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

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Wednesday 27 November 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 5 December 2024**.

(A coach will depart the Town Hall, at 9:00 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 Bill Armer
Councillor Jo Lawson
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
B Addy
M Crook
J Rylah
A Sewell
H McCarthy
E Firth

Liberal

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

Community

Alliance
A Zaman
C Scott

Kirklees

**Community
Independents**
A Arshad

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

To note that Councillor Jo Lawson has replaced Councillor Ammar Anwar as a Member of the Committee.

2: Minutes of the Previous Meeting

1 - 6

To approve the minutes of the meeting of the Committee held on 5th September 2024.

3: Declaration of Interests and Lobbying

7 - 8

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

4: Admission of the Public

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

5: Public Question Time

To receive any public questions.

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

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

6: Deputations/Petitions

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

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

7: Planning Applications

9 - 10

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 2nd December 2024.**

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

8: Site Visit - Planning Application 2023/91116

Planning Application 2023/91116 - Erection of 77 dwellings, with access from Darley Road and associated works, at land off Primrose Lane, Hightown, Liversedge.

Ward affected: Liversedge and Gomersal

Contact: Nick Hirst, Planning Services

Estimated time of arrival on site: 9:30 a.m.

9: Site Visit - Planning Application 2023/91212

Planning Application 2023/91212 - Erection of 21 dwellings, with access from Laithe Avenue, at land off Bankfield Drive, Holmbridge, Holmfirth.

Ward affected: Holme Valley South

Contact: Ellie Thornhill, Planning Services

Estimated time of arrival on site: 10:30 a.m.

10: Site Visit - Planning Application 2024/90357

Planning Application 2024/90357 - Removal of Conditions 10, 12, 13, 14, 20, 33, 38, 39 and 40 and variation of Conditions 1, 19, 24, 29, 34, 36 and 37 of previous permission, 2019/90949, for variation of Condition 18 (crushing and screening operations) on previous permission, 2013/90793, for mineral extraction at land adjacent to Thewlis Lane, Crosland Hill, Huddersfield.

Ward affected: Crosland Moor and Netherton

Contact: Farzana Tabasum, Planning Services

Estimated time of arrival on site: 11:10 a.m.

11: Planning Application - Application No: 2023/91116

11 - 54

Planning Application 2023/91116 - Erection of 77 dwellings, with access from Darley Road and associated works, at land off Primrose Lane, Hightown, Liversedge.

Ward affected: Liversedge and Gomersal

Contact: Nick Hirst, Planning Services

12: Planning Application - Application No. 2023/91212

55 - 110

Planning Application 2023/91212 - Erection of 21 dwellings, with access from Laithe Avenue, at land off Bankfield Drive, Holmbridge, Holmfirth.

Ward affected: Holme Valley South

Contact: Ellie Thornhill, Planning Services

- 13: Planning Application - Application No. 2023/92490** 111 -
138
- Planning Application 2023/92490 - Erection of 35 dwellings with associated access and landscaping (within a Conservation Area) at the Former Dowker Works, Dowker Street, Milnsbridge, Huddersfield.
- Ward affected: Golcar
- Contact: Ellie Thornhill, Planning Services
-

- 14: Planning Application - Application No. 2024/90357** 139 -
166
- Planning Application 2024/90357 - Removal of Conditions 10, 12, 13, 14, 20, 33, 38, 39 and 40 and variation of Conditions 1, 19, 24, 29, 34, 36 and 37 of previous permission, 2019/90949, for variation of Condition 18 (crushing and screening operations) on previous permission, 2013/90793, for mineral extraction at land adjacent to Thewlis Lane, Crosland Hill, Huddersfield.
- Ward affected: Crosland Moor and Netherton
- Contact: Farzana Tabasum, Planning Services
-

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 5th September 2024

Present:

Councillor Sheikh Ullah (Chair)
Councillor Ammar Anwar
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

Apologies:

Councillor James Homewood
Councillor Bill Armer
Councillor Paul Moore

- 1 Election of Chair**
Resolved –
That Councillor Sheikh Ullah be elected Chair for the meeting.
- 2 Membership of the Committee**
Apologies were received from Councillors Bill Armer, James Homewood and Paul Moore.

Councillor Sheikh Ullah substituted for Councillor Homewood.
- 3 Minutes of the Previous Meeting**
Resolved –
That the minutes of the meeting of the Committee held on 1st August 2024 be approved as a correct record.
- 4 Declaration of Interests and Lobbying**
No interests or lobbying were declared.
- 5 Admission of the Public**
All items were considered in public session.
- 6 Public Question Time**
No questions were asked.
- 7 Deputations/Petitions**
No deputations or petitions were submitted.
- 8 Site Visit - Planning Application 2023/90668**
Site visit undertaken.

9 Site Visit - Planning Application 2023/92887

Site visit undertaken.

10 Planning Application - Application No: 2023/90668

The Committee considered Planning Application 2023/90668 for the demolition of existing buildings, erection and operation of a single building comprising a Sui Generis land use limited to the purpose of storage, assembly, sale and distribution of custom-built computers, laptops and their components as well as any associated development (those being a replacement wind turbine, utility provision, drainage, access, hard and soft landscaping), within the red-line boundary, alongside business operations pursuant to the effective administration of the Sui Generis use at Grange Moor Coachworks, Barnsley Road, Grange Moor, Huddersfield.

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Hamish Gledhill (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. Three years to commence development.
 2. Development to be carried out in accordance with the approved plans and specifications
 3. Pre-commencement condition (excluding demolition and site intrusive works) to remove all scrap vehicles, plant, machinery and external storage off site.
 4. Samples of external facing materials to be approved.
 5. Pre-commencement condition for sectional details (east to west) indicating how retaining wall and fence to be erected along western part of site without damage to existing hedge outside application site.
 6. Full details of boundary treatment to be submitted and approved, to be erected prior to occupation of building.
 7. Pre-commencement Construction Environmental Management Plan (Biodiversity) condition.
 8. Pre-commencement condition for re calculation of BNG prior to development commencing.
 9. Landscaping/soft planting to be planted in first growing season following completion of new building or as otherwise stated by other conditions.
 10. Five-year maintenance plan for landscape scheme.
 11. Tree protection around existing trees in accordance with submitted Tree Constraints plan.
 12. Wind turbine conditions including its removal if not used for 6 months.
 13. Noise Management Plan.
 14. Pre-commencement Construction Environmental Management Plan (noise, dust, and artificial lighting/strategy).
 15. Full lighting strategy details

Strategic Planning Committee - 5 September 2024

16. Working Hours 06:00 to 22:00 Monday to Saturday.
Deliveries/dispatches restricted to between 08:00 to 18:00 Monday to Saturday with no deliveries on Sundays/bank holidays.
 17. Post demolition and site clearance intrusive site investigations with supplemental Phase 2.
 18. Remediation strategy measures.
 19. Validation report.
 20. Restricting noise from fixed plant and equipment.
 21. Details of acoustic barrier to be submitted and approved in accordance with recommendation in Noise Impact Assessment. to be erected prior to occupation of building and thereafter retained.
 22. Pre-commencement drainage condition detailed design scheme detailing foul, surface water and land drainage.
 23. Pre-commencement drainage condition, overland flow routing.
 24. Pre-commencement drainage condition construction phase surface water flood risk and pollution prevention plan.
 25. Pre-commencement drainage condition scheme demonstrating surface water from vehicle parking and hard standing areas.
 26. Archaeology – pre-commencement condition (and two other conditions) to ensure the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording to take place within the area indicated.
 27. Yorkshire Water condition – no piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water.
 28. Yorkshire Water condition - No building or other obstruction including landscape features shall be located over or within 3 metres either side of the centre line of the public sewer.
 29. Yorkshire Water condition – No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site.
 30. Electric vehicle charging points.
 31. Installation of solar panels prior to occupation of building.
 32. Operational Management Plan (highways).
 33. Site access to be complete in accordance with drawing 151716-001 Rev C – Proposed Works (Site Accesses).
 34. Off-site highway works (speed limit and other associated works).
 35. Travel Plan to be submitted prior to occupation of building.
 36. Construction traffic management plan (highways).
 37. Highway condition surveys (pre- and post-construction) and remediation.
 38. Car park/servicing external areas to be laid out in accordance with approved plan and made operational prior to occupation of building.
- (b) secure a Section 106 agreement to cover the following matters:
- (i) Bus stop contribution of £34,000, to secure real-time displays at two bus stops.
 - (ii) (Stop ID 20680 and 20681) located on Wakefield Road at a cost of £10,500 per bus stop, and to provide a replacement bus shelter at bus stop ID 20681.

