other paraphernalia must also be not inappropriate. It is not therefore proposed to comment on the operations already permitted at this site or the operation necessary to extract mineral from the extended part of the site. This includes the site cabin proposed to be relocated into the area of the extended quarry operations. The same applies to any engineering operations considered necessary to the existing lawful operation and any new operation deemed to comprise mineral extraction and other activity including reclamation and restoration across the whole of the application site. These comments are therefore confined to those aspects which it is necessary to consider in the overall balance of the proposal in terms of impact on openness and any conflict with the purposes of including land in the green belt.

- 10.25 With regard to the change of use of the agricultural land to extend the quarry, the land currently comprises two fields used for pasture to the south-west of the existing quarry, on an area of approximately 1.75 ha, roughly equal to the size of the existing quarry. This area of Cartworth Moor is high ground and due to the existing local topography is not highly visible in short distance views although it is visible from long distances. These fields form part of a very extensive area of upland rough pasture and moorland where the impact of the loss of the fields will be negligible to overall character. The fields will ultimately be restored to agricultural use and therefore the impact is also temporary, albeit for a further 15 years to 2043, when considered from the end date of the current permission (2028). The two fields will be an extension of an existing operational quarry and so is not a new isolated feature in the landscape, and the wider area contains other modest scale quarrying operations. With respect to Local Plan policy LP36, Part 1(d), the proposals to commence restorations in the existing part of the operational quarry, as works extend to extract mineral in the extension area would reduce the cumulative impact of active operations in the area.
- 10.26 Also included in the proposal, retrospective permission is sought for the temporary storage of soils on restored land (within the boundary of the former permission 2002/91420), up until the end of 2024. This is located on the extreme west of the site on land that is not part of the managed pasture but on the western facing slope/escarpment above White Gate Road. This stored soil is visible in short and longer distance views as it has extended onto the escarpment and is stored in mounds. It also foreshortens long distance views across the site.
- 10.27 Bunds are proposed to be located along the whole of the southern and eastern edges of the extended site which are to be in place for the operational life of the quarry. These bunds are to be formed of excavation material (top and sub soil) and are proposed to be 3m in height. Bunds can significantly impact on openness as they are highly visible in the landscape and also foreshorten views. It is likely that extensive views across the site to the opposite hillside will be lost. However, they are an expected part of normal mineral extraction operations as they are a means of storing extracted material on-site. They will also screen the quarry operations from view, help to lessen noise and mitigate detrimental impacts, particularly residential and visual amenity. This is important as the extension of the quarry brings it into very close proximity to the dwelling Moorfield House. Without the bunds it is likely that there would be material harm caused to the amenity of the occupiers of Moorfield House. Any impact on openness will also be temporary as they will be removed through site restoration.
- 10.28 The existing quarry takes its access from a track from Cartworth Moor Road (CMR) which also gives access to the farm (both New Dunsley poultry farm and Quarryside farm have addresses immediately north of the access track). The track is also a public right of way and a bridleway. There are 16 permitted HGV movements per day (8 in and 8 out) under the current permission. The proposals are to close the existing access to quarry traffic after the complete construction of the proposed new access road, across the field between CMR and the quarry extension and increase the number of HGV movements to 30 per day. This proposed new road would accommodate the width of two HGVs at its junction with CMR (7.3m) with the requisite visibility splays and be 4.1m

wide along its length except for the passing place which would be 6m wide. It would be surfaced with planings within 12 months of construction. There are also two new passing places proposed on CMR south of the quarry beyond the junction with Cophurst Road. There are two existing passing places on CMR in the vicinity of the site.

- 10.29 The proposed new access road constitutes an engineering operation in the green belt. The construction of a new road across open agricultural land in the field immediately adjacent to CMR would have a significant impact on the openness of the green belt through both the presence of the road and the use of the road by quarry traffic, which would significantly and materially increase noise and disturbance in this part of the green belt resulting in a very significant degree of harm. The road and its attendant vehicles would be very obtrusive to anyone using CMR or nearby PROW's of which there are a significant number in the vicinity. The presence of the access road including its junction with CMR would result in the encroachment of urban development into the countryside. This part of the proposed scheme is considered to constitute inappropriate development as it fails to preserve openness and is contrary to the purposes of including land in the green belt.
- 10.30 Inappropriate development is by definition harmful to the green belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Harm to the green belt by reason of inappropriateness carries substantial weight. It is therefore necessary to determine whether the degree of harm to the green belt is clearly outweighed by other considerations.
- 10.31 The quarry operation and its permitted traffic already impact on the openness of the green belt. The impact from the existing access is lessened somewhat though by its location immediately adjacent to substantial farm buildings, while the proposed new road is isolated between fields making it prominent and incongruous in the landscape. The movement of traffic along it will be highly visible and a disturbance in the open landscape. The degree of harm to the openness and character of the green belt for the lifetime of the quarry is therefore substantial.
- 10.32 Further harm is caused by the presence of the stockpiled material and the proposed bunds and inevitably from the mineral operation which is proposed to be extended to 2043. There is also potential damage to CMR and harm to its character, (discussed in more detail below) from increased HGV movement and proposed additional passing places, although passing places can be found on rural roads and only two are proposed.
- 10.33 Balanced against this degree of harm is the temporary nature of the development, albeit for a further 15 years from the date of the current permission (2028). The stockpiles are temporary and the soil bunds are considered a normal part of an operational quarry if there is no capacity to store elsewhere on site, as in this instance due to limited space within the quarry site. The bunds also screen the operations from view and lessen noise which is particularly important given the proximity of residential property.

- 10.34 NPPF paragraph 215 states that it is essential that there is a sufficient supply of minerals to meet needs. Minerals can only be worked where they are found. Paragraph 217 states that when determining planning applications great weight should be given to the benefits of minerals extraction, including at criteria f) the extraction of building stone needed for the repair of heritage assets.
- 10.35 In order for very special circumstances to be demonstrated, the overall benefit of extracting this stone must outweigh the harm caused to the green belt in this location.
- 10.36 The applicant has stated that the blockstone (Huddersfield White Rock) produced at Windy Ridge quarry is an important source of high-quality masonry stone and would provide a continuing source of stone for another ten years. The applicant's very special circumstances are that any harm to the openness of the Green Belt resulting from the proposal, is clearly outweighed by other considerations including meeting the demand for scarce minerals of the type found at this Quarry and that the new access road is proposed in order to eliminate conflict between quarry traffic and the users of the bridleway and footpath.
- 10.37 The demand for this scarce mineral is recognised. Furthermore, to support the recognised demand, the applicant has provided four separate independent letters from businesses/ companies who obtain this mineral from the application site to meet the demands of their business needs. The independent companies also recognise that whilst there is a continuing need for this type of mineral, they also claim there is currently a shortage of masonry stone particularly of the type available at the application site, which is needed to renovate heritage assets and for new builds in conservation areas.
- 10.38 The Quarry also produces aggregate from the stone layers above the blockstone, which is incidental to working the blockstone. The aggregate produced will assist Kirklees in meeting the demand for aggregate.
- 10.39 With respect the proposed access, whilst this is seen to result in an urbanising impact and will generate some noise and disturbance from the use of it by HGV's associated to the quarry operations, it would eliminate the current conflict from HGV's on the users of the bridleway. Furthermore, the access road is temporary, to be removed as part of the final restoration works, thereby reverting the land back to its original agricultural form.
- 10.40 The evidence submitted substantiates that there is currently an unmet need for the demand and supply of this mineral, particularly for the repair of heritage assets as set out in Paragraph 211 of the NPPF and the Kirklees Local Plan. The benefits of the proposals are for the supply of the stone to the construction industry which is in much demand for repairs to existing buildings and for new build in the vernacular style, together with the elimination of disturbance to bridleway users. This together with the temporary nature of the access road, it is considered that very special circumstances have sufficiently been demonstrated, which in the opinion officers, outweighs the inappropriateness and other recognised harm, in accordance with Kirklees Local Plan Policy LP36, Part 2 (a) and guidance in the National Planning Policy Framework. This addresses the first reason for refusal on the 2022/93230 application.

### Site restoration and safeguarded waste

- 10.41 The final restoration of the site to agricultural use and moorland will require the import of inert waste, in addition to initially using waste and reject stone from the existing quarry. This is recognised in the existing planning permissions which allow the import of inert waste to help facilitate site restoration.
- 10.42 Recyclable materials will be removed from the imported wastes and processed through a crusher and screens to manufacture secondary aggregate and soils for sale. The remaining materials will be processed as required to manufacture a civil engineering fill and used to backfill the excavation.
- 10.43 Appendix A of the National Planning Policy for Waste contains a waste hierarchy and although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy. In this instance the imported waste would be used in the final restoration of the site rather than simply being disposed of.
- 10.44 It is therefore considered that this proposal would see the re-use of a significant proportion of inert waste material which is consistent with current national planning guidance and Kirklees Local Plan policy LP43, which supports the minimisation of waste production and the re-use and recovery of waste materials.
- 10.45 The existing Windy Ridge Quarry is an allocated Safeguarded Waste Site, it is proposed that waste operations will continue on this site throughout the extraction and restoration phases of the proposed scheme, consistent with the requirements of Policy LP45 for safeguarding waste management facilities.

### Environmental issues (ecology)

- 10.46 Whilst the site is not located within a specific designated environmentally sensitive area, it is close to the South Pennine Moor Special Protection Area (SPA). The proposals include a proportion of allocation MPA3 (formerly known as allocation ME1966). This site was included in the Kirklees Local Plan Habitats Regulation Assessment (HRA) Report, which concluded a low residual risk of impacts to habitats functionally connected to the SPAs. As a result the following text was agreed with Natural England to be included within the supporting text for policy LP30.
- 10.47 In accordance with the findings of the Habitats Regulations Assessment (HRA) for those development allocations within 2.5km of the SPA, further surveys will be required at planning application stage to assess detailed impacts on SPA birds and, if found to be necessary, appropriate avoidance and/or mitigation measures will be required to address any identified impacts in line with policy LP30. Suitable avoidance and mitigation measures may include:
- Avoidance of areas used by significant numbers of SPA birds (to be determined by a project level Habitats Regulations Assessment).
  - Provision of equivalent or greater quantity and quality of replacement habitat onsite (or as a last resort off site within 2.5km) with improved management to ensure use by SPA birds.

- Timing of works (construction, operation and decommissioning) outside the period most frequently used by SPA birds.
  - Monitoring of impacts to assess bird use over time.
- 10.48 A Preliminary Ecological Appraisal (PEA) has been submitted with the application. In addition to the PEA, a Habitat Regulations Assessment (HRA) has been submitted and in combination with the PEA, provides a comprehensive assessment on the ecological value of the site. The PEA makes recommendations for mitigative measures to avoid ecological impacts.
- 10.49 The Preliminary Ecological Appraisal report concluded that given the proximity to the South Pennine Moors (phase 1) SPA and that the site contains habitat which may be of limited potential value to nocturnal foraging Golden Plover (a designating feature of the SPA), that further survey and assessment work is recommended to quantify the use of the site by Golden Plover and to allow a project level Habitat Regulations Assessment to be prepared. The submitted HRA provided information on extensive Golden Plover surveys, concluding that the habitats within the application site, are not used by foraging Golden Plover, linked to the South Pennines SPA breeding population and that the site would not be considered functionally linked to the SPA.
- 10.50 Given the potential for the proposals to bring about an impact on a Natura 2000 European designated site, a HRA stage 2 'Appropriate Assessment' was undertaken based on the results of the ornithological survey and HRA Appropriate Assessment report, which concluded the proposals to have no likely adverse effects on the South Pennine Moors SPA. As the Habitat Regulations Assessment was progressed to an Appropriate Assessment, and due to the site's inclusion within Natural England's SSSI Impact Risk Zone, formal consultation with Natural England was undertaken. Natural England concurs with the conclusions of the reports and raises no objections. The Council's Ecology Officers advise that mitigative measures recommended within the PEA be applied including the protection for nesting birds during work on the site, as described within Section 7.7 of the submitted PEA. This matter can be addressed by conditions, to accord with Local Plan Policies LP30 and LP37.
- 10.51 In addition to the above, restoration proposals should provide a biodiversity net gain and it is recommended that utilisation of the DEFRA most up to date Biodiversity Net Gain (BNG) Metric should occur, in order to achieve a minimum of 10% net gain. The submission documents/plans make no reference to inclusion of biodiversity net gain. In the event the proposals are supported by Members, this matter will need to be addressed. The applicant is agreeable to the submission of a revised restoration scheme along with BNG metric calculation which would demonstrate and provide a 10% net gain. This matter can be secured via planning condition to accord with NPPF Chapter 15 and Local Plan Policies LP30(ii)

Local amenity issues (noise, dust, air quality and contaminated land)

- 10.52 The National Planning Practice Guidance sets out clearly the principal issues that mineral planning authorities should address and acknowledges that not all issues will be relevant at every site to the same degree. Also of relevance is Local Plan Policies LP36 and LP52, which refers to the impacts on the environment including human health local ecology/biodiversity (addressed above), and any cumulative effects arising from individual sites and or a number of sites in a locality (see paragraph 10.25).

10.53 Operations in association with quarrying and mineral extraction would undoubtedly cause a disturbance to the surrounding locality. Whilst these issues were previously considered at the time of granting the original permission, the proposals are to extend the existing quarry both vertically and horizontally, as such it is necessary to assess these proposals in relation to noise and dust as well as air quality impacts on nearby properties and the surrounding area. These matters are addressed in turn below:

**Noise:**

10.54 The proposed works will allow extraction and infill to proceed in a southerly direction, moving closer to an independent dwelling known as Moorfield Farm. The location of the crushers, screens and storage is proposed to move southerly with the operations, remaining on the quarry floor at all times. Towards the end of infill operations, the recycling plant is proposed to be located on infill then to be removed off site when it can no longer be screened by the quarry faces. The final stages of infill are therefore proposed to be completed by the placement of materials from which all recyclables will have been removed off-site.

10.55 The application is accompanied with a Sound Impact Assessment authored by S. & D. Garritt Ltd. dated 27/06/2022 revised 26/10/2023 . The report at table 4.1 identifies the nearest noise sensitive receptors are independent dwellings. Background noise monitoring was undertaken between the 21<sup>st</sup> and the 27<sup>th</sup> of April 2022 and a summary of the results is shown in the tables within section 5. Based upon machinery and equipment already operating on site, a noise impact assessment was conducted and the findings are shown in para 6.1.

10.56 KC Environmental Health (Pollution & Noise Control) team has reviewed this information and provide the following advice:

*“The findings of the submitted report are the same but the author has considered the mitigation measures necessary based on cross sectional drawings being made available which enable a more accurate method of barrier calculation for sound reaching this dwelling. These cross sectional drawings show the relationship between the site and the dwelling most affected by quarry sound (Moorfield Farm).*

*Section 4 states predictions have been undertaken for when mobile workings are at their closest and furthest points, when workings are at the full quarry depth, shallow depth and also at the top/ridge. This gives six predictions of sound at Moorfield Farm, within which the majority of operating conditions should fall.*

*The predicted levels are compared with the normal activity background levels and the table within para 6.1 shows that activity from the proposed quarry is predicted to fall within the 10dB above background limit at all receptors apart from Moorfield Farm when mobile workings are closer to the farm and at shallower depths - an exceedance of 14.3dB over the background level.*

*For reference, the Minerals Guidance document states – Mineral planning authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90, 1h) by more than 10dB(A) during normal working hours (0700-1900). Where it will be difficult not to exceed the background level by more than 10dB(A) without imposing unreasonable burdens on the mineral*

*operator, the limit set should be as near that level as practicable. In any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field).*

*The phasing of works commencing at the rim as shown in the table in para 6.2 show a slight exceedance at both Moorfield Farm and Upper Woodhouse Farm but the Guidance states 'Increased temporary daytime noise limits of up to 70dB(A) LAeq 1h (free field) for periods of up to 8 weeks in a year at specified noise-sensitive properties should be considered to facilitate essential site preparation and restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs' and so this is accepted.*

*In the interests of transparency, the Guidance does also state 'Care should be taken, however, to avoid any of these suggested values being implemented as fixed thresholds as specific circumstances may justify some small variation being allowed'.*

*We accept there is an element of uncertainty within the predicted levels with the report using vague language such as 'generally' 'may' or 'should' but the exceedance of 4.3dB above the maximum 10dB permitted within the Guidance is deemed to be perceptible. Whilst it fails to meet with the maximum 10dB exceedance element within the Guidance, it does meet with the final part which states, 'In any event, the total noise from the operations should not exceed 55dB(A) LAeq, 1h (free field)' and this is accepted.*

*In our comments dated 06 March 2024, we requested further information on the potential impact of vehicle movements. The applicant has submitted an e-mail from S & D Garritt Ltd. dated 18 March 2024 clarifying this point stating '...our report assumes no more than 10 HGVs per hour and the application is now for up to 30 per day. For one third of the total daily movements to take place within one hour would certainly be worst-case, unlikely even, so the report overestimates the impact from HGVs. If we were to rerun the calculations with a fewer number of HGV movements, say five per hour, this would cause a 3 dB reduction in the predicted sound levels from HGVs. This would have negligible effect on the overall predictions from the whole operation, HGV sound is not one of the dominant sources. In any case, any minor change would be a lowering (improvement) in predicted sound levels'. This reasoning is accepted."*

- 10.57 In light of the above, and to mitigate against potential detrimental impact from noise nuisance on the amenities of nearby NSR (Moorfield Farm) and to control the level of noise, appropriately worded conditions can be imposed in accordance with guidance in the NPPF and Kirklees Local Plan Policies LP36, Part 2(c) and LP52. This addresses the third reason for refusal on the 2022/93230 planning application.

**Dust:**

- 10.58 All of the operations and activities in relation to quarrying have the potential to generate dust, including the breaking of materials, handling of previously broken materials, and by the movement of mobile plant and vehicle movements in and out of the site. The main sources of dust generation are likely to result from carrying out these operations during dry conditions. The supporting information includes details of dust management during the proposed works. Environmental Health officers are satisfied matters relating to dust



management can be addressed by condition. Should Members be minded to support the application a suitably worded condition can be imposed on the decision.

***Air Quality:***

- 10.59 The application includes proposals to increase the number of HGV movements permitted. The Transport Assessment by Paragon Highways dated August 2022 (ref: 1769(B)) states that the proposals will increase the maximum number of trips per day to 30, this equates to 1 or 2 per hour. The proposals have been reviewed in accordance with the West Yorkshire Low Emissions Strategy (WYLES) Technical Planning Guidance.
- 10.60 The application does not fall within any of the declared AMQA's declared by Kirklees Council and as such the proposals do not require an air quality impact assessment.

***Contaminated land:***

- 10.61 At the request of Environmental Health Officers, a Phase 1 Geo-Environmental Desk Study Report, was received during the course of the application.
- 10.62 The Phase I report describes the current on-site features. The site includes agricultural fields in the south, a restored area in the southwest (used for soil stockpiling), and a former quarry/landfilled area in the north. The deepest part of the quarry is over 15m below the surrounding ground level. Stockpiles up to 5m high are described as being present in the southwest. The site is mainly surrounded by agricultural land. An appraisal of land use since the late 1800s shows the site has been used for agriculture, quarrying, and landfill. Quarrying began around 1892.
- 10.63 The environmental setting is also detailed in the report. Notably, the site is underlain by the Huddersfield White Rock Sandstone, which is underlain by the Marsden Shale Formation. The solid strata beneath the site are classified as a Secondary A Aquifer. The site is not in a coal mining reporting area.
- 10.64 The site has a licensed waste management facility associated with Windy Ridge Stone Quarry (landfills for non-biodegradable waste, not construction). The license was issued in 1996 and surrendered in 2016. The landfill comprises inert household, construction, demolition, and excavation waste. ARP suggests the quarry void will be filled with similar waste in accordance with an environmental permit. The only remains of the excavated landfill are in the stockpiled material in the southwest.
- 10.65 The risk assessment and the conceptual site model are presented in Section 6 of the report. Several potential source-pathway-receptor linkages were identified, and the overall risk associated with the proposals have been assessed as low. The report then refers to a third-party hydrogeological risk assessment, stating that the Hydrogeological Risk Assessment Update Report (SMF, October 2023) found no evidence of elevated metals from mineral extraction or waste disposal at Windy Ridge Quarry. As a result of the desk study undertaken, ARP conclude that if all licenses and permits are adhered to and no structures are proposed, the risks to on-site and off-site receptors would be minimal, and no further assessment is necessary for the proposed quarry expansion.

10.66 Based on the information presented in the Phase 1 Geo-Environmental Desk Study Report Environmental Health accept the findings of the report and are satisfied that in the event any unexpected contamination is encountered during the carrying out of the proposed works, this can be dealt with appropriately, through the imposition of a condition and footnote, which requires all works to cease, reporting of unexpected contamination and remediation to be carried out to accord with Local Plan Policy LP53 and guidance within the NPPF.

Drainage/flood risk & water pollution issues

**Surface water/flooding:**

10.67 The application is accompanied with the following:

- Document Ref: 10193A/Contents/CJB/171123, Supporting Statement, dated November 2023.
- Drawing Ref: 10193A/04, Rev A Restoration Scheme, Rev A dated 23/01/2023.
- Drawing Ref: 10193A/02, Rev C Site Plan, dated 18/10/2023.
- Document Ref: 228/03/wrq/hra/1023 Hydrogeological Risk Assessment 2023 update

10.68 On assessment of this information, the LLFA officers advise that the proposed works will not affect any chartered watercourses and does not appear to increase the risk of flooding to the site or surrounding properties due to infiltration into the underlying permeable soils/strata. This is backed up by their earlier advice on the 2022/93230 application, stating that the HRA indicates that Cartworth Moor is underlain by free draining sandstone (Huddersfield White Rock) and that no off-site discharge of surface water is anticipated. The proposed works therefore appear not to impact the surface water drainage from the site. No conditions are recommended.

10:69 Likewise the Environment Agency (EA), on assessment of the proposals has recommended advisory notes including one in relation to ground water protection. The EA, on the 2022/93230 application commented that as the proposals are dealing with inert waste and the proposed activities are not at odds with any of their groundwater protection position statements, they raised no objections. Advisory notes for the applicant were included in their response to ensure the appropriate EA permits are sought where necessary.