Strategic Planning Committee - 5 September 2024

(iii) Travel Plan monitoring fee - £15,000 (£3,000 x 5yrs).

(iv) Employment and Skills Agreement.

- (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 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; 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 set out below:

For: Councillors Anwar, Pinnock, Sokhal and Ullah (4 votes)

Against: Councillor Thompson (1 vote)

11 **Planning Application - Application No: 2023/92887**

The Committee considered Planning Application 2023/92887 for the change of use of egg production unit to research and development or industrial uses falling within E(g)(ii) and(iii) Use Class, and associated elevational alterations and provision of access, gates, forecourt, parking areas and landscaping at Bradley Villa Farm, Bradley Road, Bradley, Huddersfield.

Under the provisions of Council Procedure Rule 36(3) the Committee received a representation from Councillor Zarina Amin.

Under the provisions of Council Procedure Rule 37 the Committee received a representation from Rachael Martin (on behalf of the applicant).

RESOLVED -

That the Committee is minded to approve the application, for the reasons set out below:

The harm caused by the departure from the development plan and the impact in terms of meeting the housing need for Kirklees are outweighed by:

- The benefits of re-use of the application site,
- The creation of employment,
- The opportunities for local people to access the employment created by the development,
- The benefits of a mixed community development,

and that authority be delegated to the Head of Planning and Development to approve the application and issue the decision notice, subject to the completion of a list of conditions, including those set out within the report, as set out below:

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan, including details of engagement with local residents.

Strategic Planning Committee - 5 September 2024

4. Cycle parking provision to be provided within the site.
5. Provision of Electric Vehicle charging points.
6. Highway condition surveys and remediation.
7. Submission of a Service Management Plan.
8. Provision of site access.
9. Provision of areas to be used by vehicles and pedestrians.
10. Submission of details of highway retaining walls / structures.
11. Submission of attenuation tanks / pipes.
12. Provision of waste storage and collection.
13. Implementation of drainage strategy.
14. Submission of flood routing details.
15. Submission of details of parking surface treatments.
16. Submission of an Intrusive Site Investigation Report (Phase II Report).
17. Submission of Remediation Strategy.
18. Implementation of Remediation Strategy.
19. Submission of Validation Report.
20. Submission of details of external materials.
21. Submission of details of boundary treatments.
22. Submission of details of external lighting.
23. Submission of full landscaping scheme.
24. Installation of bat box.
25. Submission of Biodiversity Net Gain assessment.
26. Implementation of Biodiversity Net Gain plan

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

For: Councillors Anwar, Pinnock, Sokhal, Thompson and Ullah (5 votes)

Against: 0 votes

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

If you are approached by any Member of the public in respect of an application on the agenda you must 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 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th 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 20th December 2023 the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

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



Originator: Nick Hirst

Tel: 01484 221000

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Dec-2024

Subject: Planning Application 2023/91116 Erection of 77 dwellings, with access from Darley Road and associated works Land off, Primrose Lane, Hightown, Liversedge, WF15

APPLICANT

Jones Homes (Yorkshire)
Ltd

DATE VALID

02-Feb-2024

TARGET DATE

03-May-2024

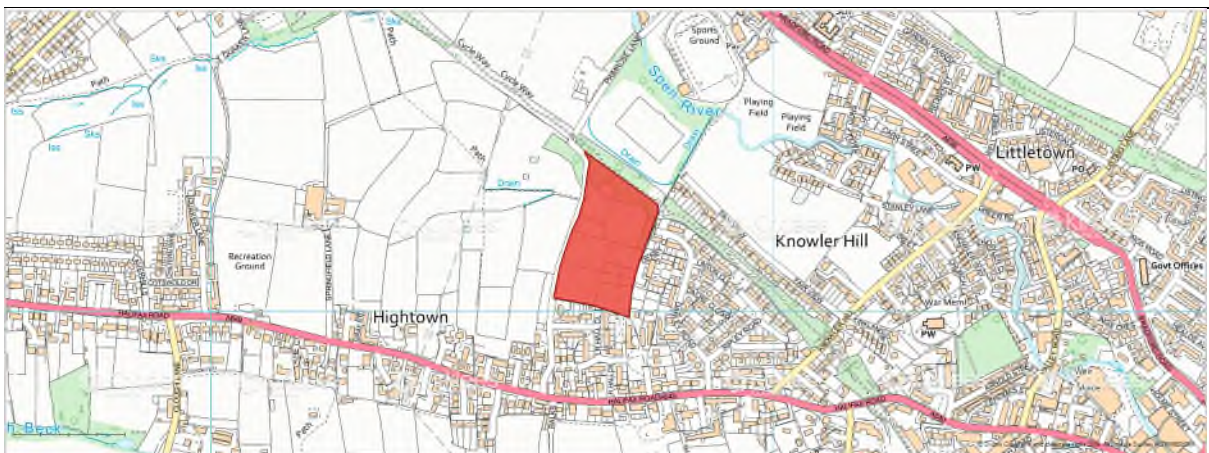
EXTENSION EXPIRY DATE

07-Sep-2024

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Liversedge and Gomersal

Ward Councillors consulted: Yes

Public or private: Public

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

1. Complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

Affordable Housing: 15 units (20%) to consist of 8 Affordable Rent (55%) and 7 Intermediate Dwellings (45%), including 5 First Homes (25%).

Ecological Net Gain (to secure 10% net gain off-site): £14,467 towards off-site ecological habitat enhancement.

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 £118,220.

Education: £118,791 towards education requirements arising from the development.

Highways: £10,000 towards promoting a Traffic Regulation Order along Darley Road and Ripley Road, including at the Ripley Road / Halifax Road junction.

Sustainable travel: £69,385.50 towards Sustainable Travel measures (including £39,385.50 for sustainable travel fund (such as Metrocards), £20,000 towards bus stop improvements (on Meltham Road) and £10,000 towards travel plan monitoring).

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.

2. Await the receipt of an Intrusive Ground Investigation Report with regard to legacy Coal Mining and contaminated, then re-consult with the Coal Authority and K.C. Environmental Health. Thereafter proceed as follows:

- a) In the scenario where the report concludes there is no conflict with plots 06, 07, and / or 10, determine the application as set out in 1. above.
- b) In the scenario where the report concludes that there is a conflict with plots 06, 07, and / or 10, which cannot be remediated to the satisfaction of the Local Planning Authority (advised by the Coal Authority and/or K.C. Environmental Health), amend the proposal to remove the plot(s) in conflict. Thereafter, complete the list of conditions including those contained within this report and to secure a Section 106 agreement (with the contributions as set out in 1. to be recalculated, pro-rata, to account for the reduced housing provision)

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

1.0 INTRODUCTION

- 1.1 This is an application for full planning permission for the erection of 77 dwellings with associated works.
- 1.2 This application is brought to the Strategic Planning Committee, in accordance with the Delegation Agreement, due to a significant number of public representations being received contrary to the officer's recommendation.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is within Liversedge, approximately 1.2km to the southeast and 1.7km to the northwest of Cleckheaton and Heckmondwike centres respectively. Residential properties are located to the east and south of the site, with sport pitches to the north. The land to the north and west is Green Belt.
- 2.2 The Spen Valley Green Way runs along the site's north boundary. Primrose Lane, a single-track lane that hosts PROW bridleway SPE/111/120, runs along the west boundary. PROW footpath SPE/110/20 runs along the east boundary and PROW footpath SPE/116/20 runs along the south. Darley Road terminates near, but not adjoining, the site's northeast boundary. It is separated from the site by private land which hosts the aforementioned PROW SPE/110/20.
- 2.3 The site itself is roughly rectangular in shape and has an area of circa 2.95ha. It has historically been used for agricultural purposes. The site is allocated for housing within the Kirklees Local Plan (site reference: HS117). The topography of the site and area falls downhill from south to north. A mixture of wire fencing, vegetation and low drystone walls defined the site's east, south and west boundaries. Trees are located along the west boundary, while an area of woodland resides within the north and northeast of the site. The woodland continues outside of the site to cover sections of the Spen Valley Green Way.
- 2.4 A Yorkshire Water pipe runs between the southwest and northeast corners of the site, bisecting it roughly diagonally.

3.0 PROPOSAL

- 3.1 The application seeks full permission for the erection of 77 dwellings. The proposal would have six house types, with the following size mix:

- 2-bed: 12
- 3-bed: 22
- 4-bed: 37
- 5-bed: 6

The dwellinghouses would be predominantly detached and semi-detached. The 2-bed units would be located in two apartment buildings.

- 3.2 All dwellinghouses are proposed to be two storeys, with the two apartment buildings being three storeys. The development would be prominently faced in artificial stone, with render as a secondary material on some plots. Grey artificial slate tiles are proposed for the roofs, which would vary between gabled and hipped in style. Each dwellinghouse would have a rear garden, enclosed by 1.8m close boarded timber fencing. Boundaries which face onto the public realm would be brick with timber panels.

- 3.3 All units would host dedicated off-road parking, including the two apartment blocks. A low portion of units would benefit from detached (single) garages. An electrical sub-station building would be located to the immediate north of the point of access.
- 3.4 A single new vehicle access would be formed to serve the development, connecting from Darley Road. The access road would initially head into the centre of the site, with one branching section, before forming a loop in the southern section. Dwellings would front onto the new road in a traditional fashion. The road would accommodate 19 dedicated visitor parking bays.
- 3.5 The point of access requires unregistered third-party land, the owner of which has not been identified by the applicant. No land register information exists for the parcel. The applicant has gone through due process to attempt to notify the landowner, ultimately signing certificate C to declare that all reasonable attempts have been made to find the landowner. This is adequate for planning purposes (considered further within paragraph 10.72 – 10.75), although for the avoidance of doubt it remains a private legal matter for the applicant to resolve, should planning permission be granted.
- 3.6 Several connection points would be provided to the PROWs to the east and west of the site. Those onto the western Primrose Lane, hosting bridleway SPE/111/120, would be 3m wide multimodal links. Those onto the east footway PROW footway SPE/110/20 would be 2m wide footpaths, with the PROW to be widened to 2m wide. No direct connections would be provided onto the southern PROW footpath SPE/116/20, but it is proposed to be widened to 2m utilising land within the site.
- 3.7 Groundworks are proposed across the site to enable suitable road gradients to be achieved, and to create developable plateaus and level plots. This would involve some areas being excavated, others raised, and the construction of retaining walls. Retaining walls are proposed throughout the site, including along the southern boundary, behind plots 48 – 60, which would incorporate retaining walls of circa 2m in height atop batters of circa 1.5m. The rear gardens of the rows containing plots 27 – 36 and 37 – 47 would likewise be regraded using batters.
- 3.8 Approximately 63 trees within the site, of varying ages and sizes but primarily within the northern woodland, are proposed to be felled to enable the development. This includes circa 24 to be removed to enable the access, road and houses, and 39 to enable the re-routing of a water pipe to outside of the developable area. These numbers are approximate due to the density of the vegetation. The landscaping proposals include the planting of 58 trees across the site and wildflower planting atop the re-routed pipe, as trees cannot be planted within its easement. No new trees are proposed within the adoptable highway; however, most units would have a front garden tree along with trees being planted within landscaped areas adjacent to the highway. The woodland to the north is proposed to be enhanced and used as part amenity grassland, part natural /semi-natural public open space.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

4.1 Application Site

None.

4.2 Surrounding Area

Primrose Farm, Primrose Lane

2019/90082: Conversion of existing derelict building to one dwelling with linked annex and holiday let, erection of detached stable block and change of use of land to extend domestic garden to include detached garage and log store and external alterations – Granted

4.3 Enforcement History

None.

5.0 HISTORY OF NEGOTIATIONS

5.1 A pre-application enquiry for the site was submitted in October 2019 under reference 2019/20398. This was submitted by one of the site's owners and sought feedback from officers on a proposal for 94 dwellings, with 33 dwellings to be served from Lower Hall Close and 61 from Darley Road. Officers provided advice and feedback on various material planning considerations. In summary officers concluded the principle of development to be acceptable. No fundamental constraints to development were identified, however feedback was provided on matters such as design and amenity along with setting out expectations on technical requirements including highways, drainage, and ecology.

5.2 A second pre-application submission was received in September 2021, referenced 2021/20992. This was submitted on behalf of Jones Homes, the current applicant. The proposal was for a 75-unit scheme, with a different layout arrangement but again with a point of access from both Lower Hall Close and Darley Road, however this time with a through-route. Officers' position on the principle of development remained the same, although a more critical commentary on the indicative design was provided. The need for a thorough investigation into the suitability of the Lower Hall Drive / Halifax Road junction (which leads onto Lower Hall Close) to accommodate the development, particularly if a through-route was proposed, was raised due to concerns this would be the primary route for future residents. Similar advice to that set out previously regarding technical matters (i.e., drainage and ecology) was provided.

5.3 The current application was submitted in April 2023. The proposal was initially for 66 units, with a portion of the allocation (circa 0.12ha in size) excluded from the application site red line boundary. This was due to the excluded land being in separate ownership. The second point of access, from Lower Hall Close, was also omitted.

- 5.4 On assessment, along with details provided via the formal consultation process and public representation, it was evident certain concerns and technical matters were yet to be addressed. During the life of the application the applicant and officers have engaged in prolonged negotiations to attempt to resolve the various outstanding matters. Negotiations have included various meetings and other methods of correspondence. The concerns raised mostly related to density, ground conditions, matters of design, and potential impacts on the local highway. The number of units was increased to 77 following an originally excluded portion of the allocation being incorporated into the application site.
- 5.5 Based on the negotiations undertaken and the amendments made, along with additional supporting documents provided, officers are now in a position to recommend approval.

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) and Supplementary Planning Guidance / Documents

- 6.2 The application site comprises all of Housing Allocation HS117 within the Kirklees Local Plan. Allocation HS117 has an indicative housing capacity of 87 dwellings across a net site area of 2.48ha (with part of the allocation excluded from the developable area due to the woodland).
- 6.3 Site allocation HS117 identifies 'potentially contaminated land' as a specific constraint to the allocation.
- 6.4 Relevant Local Plan policies to the proposed development are:
- **LP1** – Presumption in favour of sustainable development
 - **LP2** – Place shaping
 - **LP3** – Location of new development
 - **LP7** – Efficient and effective use of land and buildings
 - **LP11** – Housing mix and affordable housing
 - **LP20** – Sustainable travel
 - **LP21** – Highways and access
 - **LP22** – Parking
 - **LP24** – Design
 - **LP27** – Flood risk
 - **LP28** – Drainage
 - **LP30** – Biodiversity and geodiversity
 - **LP32** – Landscape
 - **LP33** – Trees
 - **LP35** – Historic environment
 - **LP38** – Minerals safeguarding
 - **LP47** – Healthy, active and safe styles
 - **LP51** – Protection and improvement of local air quality

- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space
- **LP65** – Housing allocations

6.5 The following are relevant Supplementary Planning Documents (SPD) or other guidance documents published by, or with, Kirklees Council;

Supplementary Planning Documents

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

Guidance documents

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

National Planning Guidance

6.6 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 5** – Delivering a sufficient supply of homes
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places
- **Chapter 14** – Meeting the challenge of climate change, flooding and coastal change
- **Chapter 15** – Conserving and enhancing the natural environment
- **Chapter 16** – Conserving and enhancing the historic environment

6.7 Other relevant national guidance and documents:

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

Climate change

- 6.8 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.
- 6.9 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

- 7.1 The application is supported by a Statement of Community Involvement (SCI) which outlines the public engagement the applicant undertook prior to their submission to the LPA. In summary, an online consultation process was undertaken, with a website and virtual event being utilised. Letters were sent to circa 200 properties around the site.
- 7.2 The website included an online form where people could leave a response, as the primary method of contact, however the webpage and letter also included other means of communication (email, phone number, and postal address). In response a total of 56 comments were received to the proposal (a circa 29.2% response rate to the number of letters issued). The following is a summary of the concerns raised, and a summary of the applicant's response.

- Proposed vehicle access, vehicle congestion and road safety;

Summary of applicant's response: The concerns raised principally relate to children's safety in and around the area, but also the impact of additional parking, with Darley Road being heavily parked. The proposal's Transport Statement considers these issues in depth and concludes that the details are acceptable.

- Impacts on healthcare availability, including dentists, GP surgeries, and hospitals;

Summary of applicant's response: Residential-led development will to some extent naturally increase the local requirement for healthcare practices, and it is expected that local healthcare providers and NHS trusts would be consulted as part of the application determination. It is also noted that some of those who would be future residents of the development will already live in households within the local area and therefore do not create a need for additional resources.