**Impact on private water supplies and watercourses:**

10.70 One of the reasons for refusal on the 2022/93230 application relates to insufficient information received in relation to the impact on the private water supplies serving a number of independent properties in the vicinity of the application site. Local concerns are again received in relation to this matter.

10.71 Subsequent, to the determination of the 2022/93230 planning application, clarity was sought from both the EA and Environmental Health Services as to who is the regulatory body for these ground water receptors. EA has confirmed that it does not have a statutory role through Planning to comment on pollution prevention matters and responsibility lies with the developer/site operator to ensure their activities do not cause pollution. The EA is still however, the regulatory body for watercourses and any such instance where it pollution is observed, this must be reported to the EA.

- 10.72 The EA has also confirmed following reports of possible impacts to the nearby watercourse (River Ribble) they carried out an inspection on 15<sup>th</sup> March 2024 to a section of the Ribble where the EA is aware of historic silt pollution incidents. At the time of their inspection the EA advised not only that there was no impact observed from any possible recent events and if there was an incident, it had no lasting impact.
- 10.73 Similarly, whilst the Council's Environmental Health Service is the regulatory body for private water supplies, the impact of such receptors is considered outside the remit of planning under a separate arm of Environmental Health Services and through 'The Private Water Supply Regulations' which is the primary legislation to deal with the provision and protection of private water supplies.
- 10.74 Irrespective of the above, this remains a material planning consideration whereby development needs to be carried out without adverse impact on the environment including any ground water receptors.
- 10.75 To address this issue, the application is accompanied with an updated Hydrogeological Risk Assessment (HRA) dated 03/10/2023. This now provides additional baseline information and an expanded assessment of potential risk to water resources, including private water supplies. The HRA also references condition 10 of the existing quarry permission which states "*No workings or extraction of mineral within the site shall take place below a level of 323 metres AOD*", as a result of the proposals before Members, a similar condition will need to be included taking into account the proposals to deepen the existing quarry and to extend it onto adjoining land, as proposed.
- 10.76 Turning to the updated information within the HRA, the findings of which conclude:
- on the basis that quarry excavation is restricted to the base of the Huddersfield White Rock and that excavation areas continue to be free-draining (as proposed) the proposed deepening and extension of Windy Ridge Quarry is unlikely to have any significant effect on existing resource availability at local groundwater receptors.
  - The backfilling and restoration of excavation areas has the potential to result in a reduction in ground permeability and hence a reduction in recharge to groundwater systems.
  - On the basis of available data, it is concluded that there would be low risk of silt migration from extended quarry workings to local springs or other local groundwater receptors.
  - Without any form of additional source control or engineered containment, the deposition of inert waste materials in an extended quarry excavation could result in a discernible release of hazardous substances to groundwater.

10.77 It is important to note however, that the HRA goes onto state that:

*“if unmitigated, the proposed development could have significant adverse impact on local water resources”*

as such mitigation measures are recommended, to be incorporated into the development design during operations some of which will need to be incorporated (installation of lining) prior to landfill operations and during restoration works (drainage scheme). These measures include as set out in section 6 of the HRA:

- Limiting the depth of excavation to the base of the Huddersfield White Rock in all areas of the Site;
- Retaining a minimum unsaturated zone of 5m (increasing to 18m at the southern boundary)
- Installation of an artificial clay lining system on the excavation floor and faces with minimum specification of 0.5m thickness and hydraulic conductivity of  $1 \times 10^{-9}$  m/s (or 1.0m thickness and  $k = 1 \times 10^{-7}$  m/s); and
- Installation of a restoration drainage scheme based on discharge of surface runoff to undisturbed ground by use of peripheral soakaway systems.

10.78 The HRA concludes the above measures would act to effectively mitigate any adverse effect on local water resources, including natural spring sources, wells, surface water features, licenced abstractions and private water supplies. Furthermore, the HRA recommends that the actions set out below to be undertaken to provide a basis for continuous groundwater monitoring and management by the:

- Installation of a minimum of three new groundwater monitoring borehole around the periphery of the Site.
- Development and implementation of a Site-wide Pollution Prevention and Emergency Action Plan.
- Development and implementation of an effective internal Surface Water Management Strategy.
- Development and implementation of a Groundwater Level and Quality Monitoring Plan.

10.79 Subject to the full implementation of the proposed mitigation, management and monitoring measures, as set out in the HRA (to be conditioned) it is considered that the proposals to deepen and extend the existing quarry, with restoration by inert waste infilling, could be undertaken without adverse risk on local water resources. It would be necessary and reasonable to word the condition requiring written verification from the applicant that the above mitigation measures and the monitoring/management actions are incorporated at the relevant stages of the development before commencing onto the next

stage/phase. To conclude the submitted information demonstrates sufficiently how the proposals could be carried out, without detrimental effects on the existing private water supplies serving a number of properties in the vicinity of the application site, in accordance with Kirklees Local Plan policies LP34, LP36 Part 1 (c) and Part 2 (e) and guidance in the National Planning Policy Framework. This addresses the previous reason for refusal in relation to impact on private water supplies.

- 10.80 It is also important to note that the site operator has a duty of carrying out safe working procedures as required by the Quarries Regulations 1999.

Highway & PROW issues:

- 10.81 All new developments can potentially impact on the highway network, it is important that the extent of these impacts are fully understood and considered when determining planning applications. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Kirklees Local Plan policy LP21 is of relevance in this instance, which sets out proposals should demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.82 Also of relevance is Local Plan policy LP36 requires proposals for mineral extraction be considered having regard to amongst other things, Part 1 a. the impact on the environment and highway safety. Part 2 of policy LP36 clearly sets out proposals to extract minerals, including from former waste deposits will be permitted provided that they will not:
- a. cause unacceptable detriment to the landscape including its character or local visual amenity during or subsequent to extraction;
  - b. be materially detrimental to interests of nature conservation, cultural heritage, geological or archaeological importance;
  - c. cause nuisance or materially significant disturbance to local residents as a consequence of the generation of dust, noise or vibration by site operations or associated transport;
  - d. prejudice highway safety through the volume or nature of vehicle movements generated;
  - e. result in pollution of water resources or soils or the interruption of land drainage;
  - f. cause materially significant permanent change to local rights of way networks; or
  - g. result in permanent loss of best and most versatile agricultural land.

- 10.83 DM Highway Officers on review of the proposals provide the following assessment:

10.84 **Development Overview:**

The proposals seek to extend the life of the quarry and to increase HGV movements from 16 two way to 30 two movements (15 in and 15 out) per day to anticipated end date to 2043. it should be noted that this figure is a reduced number than originally applied for as detailed in the submitted TA. The proposals also include the provision of a new site access. Highway improvements are also proposed along Cartworth Moor Road in the form of additional HGV passing places and surface repair works between the White Gate Road/Cartworth Moor Road junction and the site access.

*Reference to Plans/Documents:*

Transport Assessment, November 2023, 1769(C)  
Highway Improvements Drawing, Drawing No. 1769-HGN-DR-CH-001A  
Prelim Access Proposal, Drawing No. 1769 201, Dated 22/08/2022.  
HGV routing plan, Drawing No 10193/S106Traffic route/CJB, dated  
12/03/2024

**Adoption Issues:**

The proposed new quarry access from Cartworth Moor Road, will be a private access serving the quarry only and will not be adopted by the Highway Authority.

**PROW:**

Public Bridleway HOL/94/10 runs along the northern edge of the application site providing a route between Cartworth Moor Road and White Gate Road. This Bridleway is currently used as the quarry access.

Public footpath HOL/175/60 runs along Copthrust Road crossing Cartworth Moor Road, continuing in a westerly direction to White Gate Road.

The PROW Team have been consulted on this application and has provided further detailed comments – see separate PROW comments below.

**10.85 Vehicular Access:**

It is proposed to access the site via a new dedicated vehicular access directly off Cartworth Moor Road. The new access takes the form of a simple priority junction, the initial 20m from Cartworth Moor Road is 7.3m wide and hard surfaced, beyond which the width reduces to 4.1m with a crushed stone surface. To facilitate HGV passing a passing place is proposed roughly centrally along the length of the access. Junction radii of 10m to the south and 8m to the north are proposed, which are based on the vehicle swept path of the largest vehicle expected to need regular access the quarry. The junction provides good visibility in both directions. The proposed new access is acceptable in principle and offers improvements over the existing access arrangements. The existing access, which shares the alignment of Public Bridleway HOL/94/10 will revert to being a bridleway to a design to be agreed with the MPA and removing the HGV trips associated with the quarry. These matters can be addressed by conditions.

**10 86 Vehicle Routing:**

All HGVs accessing the site travel to and from the south along Cartworth Moor Road. There are no route restrictions for other traffic associated with the quarry i.e. (cars and LGVs). HGV traffic will use the new access onto Cartworth Moor Road, travelling southeast to access the A616 Sheffield Road via White Gate Road, Linshaws Road, Bare Bones Road, Flight Hill and Law Common Road. Further to submission or HGV routing plan (ref 10193/S106Traffic route/CJB, dated 12/03/2024) a suitable condition will be suggested to ensure this arrangement is adhered to.

**10.87 Cartworth Moor Road:**

Cartworth Moor Road is a local access road, which runs in a broadly north/south direction between White Gate Road to the south and Gill Lane to the north, a total length of around 1850m. The northern section a length of approximately 870m has a bituminous sealed surface and is in reasonable

condition, the southern section a length of around 980m has a compacted (unsealed) stone surface, maintained in character only. By necessity all HGV traffic accessing the quarry does so from the south using the unsealed section of Cartworth Moor Road.

- 10.88 It is acknowledged that Cartworth Moor Road is an adopted highway maintained at public expense, however, it is important to understand the history of the road and the level of maintenance required. Cartworth Moor Road dates back to the early decades of the nineteenth century, it was awarded as a 'public carriage road' in the Graveship of Holme Inclosure Award of 1834 and, as such, became maintainable at public expense when the Highway Act of 1835 introduced the concept of adopted highways, it's what is often known colloquially as an 'ancient highway'.
- 10.89 Over the years, some ancient highways across the district have been brought up to a modern standard, in terms of drainage, lighting and surfacing. This was usually done in association with development in the locality. However, a number of ancient highways in rural locations still retain their historic character or have only been partially metalled over the years. These highways are considered to be 'maintainable in character' only, i.e., they are maintained to their original standard of construction. Cartworth Moor Road has a sealed surface over part of its length, with the remainder maintainable in character.
- 10.90 The Council, as highway authority, has a duty to maintain its adopted highways, but the power to improve them is entirely discretionary. So modern, surfaced and sealed roads will be maintained to that standard, while unsurfaced and unsealed, partially metalled roads and green lanes are maintained to that particular standard. If an adjacent landowner requires a maintainable in character road to be brought up to a modern standard, to support a business activity for example, the adjacent landowner would usually be required to fund this improvement.
- 10.91 Historically Cartworth Moor Road has been lightly trafficked, providing access to a small number of commercial and farmstead properties in addition to the application site and Hillhouse Edge Quarry. The application proposals, (observed to be already happening), have resulted in the increased use of Cartworth Moor Road by HGV quarry traffic. The observed increased use in HGV movements resulting in the structural failure of the unsealed, maintained in character only, section of Cartworth Moor Road, which in its current condition is considered unsuitable to serve the proposed intensified quarrying/land fill operations.
- 10.92 It is noted that the Applicant is offering highway improvement/ resurfacing work on Cartworth Moor Road to help mitigate the increase in HGV movements, including the provision of two additional passing places which are allegedly created. Notwithstanding the submitted plan to improve Cartworth Moor Road (1769-HGN-DR-CH-001A), conditions will be required to cover this aspect of works, along 980m length of Cartworth Moor Road, to a specification to be agreed in writing by the MPA, following an initial joint inspection to be undertaken by the Council and the site operator/applicant, and then every six months. It should be noted that any improvement works identified at the initial joint inspection/survey and subsequently will need to be carried out by an approved highway contractor at the expense of the applicant. The improvement works including the passing places will need to be carried out and completed prior to the intensification of HGV's in association with the quarry operations as proposed.