- Loss of views of the open land from existing properties;

Summary of applicant's response: The proposal will result in a change on the character of the landscape, and therefore views from dwellings. However, the land is allocated for housing and such impacts must be accepted. Nonetheless the proposal has been carefully designed to be attractive, integrate well, and not prejudice nearby residents.

- Impacts of the proposal on the availability of places within schools;

Summary of applicant's response: This matter will be considered through the planning application process and, if a shortfall is identified, can be addressed via a reasonable Section 106 contribution.

- The impact on existing wildlife on the site.

Summary of applicant's response: The application is supported by an Ecological Impact Assessment which considers this matter and concluded it to be acceptable. This included securing a 10% Ecological Net Gain.

Council's consultation

- 7.3 The application has been advertised as a major development via site notices and through neighbour letters sent 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.
- 7.4 The application was amended during its lifetime. As the amendments included an increase in the number of units, a complete re-advertisement was undertaken including a second round of neighbour letters, site notices, and advertisement in the local press. The letters were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.5 The final end date for public comments was 24/06/2024. In total 146 public comments were received. Two of the comments were in support, with the others raising concerns and/or directly objection to the proposal. The following is a summary of the comments made, with a full record being available on the application's webpage:

Support

- The proposal makes effective use of a housing allocation.
- Primrose Lane and the greenway will form effective buffers from the site to the Green Belt, and most of the site's trees and hedgerows will be retained.
- Parking for the new houses will be contained to the site, and not make worse the existing situation on Darley Road.
- There are strong public transport links in the area, and the proposal will reduce anti-social behaviour.
- The application is supported by technical reports which address various matters.

Design

- The development, both its layout and the design of the units, will appear out of keeping with the area, particularly when viewed from the greenway.
- The field is an attractive green space and its loss will detract from the character of the area.
- The inclusion of three storey apartment blocks will not fit into the landscape and built area.
- The development is contrary to the role and function of the green belt and narrows the gap which divides Liversedge and Cleckheaton. Local towns / villages are merging together and losing their identity and attractiveness.

Amenity

- The proposal will result in odour, light, air and noise pollution.
- The proposal will remove valuable green space from the community, used by walkers and promotes mental wellbeing.
- The proposal will result in a loss of a view for existing properties.
- The proposal will devalue local properties.
- The proposal will result in overlooking and overshadowing of existing properties.

Highways

- Darley Road is not suitable for an increase in traffic volume. It is already heavily trafficked. A further increase in vehicles will risk pedestrians who use the pavements and cross the road, including children. Young children often play on the local roads. Similar concerns for other roads, including Lower Hall Close.
- The internal road layout is not acceptable, being too narrow and having driveways facing each other.
- Concerns regarding Darley Road are made worse in winter, when snow and ice make traversing the steep road more difficult and result in people parking higher up the road.
- The Ripley Road and Halifax Road junction is difficult to use, due to parked cars on the radii, which the proposal will make worse.
- Concerns over the impact on local roads of construction traffic, particularly given the business and parking on the street. Claims construction traffic could simply not use the road, due to parked vehicles. Likewise, concerns over access for waste collection and emergency services.
- The local road network is in a poor state of repair, and the proposal will exacerbate this.
- Access should be via Lower Hall Close or Primrose Lane.
- Introducing yellow lines on Darley Road will simply move cars to other problem areas. Also, such features would not be enforced or controlled by the police.

- Public transport in the area is poor, with limited bus services, and no cycle facilities on roads.
- The development will result in too many vehicles using the Ripley Road and Halifax Road junction, up to as many as (an estimate of) 468, or circa 56% increase.
- The development will introduce 'boy racers' into the area, which will affect peoples' mental health.
- Concerns over the impact on Primrose Lane. It is a bridleway, but frequently used by cars which are damaging it. The proposal will cause this to happen more.

Ecology

- The proposal will harm local wildlife and the area's ecological value. It is used by various species, including foxes and birds, who reside within the woodland.
- The proposals ecological reports are out of date, being over 18 months old.
- The ecological report identifies 'no protected nature sites' within 2km, however the Jo Cox Community Woods is nearby.

Drainage

- The proposal will put strain on waste and water pipes, and there are already issues.
- There is a waterpipe through the land, which has not been considered.
- The proposal will result in a loss of trees, which are attractive and also help mitigate flooding.
- The proposal will result in the loss of natural drainage. Darley Road already has poor drainage and flooding, which the proposal will exacerbate. It will also lead to more water going into the River Spen, which will result in flooding downstream.

Other

- No new houses are needed within this area, there have been numerous developments nearby.
- The proposed houses are not to be affordable nor designed for the elderly, and therefore not fit for an aging population.
- The Local Plan was based on a forecasted 11% population increase been 2023 and 2024, however 2021 Census data shows this was actually circa 2.6% along with a fall in birthrates. Furthermore, data shows that the need for larger homes is expected to drop '*Therefore, the increases in population are going to be primarily driven by people living longer, and immigration – neither of which this proposal is relevant to*'. The government has removed the need for housing targets.
- Brownfield sites should be developed before greenfield.
- The proposal is dominated by 4-bed properties which are not needed within the area. Smaller units which are affordable for first time buyers and social properties are needed.

- The application has been increased from 67 to 77 properties, which shouldn't be allowed.
- There is inadequate social infrastructure, including school, dentists, and doctors' surgeries, in the area.
- The proposal will lead to an increase in crime in the wider area.
- The proposal will harm the Luddites Walk route, which goes past the site, to the detriment of local history. The route should be a non-designated heritage asset.
- The site hosts several mineshafts, which should not be built near to. Part of the site was a former colliery. Questions over who will insure properties near mineshafts?
- Objections have been raised by consultees, including the coal authority and drainage.
- Concerns of building the access over a PROW, and question whether permission from the owner has been granted.
- The proposal will put strain on communications infrastructure, including phone and internet provision. This may result in needing more masts and facilities.

7.6 The site is within Liversedge and Gomersal ward, where members are:

- Cllr David Hall
- Cllr Lisa Holmes
- Cllr Caroline Holt

7.7 Cllr David Hall asked to be updated on the proposal and queried officers on why no access into the site was proposed from Lower Hall Close, as had been considered in earlier draft proposals.

8.0 CONSULTATION RESPONSES

K.C. Ecology: Consideration has been given to the proposal's impact on local species and habitats. No objections subject to conditions and securing a contribution of £14,467 towards securing 10% net gain off-site, and ongoing management / maintenance of on-site net gain.

K.C. Education: The proposal for 77 units would necessitate an education contribution of £118,791.

K.C. Environmental Health: Consideration has been given to various sources of pollution. These have included noise, odour, and light pollution, which have been concluded to not pose a risk to the development. However, ground contamination has been raised as an issue, particularly within the northern area of the site where historic coal mining took place. K.C. Environmental Health requested that this be undertaken prior to determination, which the applicant has been unable to undertake.

K.C. Highways (Development Management): No objection subject to the imposition of conditions and securing obligations / contributions within the Section 106 agreement. Contributions include £10,000 towards TRO provision on Darley Road and at Ripley Road / Halifax Road, £20,000 towards bus stop improvements, £10,000 for Travel Plan monitoring, and £39,385.00 for sustainable travel funds.

K.C. Lead Local Flood Authority: No concerns over flood risk and surface water management, subject to conditions being imposed and management arrangements being included within the Section 106 agreement.

K.C. Strategic Housing: Identified the necessary affordable housing contributions, including tenure and unit size mixture.

K.C. Trees: Object to the proposal due to the loss of trees through the northern woodland.

Coal Authority: The site falls within the Development High Risk Area for coal legacy. Therefore, the application is supported by a Coal Mining Risk Assessment (CMRA), which has been reviewed by the Coal Authority. The CMRA identified five historic mine shafts within the site, one of which potentially conflicts with the proposed plots 6, 7, and 10. Therefore the Coal Authority initially objected to the proposal. This led the applicant to undertake further investigation work.

Based on the further details submitted, the Coal Authority are satisfied that the applicant has suitably demonstrated that this is not a fundamental issue prohibiting the determination of the planning application. They do not object to the proposal, on the basis of a planning condition being imposed requiring that the requested intrusive investigations, to be supported with details of any necessary remediation, take place prior to works commencing on plots 6, 7, and 10.

West Yorkshire Police Designing Out Crime Officer: Advice was provided at the time of the initial submission. The revised plans addressed many of the points raised resulting in no objection subject to conditions.

Yorkshire Water: No objection subject to conditions.

9.0 MAIN ISSUES

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

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework, 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 will 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 will be approved without delay, unless material considerations indicate otherwise.

The council's five-year housing land supply and the land allocation (housing allocation)

- 10.2 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 3-year period (against a pass threshold of 75%).
- 10.3 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. This paragraph 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, 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; or*
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

- 10.4 The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. Nonetheless, this must be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers' assessment.
- 10.5 The site falls within a housing allocation, reference HS117, within the Kirklees Local Plan Allocations and Designations document (2019). Therefore, Policy LP65 is applicable and states:

The sites listed below [the housing allocations] are allocated for housing 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.

As a policy 'most important for determining the application', LP65 should be considered against paragraph 11 of the NPPF and, in light of the council's lack of a five-year housing land supply, is therefore deemed 'out of date'. Thus, the presumption in favour of sustainable development is activated in the consideration of this application.

The quantum of development

- 10.6 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land. Policy LP7 requires development to achieve a net density of at least 35 dwellings per ha (dph), where appropriate. Local Plan

allocations have indicative capacity figures based on this net density figure. Policy LP11 of the Local Plan requires consideration of housing mixture. These requirements are built upon within the Council’s Affordable Housing and Housing Mix SPD (March 2023).

10.7 First considering density, allocation HS117 has an indicative capacity of 87 dwellings, calculated at the net site area delivering 35 dwellings dph. The proposal represents a development density of 31dph within the allocation’s identified developable area. This is close to the Local Plan’s expectation for 35dph and is deemed appropriate for the site, having regard to its topography, proximity to the Green Belt, and being a new edge to the settlement of Liversedge.

10.8 Regarding the proposed housing mix, Policy LP11 seeks proposals to provide a representative mixture of house types for local needs. This is expanded upon and detailed within the council’s Affordable Housing and Housing Mix SPD (March 2023). The following is the SPD expectation for the Batley and Spen area:

| <i>Batley and Spen</i> | Market Housing | Affordable Rent | Affordable Intermediate |
|------------------------|-----------------------|------------------------|--------------------------------|
| 1- and 2-beds | 30 – 60% | 40 – 79% | 60%+ |
| 3-beds | 20 – 40% | 0 – 19% | 20 – 39% |
| 4-beds + | 15 – 35% | 0 – 19% | 0 – 19% |

The following sets out the proposal’s offer:

| | Market Housing | Affordable Rent | Affordable Intermediate |
|----------------------|-----------------------|------------------------|--------------------------------|
| 1- and 2-beds | 0 | 7 (87.5%) | 5 (71.5%) |
| 3-beds | 19 (30%) | 1 (12.5%) | 2 (28.5%) |
| 4-beds + | 43 (70%) | 0 | 0 |
| Total | 62 | 8 | 7 |

10.9 The proposal’s affordable housing contribution is considered in full within paragraphs 10.110 – 10.117. In summary, the affordable housing’s mixture element of the proposal is deemed acceptable.

10.10 The proposal’s market housing mixture does not adhere to the expectations of the SPD, however it should be noted that the SPD is both a ‘starting point’ and is applied using a ‘comply or justify approach’, as opposed to being a mandatory requirement, if further details and/or local circumstances warrant a different approach.

10.11 The applicant has provided an assessment to justify their proposed mixture. This presents several arguments in favour for the proposed housing mixture, which are summarised as follows:

- The applicant notes the findings of the Kirklees Council Dwelling Mix Analysis (2020-2031) Technical Note, a document which partly informed the council’s Affordable Housing and Housing Mix SPD. This document included a household survey that identified the district’s dwelling types and sizes. This document identified that Batley and Spen currently hosts 15.5% 4-bed+ dwellinghouses, compared to a district average of 19.3%, whereas

1- and 2-bed units amount for 21.8%, compared to an average of 18.5%. The report also identified that there is a shortfall in 1- and 2-bed flats, which is relevant to the affordable housing. This information is corroborated by Census data on housing stock size, although this is noted to be 2011 data.

- The council's Strategic Housing Market Assessment (SHMA), which was a background document for the SPD, was partly informed by views from estate agents and developers, via questionnaires and interviews. Therefore, the applicant contends that the council must consider whether there have been significant changes since the data which informs the SPD was collected. The applicant (a developer) is of the view that the COVID-19 pandemic has changed home ownership aspirations and priorities, with people seeking larger dwellings with gardens to accommodate home-working. This is supported by local house sale data, which suggests a fall in the sale of smaller units and a rise in the sale of larger properties and further substantiated by the views and professional judgement of local estate agents and the applicant (as a private developer).
- The applicant contends that delivering an SPD-compliant mixture of house sizes is more achievable in viability terms on a larger site than one at the smaller end of the scale, such as this. Further, in their view, larger sites would appeal to a larger section of the market as a whole and the deviation from the SPD requirements would not be significant, nor would it prejudice the delivery of an appropriate mix of housing across the plan area as a whole. The applicant considers this perspective to be supported by a recent appeal decision (from outside Kirklees), where the inspector states:

"I also give weight to the evidence of the appellant who would need to be confident of selling these units at the end of the construction period with an overall viable scheme, and without which the affordable housing and other obligations may not be able to be delivered."

- The applicant notes two recent examples of applications approved by the council within the same Batley and Spen market area, where the housing mixture did not comply with the SPD. In each case, it the housing mixtures favoured larger (3- and 4-bed+) units. These are 2021/93567 at Westgate, Cleckheaton and 2022/91047 at Whitehall Road West, Birkenshaw. The applicant notes that these applications were submitted prior to the SPD being adopted, although were determined after it was adopted.

10.12 The weight officers would afford to each of the above arguments would vary in a case-by-case argument. Nevertheless, as also identified by the applicant, this application must be considered with the presumption in favour of sustainable development, as noted in paragraphs 10.2 – 10.5, due to the council's lack of a five-year housing land supply. This establishes that housing applications should only be refused (when outside of protected areas, such as this site) if *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*.

10.13 Considered in this context, the proposal is for an appropriate density of dwellings on a housing allocation, at a time of housing need. As will be detailed throughout this report, the proposal is considered to be a suitably high quality and is considered to comply with all policy requirements, except Policy LP33 in relation to impacts on trees (as considered in paragraph 10.37 – 10.45).

Furthermore, it would provide all required contributions and obligations via Section 106. In this context, the proposal's modest departure from the SPD's housing mix target, also giving some weight to the arguments put forward by the applicant, is not deemed to be reasonable grounds for refusal.

- 10.14 In light of the above, in summary, the site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy (albeit not in accordance with the relevant SPD). The proposal would aid in the delivery of housing to meet the council's targets, and the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

Sustainable development and climate change

- 10.15 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

- 10.16 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.17 The application is supported by a Climate Change Statement, which notes the following aspects of the proposal:

- Confirmation that the development will adhere to the (mandatory) part L of Building Regulations, including the provision of air source heat pumps on new development and smart meter systems.
- Environmentally considerate construction practices to be undertaken. This includes the proposed cut and fill, which is required to be designed to ensure as much material will be kept on site as possible, and off-site construction where feasible (i.e., roof trusses).
- A site waste management plan to be implemented.
- The site has been designed to maximise south-facing elevations and roof slopes (circa 85% of units). This promotes thermal gain through windows and promotes the potential future installation of solar panels.
- Strong connectivity to be provided into nearby PROWs and the adjacent Spen Valley Greenway, to promote walking and cycling.
- The proposal is to comply with various planning and Building Regulations requirements pursuant to climate change, including providing a biodiversity net gain, sustainable drainage, air quality measures, and a travel plan.

- 10.18 Regarding the social infrastructure currently provided and available in Liversedge (which is relevant to the sustainability of the proposed development), it is noted that residents have raised that local GP provision is limited. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring 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 ageing population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.