10.93 It is observed that local roads along the HGV routing, i.e., White Gate Road, Linshaws Road and Bare Bones Road, are showing signs of deterioration (significant potholes, carriageway edge vehicle overrun damage). Intensified HGV usage resulting from increased operations at the application site is accelerating and exacerbating this damage. An annual maintenance fee of £50,000 has been agreed with the applicant to be secured by a S106 Agreement. Of this, £25,000 per annum will be released to Barnsley District Council to maintain the HGV route that falls within their jurisdiction.

10.94 ***Traffic Impact/Network Assessment:***

The extant permission (planning application reference 2020/70/92410/W) to extract sandstone and import fill material (along with some recycling of the infill material for exportation) allows a maximum of 16 HGV movements per day (8 in – 8 out). The current application initially sought to increase the number of daily trips to a maximum number of 40 HGV movements per day. However, HDM consider that a figure of 30 HGV (15 in – 15 out) per day is more appropriate.

10.95 It is anticipated that the extraction of the stone reserve will take approximately 12 years, with backfill completed within an additional 10 years. Final restoration to be achieved by the end of 2043.

10.96 It is anticipated that the extraction of the stone reserve will take approximately 12 years, with backfill completed within an additional 10 years. Final restoration to be achieved after 23 years by December 2043.

10.97 During the first 12 years, the quarry would export 10 loads of stone per day, with 5 loads of waste material imported per day, and 4 loads of recycled materials exported (as return loads). Therefore, should all imported vehicles have return loads this would provide some 30 HGV movements per day.

10.98 HDM consider that no more than 30 two-way vehicle movements per day should be permitted throughout the carrying out of all the operations including the importation and exportation of waste/recyclable materials to and from the site. This is to be restricted by condition.

10.99 In summary, subject to the works being carried out in accordance with the above and an annual maintenance fee of £50,000 being secured through a Section 106, legal agreement, it is considered the proposals as submitted can be carried out without causing an adverse impact on the highway network and highway safety of all users of these roads, in accordance with Local Plan policies LP21 and LP36 and guidance within the NPPF.

10.100 Consideration is now given to the impact of the proposals on all other users of the highway infrastructure with particular reference to Public Rights of Way (PROW), core walking and cycling routes before summarising on this and the above highway matters.

***PROW, core walking and cycling issues:***

10.101 Public Rights of Way (PROW), officers note that significant damage has been caused to the surface of the bridleway through recent operations associated with the quarry. The highway has previously been obstructed and the required wheel washing facility also causes nuisance and conflict and this would be exacerbated if the permitted number of vehicle movements were to increase as



proposed. Due to the nature and frequency of quarry associated traffic there is likely to be an ongoing issue with surface condition on the part of bridleway HOL/94/10 and a degree of ongoing conflict with vulnerable users, particularly if the requested increase permitted vehicle movements is authorised. An increase in the permitted number of permitted HGV movements along the public bridleway from 16 per day to 40 is not acceptable and as such Kirklees PROW Team OBJECT to any increase in HGV movement along the bridleway HOL/94/10.Kirklees

10.102 In support of the scheme the applicants have stated that the new access road is proposed in order to eliminate conflict between quarry traffic and the users of the bridleway and footpath. The proposed access road will be onto Cartworth Moor Road (CMR), which is as noted above, in part unsealed and unsurfaced and maintained in character as a country road. As CMR is used as a route by quarry traffic two additional passing places are proposed south of Copthurst Road where the upland moorland character is particularly strong. It is acknowledged that vehicular rights exist over CMR. In addition, CMR where it meets the junction with Copthurst Road to White Gate Road, forms part of a wider existing core walking and cycling route as identified on the Local Plan.

10.103 Paragraph 104 of Chapter 8, promoting healthy and safe communities of the NPPF, is of relevance in this instance which states: *“decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails”*. Also of relevance is Kirklees Local Plan Policy LP23 which requires core walking and cycling networks to be safeguarded. Proposals that prejudice the function, continuity or implementation of the core walking and cycling network are unlikely to be supported under Policy LP23.

10.104 Local concerns were received during the course of the application, in relation to conflict between quarry traffic and other users of CMR. The PROW consider it appropriate to comment on the impact on bridleway Holmfirth 94 (HOL/94/10) - the current quarry access, CMR - particularly the part which does not have a sealed surface, and on the potential impact on the safety and enjoyment of use of these and other roads by vulnerable highway users. PROW officers comment that:

*“ the current proposal includes construction of a new access road leading directly on to CMR, 180m south of bridleway HOL/94/10, thus removing the requirement for quarry traffic to take access via the bridleway. It is indicated at para. 4.6 in the supporting statement that the existing access road (i.e the bridleway) would cease to be used and ‘re-instated’ at a point during Phase 1 “as soon as infill had progress to the extent where the new access road had been formed with ramp down on to the quarry floor”. Para 4.13 describes the proposed new access road being brought into use within 24 months of a grant of permission. This leaves a considerable period of time during which use of the bridleway would continue to be used by quarry traffic, including up to 40 HGV movements per day. Any increase in the permitted number of HGV movements using bridleway HOL/94/10 is considered unacceptable, even if the time period during which use takes place is limited.*

*While we object to this planning application in general. If and only if the development is otherwise considered acceptable and recommended for approval, the PROW team requests that a condition be imposed limiting permitted HGV movements to the currently permitted level (8 in 8 out) until any*

*new access road has been brought into use. Thereafter use of bridleway HOL/94/10 by all quarry-associated traffic must cease, with all access to the quarry being via the new access road.*

10.105 In the interest of highway safety for all users of the highway including the bridleway, and to accord with Local Plan policy LP23 and guidance in the NPPF, it will be necessary and reasonable to limit the HGV movements to the currently permitted level (8 in 8 out), until the new proposed access road has been completed and made operational, in accordance with details to have been submitted and approved by the MPA. The existing access onto the bridleway HOL/94/10 shall thereafter be permanently closed off for vehicular access. This again can be addressed by condition. In addition to these conditions, as no details have been submitted showing the parking of all quarry associated traffic within the application red line, these details will also be sought through an appropriately worded condition.

10.106 It is also acknowledged that an application has also been made for a Definitive Map Modification Order (DMMO) under s53 of the Wildlife and Countryside Act 1981 to record part of CMR on the Definitive Map and Statement of Public Rights of Way (the DMS) as a public bridleway. The application has not yet been determined. While this is recognised the weight attributed to this is not significant, given its pending status and the outcome is uncertain. Equally PROW officers advise that CMR,

*“would be considered to be recordable on the DMS as a Byway Open to All Traffic (BOAT). Section 66(1) of the Wildlife and Countryside Act 1981 defines a Byway Open to All Traffic (BOAT) as: “a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used”. Whether a vehicular road is considered to be a BOAT or an ‘ordinary’ road will depend on its character or type. Other routes of a similar nature elsewhere have been recorded as BOATs”.*

10.107 In light of the above, the PROW Team have considered the impact that the application would have on the public's enjoyment of CMR with particular reference to the potential impact on use of the unsealed part by pedestrian equestrians and cyclists.

10.108 Deterioration in the surface condition of the unsealed part of CMR, due to HGV traffic, was a significant factor when the previous application was being considered. PROW officers advise that the numbers of daily HGV movement from Windy Ridge Quarry in the winter of 2022/2023 had been well in excess of the 16 daily movements formally approved and may have been similar to that now being proposed for approval. The deterioration of the surface of CMR resulted in extensive repair work being carried out by and at the expense of the quarry operator and formal temporary closure of CMR being in place for a number of months in 2023. The repair work has resulted in some change in character of the route, with a loss of verges in some places.

10.109 The general unsuitability of CMR to sustain the level and type of vehicular traffic proposed will be addressed in the current application through the applicant's willingness and offer of highway improvement/ resurfacing works along CMR, as discussed as paragraph 10.92. This will mitigate the potential damage from the intensified use by HGV's.

- 10.110 Turning to the potential for conflict between vehicles and vulnerable users on CMR, particularly due to the proposed increase in HGV traffic. While CMR is generally wider than bridleway Holmfirth 94, with verges to either side, it is noted that there has recently been damage to verges and a loss of or narrowing of verges in some places as a result of the repair work in 2023. CMR has an overall width between walls of approx. 9.1m (30ft). However, along the unsealed length, the surfaced part of the carriageway is in places as little as 3.4m wide. The usable width of verges may be constrained in places by roadside ditches.
- 10.111 PROW officers concerns are that a 20 tonne rigid vehicle of the type likely to be regularly used may have a width in excess of 3m. It would not be safe or possible to pass a horse rider allowing 2 metres of space required by the Highway Code (rule 215), without a rider moving well aside or a HGV driving over and damaging the offside verge. Acknowledging the two additional passing places, PROW officers concerns remain, in that there would still be considerable lengths where no safe passing would be possible without verge damage or without vulnerable users giving way and moving aside.
- 10.112 Accepting PROW officers concerns relating to the conflict between pedestrians, cyclists and equestrians along the route of CMR, officers consider that subject to the DM Highway officer's conditions and securing an annual highway maintenance fee for the roads on the HGV route, the potential conflict would be improved beyond the current situation.
- 10.113 In summary the proposals, subject to the measures discussed above to be conditioned, is considered can be accommodated without causing material highway safety impacts to all users of the wider highway network including CMR, in accordance with guidance in the NPPF and Kirklees Local Plan Policies LP21, LP23, and LP36 (points c, d and f).

#### Representations

- 10.114 The preceding paragraphs address the majority of representations received other than those assertions relating to the potential use of non inert waste and future monitoring of the site. Under the submitted application, it is intended to infill using inert waste, comprising construction, demolition and excavation materials as part of the proposals. The use of any other waste type would be a deviation from submitted proposals and as such would require planning permission to vary the details. Separate to planning permission, the applicant will also be required to obtain the necessary Environmental Permits from the Environment Agency. With regards to monitoring, following recent concerns and complaints raised with the Council, monitoring of operations at the site have been carried out and can continue, particularly in light of the recent breach of condition notices being served and the unauthorised works to the bridleway.

#### Other Matters

##### **Conditions:**

- 10.115 The current proposals seek retrospective permission in part, for some of the works as described in paragraphs 3.1, 10.7 and 10.26, having already been carried out/ implemented. In view of this, it will not be reasonable nor precise to impose the standard condition for works to commence within three years. It

would however be necessary and reasonable to include a condition setting out the end date (to December 2043), by which all works shall cease and site to be fully restored, in accordance with approved restoration details which shall include 10% biodiversity net gain.