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

Urban Design

- 10.20 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'.
- 10.21 The site is not within or adjacent to a conservation area. Several listed buildings are located along Halifax Road to the south of the site, however none are in a location relative to the site such that they would be materially impacted upon. Therefore, it is considered that the proposal would not adversely affect the historic environment.
- 10.22 There is residential development to the south and east of the site. Dwelling appearances in the area are varied, however are predominantly terraced or semi-detached on the nearest Darley Road, Denby Close, and Lower Hall Mount. These properties are predominantly brick faced. Further afield, detached units are also evident, where stone is more common. To the north is woodland, which the Spen Valley Greenway runs through, before leading onto sport pitches further to the north. Primrose Lane runs along the western boundary, separating it from fields that are within the Green Belt. These elements work to visually contain the development site, being separate from the other open fields to the west.
- 10.23 With the urban environment along two boundaries, and woodland to the north, the development of the site would 'round off' the settlement, as opposed to appearing as a projecting rural extension (i.e., encroaching incongruously into open countryside). Nonetheless, the site is on the edge of the urban environment, where the built environment transitions into the open rural environment to the west / northwest. As a housing allocation, it is accepted that the development of the site would lead to a notable change in the character of both the site and the wider area. The development of the site would need to respect the topography and character of the area, without being overly dominant. It is considered that proposed development sufficiently achieves this.

- 10.24 The layout of the development is a logical response to the natural features and constraints of the site, notably including the topography. The route of the new estate road balances the need to follow the contours of the site to deliver a suitable gradient, while including a desirable (for highway purposes) loop, that also facilitates reasonable building plots that make the best use of the land. The proposed dwellings would be arranged around the road in a typical fashion.
- 10.25 As noted, Primrose Lane forms a strong defensible boundary between the site and the open Green Belt fields. To assist in this transition and further strengthen the boundary, wherever possible, dwellings have been designed to be set back from Primrose Lane and face out towards the Green Belt. This includes plots 08 to 14. Due to the need to include a loop and secure sufficient delivery, plots 26 and 48 would be close to Primrose Lane and present side boundaries to the Green Belt. Nevertheless, as noted Primrose Lane is a pre-existing strong boundary, and plots 26 and 48 have been amended to include side-facing windows, to present an active frontage towards the Green Belt (as opposed to solid, blank walling). Therefore, any harmful impact caused by these two plots would be minimal.
- 10.26 Overall, the layout of the proposed development would reflect the established urban grain of the wider area, while also transitioning well into the adjacent open Green Belt land.
- 10.27 Progressing to the specifics of the proposed dwellings, as is set out in detail in the table of paragraph 10.53, most of the proposed dwellinghouses are notably larger than the minimum standards set out in the Government's National-Described Space Standards. This in itself is not a cause for concern, as the standards are minimums, not maximums. However, it is evident that the proposed units would be larger in scale than those typical within the area. As identified previously, the surrounding area is defined by varied housetypes, although predominantly smaller than those proposed. Nonetheless, the established character allows for variance between streets and including larger units alongside those existing would not affect the development's ability to integrate into the established character.
- 10.28 The proposed dwellinghouses are two-storeys, the height predominant in the area, and are not so unduly large to appear incongruous. The proposal includes two three-storey apartment buildings. The building accommodating units 15 to 20 would be set well within the site, where as the building accommodating units 61 to 66 would be on the east edge (adjacent to Denby Close). The scale and height of these units would cause them to appear different to the scale of dwellinghouse both within the site and nearby. Nonetheless, they are clearly designed to be residential in appearance, and such apartment blocks within a residential setting are neither uncommon nor unusual. The inclusion of such apartments, to broaden the site's housing offer, and that of the wider area, is welcomed. Their inclusion, specifically due to their height and scale, is not considered to be of concern.
- 10.29 Regarding the appearance and architectural design of the units, the proposed development would inevitably differ in appearance to existing dwellings in the area, as they would be more contemporary. The design proposed is considered attractive, and in some respects reflects typical contemporary design commonly seen in Kirklees. Attractive features include the use of heads and cills, pitched roof canopies and bay-windows, and the fenestration pattern and sizes. Roof forms are varied between gabled and hipped, to add visual interest to the streetscene.

- 10.30 In terms of fitting into the character of the area, the appearance of housing stock in the area is varied and there is a strong degree of variety in the built forms. Therefore, the site has relative freedom in terms of the proposed dwelling's appearance, without resulting in appearing incongruous in the area. This is further helped by its limited prominence in street views. Given this, and the noted good design, the development's appearance is expected to harmonise well with the area.
- 10.31 Regarding facing materials, artificial stone is proposed as the predominant material with render as a secondary material on either whole or part of the frontage of certain plots spread through the site. In total 30 units (39%) of units would have some render, proposed as an off-white, on their frontage. Render is considered to be an inferior material that does not characterise Kirklees, and its use should be limited (as is proposed here). Materials in the area are highly varied and include natural and artificial stone, buff, red, and brown brick, and render of various colours. In this context of variety, officers consider the proposed materials to be acceptable. This is subject to conditions requiring samples of the proposed materials (including final render colour details), to ensure suitable end products are utilised.
- 10.32 Roofing materials are proposed as artificial slate in grey, which reflects what is prominent within the area. Subject to a suitable end product being used, securable via condition, artificial slates are considered acceptable.
- 10.33 A substation is to be located to the immediate north of the site's point of access from Darley Road, within the public open space. While not ideally located at the entrance into the site, alternative locations are limited. Such structures must be accessible from the highway and are often a necessary element of development, nowadays. Its inclusion is therefore considered acceptable.
- 10.34 Boundary treatments include 1.8m high timber fencing to rear gardens. This is typical in the urban environment and is considered acceptable. Elsewhere, 450mm timber knee rails are proposed to provide an open feel to outdoor spaces, whilst demarking a clear public / private divide. In key areas where rear gardens would face onto the public realm (i.e., onto the road), boundary treatments are proposed to be 'brick-wall and timber screen fencing'. Given the development is to be principally faced in stone, the use of brick is not welcome. This matter has not been clarified with the applicant at the time of writing, however it can be addressed via a condition for boundary treatment details to be submitted and approved.
- 10.35 The woodland to the north and an area to the north of the point of access is to form the Public Open Space for the site. This would consist of woodland and amenity greenspace that would contribute to the setting of the development. However, to enable the development the applicant proposes the felling of approximately 63 trees. This includes circa 24 trees to enable the access, road, and dwellings, and 39 trees in the woodland to the north to enable the re-routing of the pipe. The trees are of varied quality, health, age, and size.

10.36 Policy LP33 of the Kirklees Local Plan states:

The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity.

Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks.

Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.

10.37 The ecological impacts of the tree loss, as an ecological habitat, is considered in paragraphs 10.103 – 10.106.

10.38 None of the trees in question are protected by Tree Preservation Orders (TPO). Some of the trees, either as individuals or groupings, are of amenity value and contribute to the attractiveness and character of the area. Therefore, their removal is a negative of the proposal and weighs against supporting the development. K.C. Trees object to the proposal on these grounds.

10.39 The harm identified must be noted, however planning decisions must be made on the balance of material planning considerations. As the council is unable to demonstrate a five-year housing land supply, this proposal for housing must be considered in the context of the presumption in favour of sustainable development, as set out in paragraphs 10.2 – 10.5, unless the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

10.40 Consideration if first given to the reason for the proposed felling of the trees. Given their location and the point of access from Denby Close, taking access to the site from Denby Close (and associated ground works) inevitably requires the felling of the trees located along this boundary. A second access from Lower Hall Close was considered at earlier stages of the proposal, but even then, it was never intended as the sole point of access to the development. This is because the road network along Lower Hall Close, Lower Hall Drive, and the Lower Hall Drive / Halifax Road junction is not considered suitable for the scale of the development due to their restrictive geometry and size, whereas Darley Road, Ripley Road, and the Ripley Road / Halifax Road are deemed suitable as set out in the highway section of this report.

10.41 Regarding the proposed felling through the northern woodland, this is to facilitate a re-routed water pipe. At present a water main pipe runs diagonally from the south-west to north-east corner of the site, bisecting it. The pipe is 700mm, and requires a 6m easement, taking up a notable portion of the site that is inconveniently located through the site's centre. The water main is at a relatively low depth below the surface and given the road gradients needed to be achieved, the road construction would clash with the water main when crossing over it, particularly at the point of access. It would constrain the ability to change the site's levels, which would be necessary to enable the

development of such a steeply sloping site. To try and build around the pipe as existing, even if technically feasible, would result in a compromised development (given the pipe's diagonal route across the contours) that would not reflect the layout or urban grain of the area and would represent an inefficient use of land.