- 10.116 Details required under certain conditions will need to include trigger points for example, “*within three months of the date of permission being granted, or the increase in HGV’s movement as approved shall not be exercised*” until certain details have been submitted to and approved in writing by the MPA thereafter works completed in accordance with the approved details.

### Planning obligations

- 10.117 In the event the application is approved, as set out in paragraph 10.93, the Applicant is agreeable to enter into a legal agreement to pay an annual highway maintenance fee of £50, 000 for the duration of the permission up until complete restoration of the site. The maintenance fee is to be shared equally with Barnsley District Council to allow them to maintain the HGV route that falls within their jurisdiction.

## **11.0 CONCLUSION**

- 11.1 The proposals would result in the extension of an existing operational quarry. The submitted information has sufficiently demonstrated that the demand for the high quality masonry stone which is proposed to be sourced from the site, is unmet both locally and nationally. Furthermore, the proposals are now accompanied by sufficient information to demonstrate how the impacts as set out in the above assessment could be satisfactorily controlled through appropriate mitigation measures, addressing the reasons for refusal on the 2022/93230 planning application.
- 11.2 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.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and the planning obligation 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. Time limits/restrictions**

- Period of mineral extraction (to cease by 31st Dec 2028) and completion of site restoration (by 31st Dec 2030), in accordance with an approved restoration scheme
- Prior cessation measures to deal with restoration and aftercare in the event that mineral extraction is abandoned/ceases
- Requirement to have all approved documents on site for the duration of operations for inspection

- Mitigative measures recommended within the PEA be applied including the protection for nesting birds during work on the site, as described within Section 7.7 of the submitted PEA
- Submission of Biodiversity Net Gain (BNG) using the most up to date BNG Metric calculation
- Full recommendations, mitigation and monitoring measures of the submitted Hydrogeological Risk Assessment (HRA) to be employed at the relevant stages of the development, as specified in the HRA. Written verification to be submitted to MPA before continuing onto each stage, verifying works done fully in accordance with HRA.
- Restriction on depth and extent of mineral workings in accordance with plan HRA and cross sectional drawings

## **2. Plans**

- works to be carried out in accordance with approved details/plans

## **3. Access and vehicular movements**

- Restrictions on numbers of heavy vehicle movements (to not exceed 15 in and 15 out) any one day
- HGV's to follow route as shown on HGV routing plan ref (10193/S106Traffic route/CJB)
- There shall be no increase in HGV movement as approved, until reconstruction of the unsealed "maintained in character" only section of Cartworth Moor Road, subsequent to an initial joint inspection with site operator/council representatives have been carried out. Specification details for verges, drainage run offs and passing places shall be submitted to and approved in writing by the MPA and works completed (at the cost of the applicant/site operator) in accordance with approved details. Thereafter six monthly joint inspections with site operator/council representative, to be carried out and any defects observed shall be rectified at the cost of the applicant within an agreed timescale by the MPA.
- There shall be no increase in HGV movement, as approved, until a joint survey with an appropriate Council representative and site operator/applicant has been carried out to assess the existing condition of the highways along the HGV route. The survey shall include carriageway and footway surfacing, verges, kerbs, edgings, street lighting, signing and white lining details. Thereafter works shall be completed in accordance with specification details to be submitted to and approved in writing by the MPA and subsidised by the annual highway maintenance fees. Subsequently, six monthly joint inspections with site operator/council representatives, to be carried out until site is fully restored. Any defects observed shall be rectified within an approved timescale and subsidised by the annual highway maintenance fees.
- Within 1 month from the date of permission being granted details of wheel bath to be submitted and approved in writing by MPA. The wheel bath shall be provided in the location approved before bringing into operation the new approved access road and thereafter be maintained in good operational condition and used for wheel cleaning for the lifetime of the permission.
- HGV wheels and chassis to be cleaned before entering highway
- All loaded HGVs leaving the site to be sheeted
- Permanent closure of existing vehicular access, details of which shall need to be approved by MPA and implemented up on bringing into use the new access road

- Plan showing parking provision for quarry associated vehicles/traffic within the application red line
- Reinstatement of bridleway in accordance with details to be submitted and approved and approved timescale

#### **4. Preparatory works**

- Screen bunds to be constructed using on site material only as per submitted details and as per noise assessment

#### **5. Soil stripping**

- All topsoils and subsoil to be stripped and stored prior to mineral excavation
- Plant of vehicles not to cross unstripped areas of the site
- Following soil stripping the MPA to be advised of volumes of topsoil and subsoil
- MPA to be given at least 7 days' notice prior to soil stripping operations
- Soils storage mound to be maintained in good condition grassed within 3 months and maintained to control weeds

#### **6. Working programme**

- Requirement to notify MPA at commencement of works involving site preparation, entering a new phase, completion of backfill, completion of phased restoration, completion of final restoration

#### **7 Restoration**

- Notwithstanding submitted restoration plan an amended restoration plan with full details to be submitted and approved with full details including 10 % BNG
  - Submission of soft landscaping details

#### **8. Soil replacement during restoration**

- No overburden to be removed from the site or stored above existing ground levels
- Site to be progressively restored as indicated on submitted phases
- Subsoil and topsoil to be spread at specific depths and to be worked to provide a satisfactory medium for planting
- The MPA to be given 7 days' notice prior to the spreading of sub soil or top soil
- Any area of grass seeding fails, it will be re-seeded within the next available Planting season
- All site infrastructure to be removed including access road with land reinstated to the levels shown on restoration levels drawing completion of restoration works in accordance with soft landscaping details

#### **9. Amenity**

- Hours for operation of the quarry in accordance with those suggested by Environmental Services
- Site operations to comply with stipulated noise levels at site boundary as recommended
- Site to operate in accordance with dust management scheme to be submitted & approved by MPA
- No fires or blasting at the site
- Reporting of unexpected contamination

## **10. Aftercare**

- Requirement to provide an outline aftercare scheme
- Requirement to provide a detailed annual aftercare scheme
- Requirement to arrange an annual aftercare meeting

### **Background Papers:**

Application and history files see assessment above

Website link below

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f93449>

Certificate of Ownership –Certificate B signed:

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 20-June-2024

Subject: Pre-application 2024/20252 for demolition and mixed use development at New Mills, Brougham Road, Marsden, HD7 6AZ

#### PRE-APPLICANT

Matthew Sheppard (Sheppard Planning)  
on behalf of the Crowther family

#### DATE VALID

19-Feb-2024

#### TARGET DATE

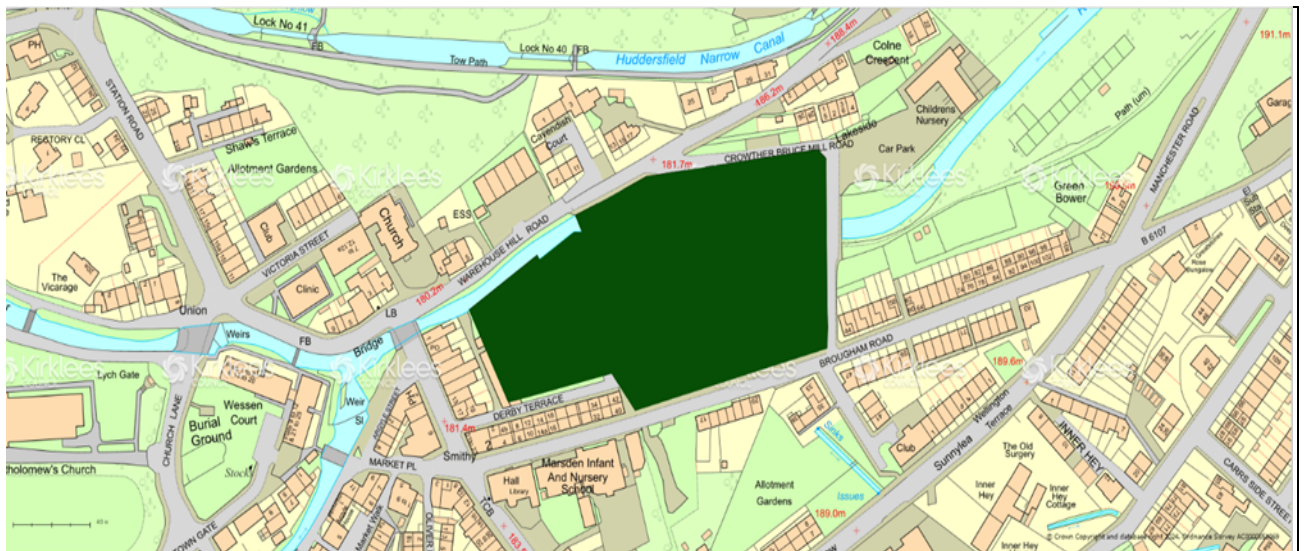
17-Mar-2024

#### EXTENSION EXPIRY DATE

n/a

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### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Colne Valley**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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## **RECOMMENDATION**

Members to note the contents of this pre-application report for information.

### **1.0 INTRODUCTION**

- 1.1 This pre-application enquiry is presented to the Strategic Planning Committee to inform Members of a potential large scale major application, for which an application for planning permission is likely to be submitted in the near future.
- 1.2 A pre-application enquiry (ref: 2024/20252) has been submitted in relation to the site and a mixed-use development proposal that was awarded £5.6m of funding by the Department for Levelling Up, Housing and Communities (DLUHC) in March 2023.
- 1.3 A related, forthcoming planning application may be brought to the Strategic Planning Committee for determination.
- 1.4 Details of the proposed development, and relevant planning considerations, are summarised in this report.
- 1.5 Members of the Committee are invited to comment on the main planning issues to help and inform ongoing consideration of the proposals, and discussions between officers and the applicant. This report does not include a full assessment of the proposals or formal recommendations for determination of the forthcoming application. Discussion relating to this report would not predetermine the forthcoming application and would not create concerns regarding a potential challenge to a subsequent decision on the forthcoming application made at a later date by the Committee.

### **2.0 SITE AND SURROUNDINGS**

- 2.1 The pre-application site is approximately 1.5 hectares in size, and is located in the valley bottom, close to the centre of Marsden. The site is bounded by Brougham Road, Warehouse Hill Road, Crowther Bruce Mill Road and Derby Terrace.
- 2.2 Almost all of the pre-application site is occupied by buildings, the majority of which are unoccupied. These include two tall mill buildings, and lower-rise buildings of one and two storeys.

- 2.3 The River Colne runs along part of the pre-application site's northern edge, and runs beneath buildings within the northeastern part of the site. A further, culverted watercourse runs beneath the site, close to its eastern edge. Much of the site is within Flood Zone 2, and parts are within Flood Zone 3.
- 2.4 There are significant differences in levels across the site.
- 2.5 There is limited greenery with the pre-application site. No trees within the site are TPO-protected. Bats and twites are known to be present in the area. The pre-application site is within the Impact Risk Zones of the Dark Peak and South Pennine Moors Sites of Special Scientific Interest, and is within the "Flood Plains" and "Built-up Areas" Biodiversity Opportunity Zones.
- 2.6 No buildings within the site are listed. The nearest listed buildings are the Grade II listed tenter posts to the north of the site (on the opposite side of Crowther Bruce Mill Road). The site is entirely within the Marsden Conservation Area.
- 2.7 Marsden District Centre (as designated in the Local Plan) includes buildings adjacent to the pre-application site to the west.
- 2.8 Existing highways conditions surrounding the pre-application site are described at paragraph 11.25 of this committee report.
- 2.9 Page 28 of the initially-submitted Heritage Statement numbers the site's various buildings (with reference to their age), and this numbering is considered suitable for identifying them in this committee report:



- 1 – The eastern mill (aka the “3-bay” mill, or “building A”)
- 2 – Low-rise building, no street frontage
- 3 – 2-storey building fronting Brougham Road
- 4 – 2-/3-storey building at site’s southeast corner, fronting Brougham Road
- 5 and 6 – Low-rise weaving shed at west end of site, aka “building C”
- 7 – Southern part of the western mill (aka the “2-bay” mill, or “building B”), including the 4-storey wages office fronting Brougham Road
- 8 – Low-rise building behind building 3
- 9 – 2-storey building fronting eastern section of Crowther Bruce Mill Road
- 10 – Low-rise building
- 11 – Single-storey former engine house of building 20
- 12 – Low-rise building, no street frontage
- 13 – Low-rise building over river and fronting Warehouse Hill Road
- 14 – Building over river and fronting northern Warehouse Hill Road
- 15 – Low-rise building fronting northern section of Crowther Bruce Mill Road
- 16 – 2-storey building at site’s northeast corner
- 17 – Single-storey former engine house of building 1
- 18 – Low-rise building, no street frontage
- 19 – Low-rise building, no street frontage
- 20 – Northern part of the western mill (aka the “2-bay” mill, or “building B”)
- 21 – Low-rise infill, no street frontage
- 22 – Low-rise infill, no street frontage
- 23 – Low-rise infill, no street frontage
- 24 – Low-rise infill, no street frontage
- A – Tower to building 1
- B – Tower to building 20
- C – Bridges between buildings 1 and 20
- D – Bridges between buildings 1 and 20

2.10 The pre-application site is currently under-used, and potentially offers great opportunities to deliver much-needed housing and employment floorspace at a large, accessible, brownfield site. The future of retained heritage assets could be secured as part of a development here. Development at the site may also play a role in addressing Marsden’s existing problems, and the vitality and viability of the adjacent district centre could be enhanced.

### **3.0 PROPOSALS**

3.1 Of the various options considered for the site (see the Options Appraisal heading below), option 5 was put to DLUHC, and DLUHC’s decision to award £5.6m of “levelling up” funding was based on that option.

3.2 However, the pre-applicant team prefer option 6 (which is similar to option 5), and intend to progress that option to application stage and in further discussions with DLUHC.

3.3 Option 6 involves the demolition of building 7 (the southern part of the western mill) and its replacement with a new building, the demolition of building 1 (the eastern mill), the retention of buildings 3 and 4 (fronting Brougham Road), the demolition of other buildings, and the erection of lower-rise buildings, all to accommodate the following uses and floorspace quanta:

- Light industrial – 3,077sqm
- Retail – 1,730sqm
- Office – 1,900sqm
- Residential – 21 flats

3.4 Vehicular access into the site would be from Brougham Road. A secondary vehicular access is shown from Crowther Bruce Mill Road.

3.5 The River Colne would not be de-culverted as part of the proposed development.

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

4.1 2005/93716 – Planning permission granted 24/08/2006 for demolition of 3-bay mill, spinning shed and garage, erection of health care unit and conversion of 2-bay mill to lettable ground floor units for associated health care / office units / gym / restaurant and wine bar and 32 apartments on third and fourth floors with associated car parking. Not implemented. This application site included land to the south of Brougham Road to accommodate additional development parking. A related application for conservation area consent (2005/93717) was also approved on 24/08/2006.

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

5.1 A pre-application meeting was held on 12/03/2024. This was attended by the pre-applicant team, officers representing the council in its two relevant roles (as Local Planning Authority, and as scheme promoter), and representatives of Historic England and DLUHC.

5.2 Further information was submitted during pre-application discussions. This included a summary document that set out an expanded options appraisal, and provided information regarding financial viability, job creation and the economic impacts of the various options. An updated Heritage Statement (rev P3) was also submitted, as were revised floorspace figures.

#### **6.0 PLANNING POLICY**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

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

6.2 The Local Plan allocates the site for mixed use development (site allocation MXS11). It states the gross and net site area is 1.71 hectares, and sets out indicative capacities of 29 dwellings and 2,976sqm of employment floorspace.

6.3 Site allocation MXS11 identifies the following constraints relevant to the site:

- Part of the site is within flood zone 3
- Surface water issues
- Proximity to Special Protection Area / Special Area of Conservation
- Site is within/close to a Conservation Area
- Site is close to archaeological site
- Assessment required for presence of habitats that are important for off-site foraging by South Pennine Moors SPA qualifying bird species (i.e. functionally connected land)

6.4 Site allocation MXS11 also sets out the following site-specific considerations:

- The flood risk vulnerability of proposed uses will be considered and an exception test may still be required as part of a planning application as set out in national planning policy.
- Deculverting should be considered through this re-development but environmental benefits may be limited.
- Residential amenity will need safeguarding through sensitive siting of buildings and landscape buffer areas.
- The original buildings of New Mills shall be retained and reused as part of any development proposals, unless adequate justification is provided for their loss, in accordance with LP7 and LP24.

6.5 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP4 – Providing infrastructure  
LP5 – Masterplanning sites  
LP7 – Efficient and effective use of land and buildings  
LP9 – Supporting skilled and flexible communities and workforce  
LP11 – Housing mix and affordable housing  
LP13 – Town centre uses  
LP16 – Food and drink uses and the evening economy  
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  
LP29 – Management of water bodies  
LP30 – Biodiversity and geodiversity  
LP31 – Green infrastructure network  
LP32 – Landscape

LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP38 – Minerals safeguarding  
LP43 – Waste management hierarchy  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP67 – Mixed use allocations

Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents are:

*Supplementary Planning Documents*

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

*Guidance documents*

- Social Value Policy (2022)
- Kirklees Economic Strategy (2019)
- Leeds City Region Strategic Economic Plan (2016)
- Planning Applications Climate Change Guidance (2021)
- Kirklees Climate Change Action Plan (2022)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Viability Guidance Note (2020)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Housing Strategy (2018)
- Kirklees First Homes Position Statement (2021)
- Providing for Education Needs Generated by New Housing (2012)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Public Rights of Way Improvement Plan (2010)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Streets Principles (2017)

### Marsden Masterplan

- 6.7 The council has approved the development of a masterplan for Marsden. The intention of the masterplan is to help make Marsden an even more inviting place to live, work and visit.
- 6.8 The development of the Marsden Masterplan will involve technical work and community engagement to identify a series of potential interventions and improvements that could be made across Marsden to support its future success.
- 6.9 The Marsden Masterplan will be developed in parallel to the proposals for the New Mills site to ensure appropriate integration and alignment occurs.
- 6.10 Although not yet a material planning consideration, upon completion of the masterplan (anticipated in early 2025), the document will become an adopted “blueprint”, setting out a long-term aspirational vision for the growth of the village. The masterplan will ultimately help to shape and influence future investment, economic growth and housing in the local area.

### Climate change

- 6.11 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.12 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

### National Policies and Guidance

- 6.13 National planning policy and guidance is set out primarily the National Planning Policy Framework (NPPF), published 19/12/2023, and in online Planning Practice Guidance, first launched 06/03/2014, as well as in Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. NPPF chapters relevant to the proposals include:



- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 6 – Building a strong, competitive economy
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed and beautiful places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of minerals

6.14 Other relevant national guidance and documents include:

- National Design Guide (2019, updated 2021)
- National Model Design Code (2021)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- Securing developer contributions for education (2019)

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

## **7.0 PUBLIC/LOCAL CONSULTATION**

7.1 The pre-applicant team have engaged with the Marsden Community Trust over the last six months, and are currently organising a public drop-in session, to be held prior to the Strategic Planning Committee meeting of 20/06/2024.

7.2 Officers briefed ward Members on the emerging proposals on 02/04/2024.

## **8.0 CONSULTATION RESPONSES**

8.1 KC Conservation and Design – Loss of heritage assets not justified, and would result in harm. Requested fully worked up options for further consideration, including retention and inclusion of buildings 1, 7, 11 and 20 and their associated features (buildings A, B, C and D), along with buildings 3 and 4 to Brougham Road, as a starting point.

8.2 KC Ecology – Preliminary Ecological Appraisal and Ecological Impact Assessment required. Mandatory Biodiversity Net Gain applies.

8.3 KC Education – £31,914 education contribution required (assuming 28 two-bedroom or larger units).

- 8.4 KC Highways Development Management – Access proposals will need to be revised, in light of difficulties along Brougham Road, Crowther Bruce Mill Road and elsewhere. To achieve suitable access to the development for all transport modes, significant changes to the local highway network are likely to be required, as the current arrangements are unsuitable for a development of this scale and use types. Option 6 would require between 222 and 279 car parking spaces, which cannot be accommodated within the current proposals (unless multi-storey parking was proposed).
- 8.5 KC Highways Structures – Conditions would need to be applied regarding the demolition of existing building walls supporting the adjacent highways, and regarding new retaining walls/structures.
- 8.6 KC Lead Local Flood Authority – Site is within Flood Zones 1, 2 and 3. Both watercourses beneath the site are classed as main rivers. Culverted watercourses are expected to be opened up. Sequential test and exceptions test may be required. Soakaways should not be used. Brownfield sites are required to provide a betterment to the current discharge rate of 30%.
- 8.7 KC Waste Strategy – Adequate space for refuse collection vehicles required. Council's guidance document should be followed.
- 8.8 West Yorkshire Police Designing Out Crime Officer – Details of boundary treatments, lighting, security measures and garage/shed security required. Proposals should adhere to principles of CPTED – Crime Prevention Through Environmental Design.
- 8.9 Consultation carried out at pre-application stage does not normally involve external consultees (other than the WY Police DOCO). However, representatives of Historic England attended the pre-application meeting held on 12/03/2024 and offered comments verbally, advising that buildings 1, 7, 20, A, B, C and D should be retained.

## 9.0 **OPTIONS APPRAISAL**

- 9.1 The pre-applicant team have considered the following options for the site:
- Option 1 – Do nothing
  - Option 2 – Heritage-led retention (retention of buildings 1, 3, 4, 7, 11, 20 and A, demolition of other buildings, erection of new buildings, one-way vehicular access from Warehouse Mill Road, two-way vehicular access from east)
  - Option 3 – Minimal heritage loss (retention of buildings 1, 4, 7, 11, 20, A and most of 3, demolition of other buildings, erection of new buildings, pedestrian bridge over river, two-way vehicular access from Brougham Road)
  - Option 4 – Modest heritage loss (retention of buildings 4, 7, 11, 20 and most of 3, demolition of other buildings, erection of new buildings,

pedestrian bridge over river, two-way vehicular access from Brougham Road)

- Option 4a – Retain and mothball eastern mill (as per option 4, but retain and mothball building 1)
- Option 5 – DLUHC-funded option (retention of buildings 3, 4, 11 and 20, demolition of other buildings, erection of new buildings, pedestrian bridge over river, two-way vehicular access from Brougham Road)
- Option 6 – Pre-application option (retention of buildings 3, 4, 11, 12 and 20, demolition of other buildings, erection of new buildings, pedestrian access across river, two-way vehicular access from Brougham Road)
- Option 6a – Partial site delivery (as per option 6, but mothball buildings 11 and 20, and postpone newbuild at west end of site)
- Option 7 – Alternative option (retention of buildings 1, 3, 4, 11 and part of 20, demolition of other buildings, erection of new buildings, pedestrian bridge across river, two-way vehicular access from Brougham Road).