- 10.42 In terms of other options, as a water main the pipe needs to be under high pressure, Yorkshire Water have confirmed that corners must be avoided wherever feasible. This precludes the pipe being re-routed under the proposed road given the road's various bends. As the water main must follow gravity and have broadly the same start and end points to re-connect to the wider network, officers are satisfied that there are no suitable alternative arrangements to what has been proposed.
- 10.43 As their asset, Yorkshire Water have been involved in discussions with the applicant on this matter and have confirmed no objection to the proposed rerouting.
- 10.44 In mitigation, the proposal includes a comprehensive landscaping strategy. This includes the provision of 58 new semi-mature trees to be planted across the site. While trees are not proposed within the adoptable highway, they are proposed in many front gardens. A clause within the Section 106 agreement is recommended to ensure that these are retained, managed and maintained in perpetuity (by the management company), to ensure future landowners do not remove them over time. Alongside this would be areas of low-level planting and, along the route of the pipe, woodland wildflowers as part of a woodland wide (within the site) improvement strategy. Overall, the proposed landscaping is considered to be of a high quality and would contribute to the attractiveness of both the site and wider area. A condition for a fully detailed landscaping strategy, to include timeframes for the delivery and management and maintenance arrangements, is recommended.
- 10.45 Summarising the above, the tree loss would be contradictory to Policy LP33 and detrimental to the appearance of the area, therefore weighing against the proposal. However, officers also acknowledge that to develop the allocation in an effective and efficient manner, the degree of tree loss proposed is an unfortunate necessity which has been justified. The impact of the tree loss would also be mitigated by a high standard landscaping strategy. Weighing these factors on the planning balance, in the context of the presumption in favour of sustainable development, the proposed tree loss and non-compliance with Policy LP33 is not concluded to be a sound reason for refusal. This aspect of the proposed development is considered acceptable, subject to conditions ensuring the landscaping as proposed be delivered and retained.
- 10.46 In summary, the proposed works would notably change the character and appearance of the site. Nonetheless, the proposed development is deemed to be designed to a high standard. The proposal would represent an attractive continuation of the urban environment, while appropriately transitioning to the rural landscape to the west. While there would be necessary tree loss to enable the proposal (which is a negative aspect of the application), this would be at least partly offset by the proposed replanting in the planning balance. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

Residential Amenity

- 10.47 Local Plan Policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.48 There are no neighbouring properties to the north or west of the site. To the east are properties on Darley Road and Denby Close. To the south are properties on Lower Hall Close, Lower Hall Mount, and Primrose Lane.
- 10.49 The proposal's separation distances to third party dwellings notably exceed the minimums outlined within the Housebuilders Design Guide SPD, namely 21m between facing rear habitable room windows and 12m between habitable room windows and a blank / side facing wall of original buildings (i.e., excluding extensions), with the one exception being plots 56 and 57 to 32 Lower Hall Close. In this case the rear elevations of plots 56 and 57 would be circa 10m away from the side elevation of 32 Lower Hall Close. However, the side of 32 Lower Hall Close is a single storey garage and plots 56 and 57 would be on a notably lower land level. This relationship would not materially prejudice the existing amenity standard of 32 Lower Hall Close's residents, nor create a poor level of amenity for plots 56 and 57. Therefore the arrangement is considered acceptable.
- 10.50 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.51 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.52 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. Epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.53 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.

| House Type | Number of units | Proposed (GIA, m ²) | NDSS (GIA, m ²) |
|---------------------|-----------------|---------------------------------|-----------------------------|
| Apartment | 12 | 60.5 | 61 |
| Keswick | 22 | 93.7 | 84 |
| Banbury | 12 | 125.8 | 97 |
| Bentley | 17 | 150.4 | 97 |
| Buckley | 3 | 136.8 | 97 |
| Buckley corner turn | 5 | 157.2 | 97 |
| Latchford | 6 | 168.2 | 110 |

- 10.54 All the proposed units exceed the NDSS minimums, bar the proposed apartments units which are a negligible 0.5m below standard. As noted above, the above, although the NDSS is guidance, it is not a policy requirement at Kirklees, and proposals are not required to strictly adhere to its requirements, particularly if all other aspects of a proposal which contribute to the amenity of future residents are acceptable. That is considered the case here, and given the limited nature of the shortfall, on balance officers are satisfied that future residents would have an acceptable standard of amenity.
- 10.55 All the dwellinghouses would have outdoor amenity space, including private gardens of a size commensurate to the host dwelling. The 2-bed apartments, plots 15 to 20, would not have dedicated private garden space, however this is not atypical for apartment units. Furthermore, the apartments are located close to the POS area to the north, with the site being within close distance to an area of open countryside with high amenity value.
- 10.56 All of the proposed houses would also benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light. This is taking into consideration the separation distance between units within and existing dwellings outside of the site, with separation distances being adequate in each case.
- 10.57 It is noted that the units along the southern boundary of the site would back onto a retaining wall of notable height (with a minimum distance of circa 8.1m). This would restrict their outlook but is not so close so as to prejudice the overall high amenity standard future occupiers could expect.
- 10.58 A sizable area of Public Open Space would be provided on site and would contribute to the amenity of future and existing nearby residents. This would total 5,700sqm of open space, including circa 860sqm of amenity grassland and 4,840sqm of natural / semi-natural space (i.e., the woodland). Specific to the woodland, as an existing feature (albeit not currently publicly accessible), to be accepted as POS it would need to be enhanced. This is indeed proposed, partly as part of the biodiversity net gain provision, the provision of which is securable via condition. No play equipment would be provided on site, however there are nearby play facilities including Royds Park Playground and King George Playing Fields within the accepted 15minute / 720m guidelines for proximity. This is considered acceptable, as officers seek to avoid each development having small and isolated pockets of equipment.
- 10.59 While the on-site provision is noted, as set out in the council's Public Open Space SPD, public open space is divided into six typologies. The proposal overprovides natural / semi-natural, while underproviding other typologies: therefore, an off-site contribution of £118,220 to cover the typologies not fully provided on site, to be spent improving open space in the area, remains necessary. This includes a contribution towards local play areas.

- 10.60 There are no known sources of environmental pollution, such as noise or odour, within the area which could prejudice future occupiers.
- 10.61 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

Highways

- 10.62 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.
- 10.63 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.

Traffic generation and the local network

- 10.64 First considering traffic generation, a proposal of 77 dwellings is expected to generate the following movements:

| | Arrival | Departure | Two-way |
|----------------|----------------|------------------|----------------|
| AM Peak | 11 | 31 | 42 |
| PM Peak | 29 | 13 | 42 |

- 10.65 The impact of these additional movements on the local network, including the Ripley Road and Halifax Road junction, has been considered. The proposal's 42 two-way movements would amount to an average of 0.7 additional vehicles a minute (or roughly one additional vehicle every two minutes). This would not result in unacceptable harm to highway safety, nor would it be a severe impact. K.C. Highways Development Management are satisfied that the local network and identified junction would continue to operate safely and within capacity following the introduction of the proposed development's traffic
- 10.66 A single vehicular access to the site is proposed via an extension to Darley Road, which in turns connect to Ripley Road and then Halifax Road, via a priority junction. The principle of providing a single point of vehicular access to the development is acceptable. Ripley Road currently serves circa 200 dwellings, and the proposal would increase this to circa 277 dwellings. Given a loop road is proposed within the site, no secondary emergency access is necessary in this instance, in accordance with the advice contained within the councils Highway Design Guide SPD.

- 10.67 Notwithstanding the above, as raised by representations and noted by K.C. Highways Development Management, a significant level of on-street parking currently occurs on Darley Road and Ripley Road. This could potentially impact on refuse and emergency vehicle access to the site. As such, two overnight parking surveys to determine the level and location of on-street parking have been undertaken. These surveys identified on-street parking currently takes place mainly on Darley Road, with between 32 and 34 vehicles recorded during the surveys. Of these parked vehicles, the majority were observed parking partially on footways. Parking was also observed at or close to the Linton Close junction, and to a lesser extent at the Dacre Close junction. Significant levels of double parking were also observed at the bend to the north of the Linton Road junction.
- 10.68 The applicant has proposed a suite of localised double yellow line parking restrictions to prevent obstructive parking. K.C. Highways (Development Management) have considered this with K.C. Highways (Safety) and consider it to be appropriate, although any parking restrictions proposed would be subject to a separate formal public consultation as part of the necessary Traffic Regulation Order (TRO). The desired TRO works would include:
- Restrictions on the inside of the bend north of Linton Close, and potentially at the Linton Close and Dacre Close junctions, to reduce the risk of obstructive parking in these areas.
 - Restrictions at the Ripley Road/Halifax Road junction, limited to within 10m of the junction to the east and 18.5m to the west (both measured from the nearside channel line of the minor road). These limited restrictions would ensure that obstructive parking does not occur close to the junction, but would still allow three on-street parking spaces to be available for residents living in the three bungalows that do not benefit from drives (parking for these dwellings is available in a parking court, to the east of the Ripley Road junction).
- 10.69 As noted, the above restrictions would be subject to a separate TRO process (including a public consultation period). Therefore, the final extents of any restrictions that may be proposed/approved cannot be determined at this stage. The council's cost to promote and implement the TRO would need to be funded by the development. Therefore, a £10,000 contribution is recommended to be secured by Section 106 agreement for this purpose.
- 10.70 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 Development Management have also advised that a 'highway condition survey' be undertaken, to be secured via condition. This would include a review of the state of the local highway network before development commences (including the adjacent PROWs), 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.