9.2 The pre-applicant team's submission explains why option 6 is their preference. As regards why options 1, 2, 3, 4, 4a, 5, 6a and 7 are not being pursued, the pre-applicant team's reasons include viability concerns, harm in relation to heritage assets, lack of space for parking, lack of a complete redevelopment solution, unproven demand for flats and unproven demand for office space.

## **10.0 MAIN ISSUES INFLUENCING PROPOSALS**

10.1 To date, discussions with the pre-applicant team have focussed on some of the key issues that will inform what can/can't be done at the site, which are considered to be:

- Land use, quanta and site allocation
- Economic impact
- Housing delivery
- Heritage
- Highways
- Drainage and flood risk
- Sustainability and climate change
- Building condition / structural considerations
- Biodiversity and trees
- Site stability and contamination
- Public consultation
- Demand
- Financial viability
- Other considerations

## **11.0 APPRAISAL**

### Land use, quanta and site allocation

11.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

- 11.2 Full weight can be given to site allocation MXS11, which allocates the site for mixed use development. Local Plan Policy LP67 states that planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.
- 11.3 The table below compares the proposed development quanta (of option 6) with the indicative expectations of site allocation MXS11.

<b>Use</b>	<b>MXS11 indicative expectation</b>	<b>Option 6 proposal</b>
Residential	29 units	21 units
Employment	2,976sqm	3,077sqm light industrial 1,730sqm retail 1,900sqm office 6,707sqm TOTAL

- 11.4 The site is within a wider mineral safeguarding area relating to 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 residential development here, as there is an overriding need (in this case, housing needs and economic development objectives, having regard to Local Plan delivery targets) for it. Other criteria of policy LP38 may also apply.

Economic impact

- 11.5 The job creation objective (to deliver approximately 23,000 jobs between 2013 and 2031 to meet identified needs) of the Local Plan is noted, as is strategic objective 1 which confirms that the council will support the growth and diversification of the economy, to increase skill levels and employment opportunities including the provision of a high quality communication infrastructure. Objectives set out in the Leeds City Region Strategic Economic Plan and the Kirklees Economic Strategy are also noted.
- 11.6 Given the above objectives, a development at the pre-application site that included an employment element would be expected to facilitate the creation of a high number of quality, skilled jobs and apprentices. Opportunities for local employment should be maximised. Supply chain and other knock-on benefits of increased economic activity at the pre-application site (during both the construction and operational phases) could potentially be significant.
- 11.7 The pre-applicant team have provided headlines figures regarding the benefits the proposed development would bring to the local economy, using job creation figures and the Gross Value Added (GVA) measure, which the Government has defined as follows:

*Gross Value Added (GVA) measures the contribution to the economy of each individual producer, industry or sector. Simplistically it is the value of the amount of goods and services that have been produced, less the cost of all inputs and raw materials that are directly attributable to that production.*

- 11.8 For option 6, the pre-applicant team have stated that 339 jobs would be created, and £25.7m GVA per annum would be generated. This compares with the other options as follows:

<b>Option</b>	<b>Direct jobs</b>	<b>GVA (£ per annum)</b>
1 (Do nothing)	0	0
2 (Heritage-led retention)	428	£32.5m
3 (Minimal heritage loss)	427	£32.4m
4 (Modest heritage loss)	341	£25.8m
4a (Retain and mothball eastern mill)	No figures given	
5 (DLUHC-funded option)	329	£25m
6 (Pre-application option)	339	£25.7m
6a (Partial site delivery)	No figures given	
7 (Alternative option)	357	£27.1m

#### Housing delivery

- 11.9 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 11.10 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19/12/2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling three-year period (the “pass” threshold is 75%).
- 11.11 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, 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. For decision making, this means:

*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.*

- 11.12 The council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development, however this has to be balanced against any adverse impacts of granting permission for a proposal.
- 11.13 In the absence of a five-year housing land supply, the most relevant policies are deemed out of date. In these circumstances, substantial weight should be given to the presumption in favour of sustainable development (applying the "tilted balance") unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits. In all circumstances, careful consideration should be given to the relevant planning considerations, Development Plan policies and appropriate national planning policies.
- 11.14 A mixed use development that included 21 flats (as is proposed in option 6) would contribute towards meeting identified needs, and this delivery would attract some weight in the balance of material planning considerations that would be relevant to a future planning application. Alternative schemes that involved the provision of more housing would attract more positive weight in this respect, although such schemes are likely to include less employment floorspace (and would therefore achieve less in terms of job creation and GVA).
- 11.15 Affordable housing would normally be required as part of a mixed use development involving the provision of more than 10 dwellings, however at this site the pre-applicant team may be able to demonstrate that Vacant Building Credit applies, which would mean no affordable housing would need to be provided. Should this be the case, and should affordable housing still be proposed, this could be viewed as an additional benefit that would weigh positively in the balance of planning considerations.

#### Heritage

- 11.16 No buildings within the site are listed. The nearest listed buildings are the Grade II listed tenter posts to the north of the site (on the opposite side of Crowther Bruce Mill Road). The Marsden Mechanics Institute (at the corner of Peel Street and Brougham Road) is also Grade II listed.
- 11.17 The site is entirely within the Marsden Conservation Area. Many of the buildings within the site are important non-designated heritage assets, and make a significant positive contribution to the character and appearance of the conservation area (which is a designated heritage asset), particularly in the case of buildings 1, 7 and 20 which are visible in longer views and provide settings to many surrounding buildings and feature in several streetscapes. Buildings 3, 4, 11, A, B, C and D are less prominent in wider views, but are also important positive contributors to the character and appearance of the conservation area.

- 11.18 Regarding this site (and the Bank Bottom Mills site), in her report of 30/01/2019 the Local Plan Inspector stated:

*The mill buildings on these sites are identified in the Marsden Conservation Area Appraisal as focal buildings, and contribute to the distinct identity of Marsden. New Mills is located within the Marsden Conservation Area and Bank Bottom Mills is close to it. Accordingly, in order to protect the historic environment and character of the town, and accord with Policy PLP 35 in the Plan, the policies should be modified to seek the retention of the mill buildings.*

- 11.19 Site allocation MXS11 states:

*The original buildings of New Mills shall be retained and reused as part of any development proposals, unless adequate justification is provided for their loss, in accordance with LP7 and LP24.*

- 11.20 Permission was previously granted for the demolition of building 1 and other buildings in 2006 (refs: 2005/93716 and 2005/93717). That permission was not implemented.

- 11.21 Regarding the current proposals, the pre-applicant team have submitted information regarding the historic interest of buildings 1, 3, 4, 7, 11, 20, A, B, C and D, and justification for the demolition of some of these buildings. Officers' assessment of that information and justification is ongoing. At this stage it appears likely that the development proposal to be brought forward for this site will involve a degree of harm in relation to heritage assets. This harm would need to be outweighed by public benefits.

- 11.22 Regarding the site's other buildings (namely, those other than buildings 1, 3, 4, 7, 11, 20, A, B, C and D), officers are likely to recommend that their demolition can be accepted (subject to further assessment of their importance, and of the new buildings that would replace them), as these are considered to be of less historic interest and/or make less of a contribution towards the character and appearance of the conservation area.

- 11.23 The positive aspects (in relation to heritage assets) of development at this site must also be given weight in the balance of planning considerations. Retention and re-use of at least some of the site's existing buildings appears to be possible. Demolition of some of the site's less important buildings may open up and enable new appreciation of (and access to) those buildings that are to be retained, particularly if new pedestrian routes through the site are created, and if new retail uses are introduced to the retained buildings.

- 11.24 It must also be noted that no development proposals have been implemented at the site since woollen production ceased at the site over 20 years ago, despite a planning permission having been granted in 2006. During the years following the closure of the mills, the site's buildings have mostly been unused, and their condition has deteriorated.

## Highways

11.25 The following existing highway conditions surrounding the site are noted:

- Peel Street / Brougham Road junction – Inadequate turning space for large vehicles, and very limited visibility, particularly for vehicles exiting Brougham Road and turning south onto Peel Street.
- Brougham Road – Heavily parked along the northern kerb along the pre-application site frontage and to the east of the site. Some parking also occurs to the east of the pre-application site along the southern edge of the carriageway, including parking in marked disabled/accessible bays. There is inadequate space for two vehicles to pass in a number of locations, and where double parking occurs the remaining single lane is narrow, which results in some drivers parking on footways. There are typical school drop off/pick-up parking issues associated with Marsden Infant and Nursery School.
- Existing site entrance (between buildings 3 and 7) – Gated, with a dropped kerb. Approximately 10m between buildings 3 and 7.
- Brougham Road / Crowther Bruce Mill Road junction – Approximately 10m between building 4 and curtilage of 44 Brougham Road. Limited visibility at the junction, which is restricted by parked cars/vans. There is a service area for the pre-application site adjacent to the junction (accessed from Crowther Bruce Mill Road), which may cause safety issues if used by larger vehicles (but currently appears to be used by vans only).
- Crowther Bruce Mill Road – Steep gradient in two sections, inadequate space for two vehicles to pass, limited visibility at northeast corner of pre-application site, and a lack of pedestrian (or cycle) facilities.
- Crowther Bruce Mill Road / Warehouse Hill Road junction – Limited visibility for vehicles exiting Crowther Bruce Mill Road. Shuttered entrance to building 15.
- Warehouse Hill Road – Limited width in places. No vehicular access into the pre-application site. Lack of continuous pedestrian (or cycle) facilities.
- Derby Terrace – Limited width, and no turning head.
- Footways of the above-listed streets vary in width and quality. Some sections have no footways.

11.26 Further away from the pre-application site boundaries, there are known to be problems regarding parking in the centre of Marsden, and regarding refuse collection from Derby Terrace (where refuse collection vehicles are unable to turn, and residents therefore have to drag their bins to Brougham Road for collection). Where possible, development at the pre-application site should help to address these problems.

11.27 Given the existing highway conditions detailed above, the provision of access to a major development at the site would be challenging. Brougham Road and Crowther Bruce Mill Road cannot accommodate two-way traffic or HGVs. Of note, in connection with the proposals approved in 2006, Brougham Road was



to be made one-way along its western section up to the development site access. To facilitate the one-way section, land to the south of Brougham Road (which does not form part of the current pre-application proposal site) was utilised to provide a turning head, as well as space for parking.

- 11.28 Accessing the site from the north (via Town Gate, Church Lane, Station Road and Warehouse Hill Road) would be preferable in some respects, as it could provide a more suitable route for larger vehicles associated with the proposed development's light industrial element. However, this would necessitate the construction of a new road bridge over the River Colne (the cost of which the pre-applicant team have put at £1.75m, although this is not based on a fully costed and detailed engineering exercise) and may require the removal of some on-street parking spaces along the above route.
- 11.29 A revised access strategy, including significant improvements/alterations to the local highway network, would be required in connection with a major development at the site. This could include a combination of the following (which is by no means an exhaustive list and requires further investigation and analysis):
- A two-way vehicle bridge to Warehouse Hill Road.
  - Improvements to Brougham Road, to address the existing parking issues, narrow width, and the very constrained nature and visibility issues at the Peel Street junction.
  - Improvements to Crowther Bruce Mill Road. An option to make this one-way northbound may be possible, subject to improvements.
  - Wider traffic management measures and highway improvements to manage traffic within the centre of Marsden.
  - Other pedestrian/cycle accessibility improvements, including improvements to Warehouse Hill Road, even if only a pedestrian (and cycle) bridge connection is provided.
- 11.30 Options considered by the pre-applicant team include the provision of pedestrian access through site between Warehouse Mill Road and Brougham Road, and an east-west route to the site's eastern edge. Such improvements to pedestrian access through this large site (and through Marsden) would be welcomed.
- 11.31 The pre-applicant team have stated that option 6 would generate demand for 187 parking spaces. This number of spaces is not shown on the relevant drawing, and the pre-applicant's submission states that "Parking levels would be closer to those needed [when compared with other options]". KC Highways Development Management have calculated that option 6 is more likely to require between 222 and 279 car parking spaces (plus any replacement parking that is likely to be needed to mitigate the loss of existing on-street spaces). However, it is noted that the council does not have definitive parking standards, and other considerations (such as existing and future public transport facilities, and the walkability of Marsden) may justify lower parking provision in connection with major development at this site, as may the aesthetic impact of large areas of surface parking.

- 11.32 Ongoing work on the Marsden Masterplan is looking into local issues of traffic circulation and parking in the village.

#### Drainage and flood risk

- 11.33 The River Colne runs through and beneath the site. In accordance with site allocation MXS11 and Local Plan Policy LP27, de-culverting of this watercourse would normally be expected. However, the pre-applicant team have cited cost and practical reasons for not including de-culverting in the current proposals.
- 11.34 It is accepted that de-culverting of the site's other watercourse (which runs from south to north, close to the site's eastern edge) would not be possible, as buildings above it are to be retained.
- 11.35 Soakaways are not regarded as a suitable method of surface water disposal in this location. At this brownfield site, major development would be required to improve (i.e., reduce) discharge rates in comparison with the current situation.
- 11.36 Other matters relating to flood risk and drainage would need to be addressed in the forthcoming application.

#### Sustainability and climate change

- 11.37 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. At application stage, information to demonstrate that the proposed development would achieve net gains in respect of all three sustainable development objectives would be expected. The forthcoming submission should also respond positively to the net zero carbon emission targets referred to earlier in this report.
- 11.38 Mixed use development at this site can be considered to be sustainable development, given the site's location within an already-developed area, its proximity to public transport and other facilities (within walking distance), and the opportunities for economic, social and environmental net gains (and for addressing climate change) that the site provides.
- 11.39 The proposed demolition of the site's existing buildings would involve a loss of embodied energy/carbon. Retained buildings (carefully converted) could be made more energy-efficient. However, even higher levels of energy efficiency could be achieved by the new accommodation that would replace the demolished buildings. The re-use of demolition material on site may also help to address embodied energy/carbon concerns.

- 11.40 Given the size of the site, the range of uses proposed, and the expectations of Local Plan Policy LP26, the feasibility of an on-site energy centre should be explored.
- 11.41 Measures would be necessary to encourage the use of sustainable modes of transport. A development at this site which was entirely reliant on residents, staff and visitors travelling by private car is unlikely to be considered sustainable. Adequate provision for pedestrians, cyclists (including cycle lanes, where appropriate) should be demonstrated, and cycle storage and space for cyclists, electric vehicle charging points, a Travel Plan and other measures would be required.
- 11.42 Drainage and flood risk minimisation measures would need to account for climate change.

#### Building condition / structural considerations

- 11.43 The pre-applicant team initially submitted a brief Structural Condition Technical Summary (which stated that surveys/investigations were yet to be carried out) and the matter of building condition was touched on in the covering letter of 16/02/2024.
- 11.44 More recently, the pre-applicant team have stated that full structural and engineering surveys of the site's buildings (and the ground on which they sit) have not been undertaken, and that this costly work is not needed to demonstrate the lack of viability of the considered options, nor is it needed to identify the need for funding to address that shortfall.
- 11.45 This is noted, however information will need to be submitted to enable the council to ascertain whether the site's existing buildings can indeed be retained (or are beyond repair), and what the cost of any such retention would be. This information would be particularly necessary should the council's review of the relevant financial viability information arrive at different conclusions to the pre-applicant team's, and/or should the council attach limited weight to viability information. Ground condition surveys would certainly be required to ascertain whether any mitigation is needed prior to the construction of the proposed new buildings.

#### Biodiversity and trees

- 11.46 A tree survey is yet to be submitted, however it is noted that there are no TPO-protected trees on the site.
- 11.47 The pre-applicant team's information regarding the site's existing biodiversity value is currently being reviewed, although it appears likely that the site's value is limited due to the extent of hard surfacing, and due to its watercourses being culverted. Major developments are normally required to deliver a biodiversity net gain of 10%, however further information may need to be submitted to confirm whether this site would be exempt from that requirement due to its limited existing value. Whether biodiversity net gain is required or not, faunal enhancements would need to be provided.

### Site stability and contamination

- 11.48 Council-held records indicate that the site is potentially contaminated. Local Plan policy LP53 is relevant, and its requirements would need to be addressed in an application-stage Phase 1 contamination report.
- 11.49 The site is not within the Development (Low or High) Risk Areas defined by the Coal Authority.
- 11.50 Several millponds once existed within the site. The pre-applicant team will need to establish whether (and how) these were filled.

### Public consultation

- 11.51 Proposals for the site should be informed by the views of local residents.
- 11.52 As noted above, the pre-applicant team are currently organising a public drop-in session, to be held prior to the Strategic Planning Committee meeting of 20/06/2024.
- 11.53 At application stage, the findings of the pre-applicant team's public consultation would need to be set out in a Statement of Community Involvement.

### Demand

- 11.54 The pre-applicant team initially submitted a Demand Report, and further commentary was provided at the meeting held on 12/03/2024. The pre-applicant team have stated that demand for flats in Marsden is unproven and likely to be low, and that it therefore cannot be confirmed that the conversion of both the site's taller mill buildings (buildings 1, 7 and 20) would be viable.
- 11.55 This matter will require further consideration, including in light of the public transport service improvements expected as result of the Transpennine Route Upgrade, and evidence gathered from the relatively-recent Station House Court development in Marsden.
- 11.56 The council may appoint an external consultant to review the pre-applicant's demand evidence (at the pre-applicant's expense).

### Financially viability

- 11.57 The pre-applicant team have submitted financial viability information, which is currently not in the public domain. However, to provide Members with an idea as to how viable or unviable the various development options are, the pre-applicant team have agreed that the following headline findings can be made public:

- Option 2 – shortfall of over £10m
- Option 3 – shortfall of over £10m
- Option 4 – shortfall of less than £10m
- Option 4a – viability not confirmed
- Option 5 – shortfall of less than £10m
- Option 6 – shortfall of less than £10m
- Option 6a – viable
- Option 7 – shortfall of less than £10m

- 11.58 The pre-applicant team have confirmed that all the above headline findings already take into account the £5.6m of DLUHC funding that has been secured.
- 11.59 The DLUHC's decision to award funding was based on option 5. The pre-applicant team have since recalculated that option's viability (in light of increased costs) and has found that, even with the DLUHC funding, it is now unviable, and would require additional funding to bridge the gap.
- 11.60 The pre-applicant team intend to take option 6 forwards. That option is also reported to be unviable, and would require funding in addition to that already awarded by DLUHC.
- 11.61 The council may appoint an external consult to review the pre-applicant's viability evidence (at the pre-applicant's expense). In the meantime, it can at least be concluded at this stage that major development at this site (involving either minimal or extensive retention of the existing buildings) would require assistance in the form of external funding.

#### Other considerations

##### *Urban design matters*

- 11.62 Once more is known regarding what existing buildings need to be regarded as "fixed", further consideration of design matters (including regarding heights, building lines, elevational treatments and materials) will be necessary.

##### *Residential quality and amenity*

- 11.63 Further detail would need to be submitted to inform consideration of the proposed unit sizes (with reference to the Nationally Described Space Standards), unit size mix (with reference to the council's Affordable Housing and Housing Mix SPD), outlook, aspect, privacy, natural light and compatibility with the proposed development's employment uses.

##### *Crime and anti-social behaviour*

- 11.64 Measures to prevent crime and anti-social behaviour would need to be demonstrated at a future, more detailed design stage.

### *Environmental and public health*

- 11.65 A Health Impact Assessment would be required at application stage. This would be assessed with regard to chapter 8 of the NPPF, Local Plan policy LP47 and the council's Joint Health and Wellbeing Strategy. Development at this site would be required to assist in promoting healthy, active and safer lifestyles in accordance with these planning policies.
- 11.66 Noise, air quality, odour and other matters relevant to environmental health will need to be addressed in the forthcoming planning application submission.
- 11.67 The site is not located within an Air Quality Management Area (AQMA), however due to the size of the development proposed, and having regard to the West Yorkshire Low Emission Strategy planning guidance, an Air Quality Assessment (AQA) would be required at application stage. For air quality reasons, details of charging points for electric vehicles would be required at application or conditions stage, and a Travel Plan would also be required for air quality reasons, given the size of the proposed development.
- 11.68 A Noise Assessment would need to be submitted. This would need to determine the existing noise climate, predict the noise climate in outdoor spaces (daytime), bedrooms (night-time) and other habitable rooms of the development, and detail the proposed attenuation or design measures necessary to protect the amenity of the occupants of the new residential units. Noise generated by the proposed employment uses would also need to be assessed.

### *Planning obligations*

- 10.69 A development of this scale would have significant impacts requiring mitigation. To secure this mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations), planning obligations secured through a Section 106 agreement would be necessary (if planning permission is to be granted). Heads of Terms would or may refer to:
- Highways mitigation
  - Sustainable transport
  - Education
  - Open space
  - Affordable housing
  - Provision and maintenance of drainage systems
  - Biodiversity net gain
- 10.70 Further consideration of contributions, their timing and triggers would be necessary once more is known regarding the proposals.

### *Training and apprenticeships*

- 10.71 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development may meet one or more of the relevant thresholds, officers will be approaching the pre-applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such provisions are currently either being secured through Section 106 agreements or through other forms of agreement and partnership where officers work proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phases.

### *Construction management*

- 10.72 If permission is granted for major development at the pre-application site, a condition securing the submission and implementation of a Construction Environmental Management Plan (CEMP) is likely to be appropriate. The CEMP would need to include proposals for mitigating environmental impacts during demolition and construction (including in relation to noise, dust and working hours), as well as details relating to construction traffic (having regard to the accessibility of Brougham Road, and its inability to accommodate HGVs).

## **11.0 CONCLUSION**

- 11.1 Members to note the contents of this pre-application report.

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