Point of access

- 10.71 The point of access, being a continuation of Darley Road, has been demonstrated to be technically feasible, although full technical design details are recommended to be secured via condition.
- 10.72 Notwithstanding the above, the point of access requires crossing third party land which is unregistered, and the owner is unknown, despite the applicant's attempts to find the owner. This unregistered land also hosts PROW SPE/110/20, and there are no public vehicular access rights over this footpath.
- 10.73 There are procedures available to developers in such circumstances, allowing them to acquire unregistered land to enable development to go ahead. However, unless the applicant is able to acquire the unregistered land in question, it would appear that they may not be in a position to dedicate vehicle access rights to future residents and would be unable to offer the estate roads for adoption via the usual Section 38 process. As such, the applicant will need to resolve these issues before development can commence.
- 10.74 The above is, however, a legal matter (separate to planning) for the applicant to resolve. Matters of land ownership are outside of the remit of the planning system. The sole requirement for planning purposes is that the applicant signs the correct Certificate of Ownership, which they have (in this case Certificate C, in which they declare that they do not own all the land in question and have been unable to identify the owner). The granting of planning permission would not override land ownership, and it would be the applicant's legal responsibility to ensure works they implement are lawful.
- 10.75 In this case, the issue relates to the single access into the site. It has been established that no other point of access could be brought forward and. The applicant must therefore resolve this issue to allow their development to lawfully go ahead, and it is therefore clearly in their (private, legal) interest to do so.

Internal highway layout and parking

- 10.76 Regarding the internal road arrangements, the submitted details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways Development Management, who considered them to be acceptable in principle. While there are technical matters outstanding, there are no significant issues with the layout that cannot be adequately addressed at the detailed design stage, with full technical details of the new road to be sought via condition. With regard to adoption, there are considered to be no design-prohibitive reasons (bar the aforementioned point of access and ownership matter) preventing the road from being adopted, although this would be subject to a detailed assessment during the separate Section 38 process.
- 10.77 All dwellings would have a level of dedicated off-road parking in accordance with the council's Highway Design Guide SPD, including suitably sized garages (measuring 3m x 6m internally) the provision of which is recommended to be secured via condition. In terms of visitor parking, the Highways Design Guide SPD recommends one per four dwellings. This amounts to 19 dedicated spaces, which the proposal complies with. It is noted that these spaces are clustered to the south of the site, but given the site is not overly large, the maximum walking distance from a visitor parking bay to the furthest dwelling is not considered unreasonable.

- 10.78 All dwellinghouses are shown to have adequate space for the storage of three waste bins in their rear gardens, which is welcomed. The apartment buildings are each shown to include a bin store, although K.C. Waste Strategy have questioned the size of the storage areas. A condition securing final details is therefore recommended.
- 10.79 For waste collection, swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several shared private drives are proposed – most of these would be served by a waste collection area, allowing for effective collection by refuse services. Plots 01 to 03 would be on a private drive without a refuse collection point, due to the limited space available to dedicate such an area. However, at 4.5m wide, the private drive could comfortably accommodate three bins awaiting collection without the need to place them on the highway. The provision of the other waste collection areas, or alternative arrangements should the road not be adopted, are recommended to be secured by conditions.
- 10.80 Given the scale of the development, which would likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse collection services would not access roads prior to adoption or while construction work continues, therefore appropriate arrangements must be considered and implemented.

Sustainable Travel

- 10.81 Policy LP20 of the Kirklees Local Plan states *'The council would 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 would accept that variations in opportunity for this would vary between larger and smaller settlements in the area.'*
- 10.82 The site is allocated in the Local Plan for residential development. The accessibility of the site was assessed as part of this process and is considered a sustainable location, being on the edge of an existing settlement. The supporting Transport Assessment includes a review of the facilities that are within walking and cycling distance of the site – this confirms that there is a range of local facilities that are accessible by foot and by cycle.
- 10.83 There are a number of PROWs within the vicinity of the site, including footpaths SPE/110/20 and SPE/116/20 that runs along the eastern and southern site boundaries respectively, and Public Bridleway SPE/111/120 on Primrose Lane along the western site boundary. The Spen Valley Greenway also runs along the northern site boundary, which forms part of National Cycle Network Route 66. The application incorporates a number of improvements to the PROW network within the vicinity of the site, which includes the following:
- A 3m wide active travel link has been proposed from the proposed estate road to the Spen Valley Greenway to the north. This link is proposed at 3m wide and with a maximum gradient of 1:12. This link is welcomed and is considered acceptable in principle. However, the detailed design of the link would need to be secured by condition, which would need to include the provision of adequate junction visibility at the connection with the greenway (this point has also been identified as an issue in the Stage 1 RSA).

- Two active travel links are proposed along the western site boundary, which would connect the site to Public Bridleway SPE/111/120 on Primrose Lane. Both links are proposed at 3m wide, with maximum gradient of 1:20. These links are welcome and are acceptable in principle. However, it is noted that the annotation on the Proposed Site Layout drawing 3416-1-0014 rev QQ appears to be incorrect, with the northern link being shown as a footpath link and the southern link being shown as a multi-modal use, when in fact these should be the opposite way around (as the southern link may only be adequate for pedestrians, due to the adjacent parking layby preventing access for cyclists). Therefore, the detail design of these active travel links would need to be secured by condition, which would also need to include the provision of adequate junction visibility at the connection with the greenway (this point has again been identified as an issue in the Stage 1 RSA).
- Two footpath links are proposed along the eastern site boundary, which connect the site to Public Footpath SPE/110/20. These links are welcomed and are considered acceptable in principle, with technical details to be provided via condition.
- The applicant has agreed to improve footpaths SPE/110/20 and SPE/116/20 that run along the eastern and southern site boundaries respectively, which includes widening the footpaths from circa 1.2m to 2m, and to providing a crushed limestone surface to both widened footpaths. These improvements are welcomed and are considered acceptable in principle.
- A speed table is proposed on the initial section of site access road, where footpath SPE/110/20 crosses the access, to ensure that traffic speeds are low at the crossing point, and to provide a level surface route for pedestrians.

10.84 Based on the active travel links and improvements set out above, it is considered that the development would adequately connect to the wider PROW network, and would facilitate active travel trips to/from the site for development users. The development would enable new routes to be created through the site for the benefit of existing users. Therefore, the principles of these arrangement are acceptable. However, the final detail of these active travel links, including the design (including junction visibility requirements), layout, specification, delivery and on-going maintenance is recommended to be secured by planning condition.

10.85 As noted, the site is well positioned to make use of the Spen Valley Greenway. A condition securing cycle storage facilities, per unit (including apartments), is recommended to promote cycling as a viable alternative method of travel.

10.86 Regarding public transport, the site is within walking distance of bus stops on Halifax Road, which are accessible via continuous footways of adequate width. A pedestrian refuse island is also provided on Halifax Road, circa 90m east of the Ripley Road junction, which would enable residents to access the westbound stops. There are frequent bus services on Halifax Road, which provide bi-hourly services between Heckmondwike and Leeds, and hourly services between Huddersfield and Cleckheaton (via Heckmondwike).

- 10.87 To promote bus usage, a financial contribution of £20,000 is considered appropriate, to provide Realtime Information Displays at the nearest stops on Halifax Road (stop IDs 15037 and 15038). It is recommended that this be secured within a Section 106 agreement.
- 10.88 The applicant has submitted a draft travel plan to support the application. This identifies possible measures to influence behaviour towards more sustainable methods of travel. These include providing up-to-date information on measures such as bus timetables, advising where to access up-to-date real time bus times, promoting local car share schemes, and highlighting the potential impact of working from home opportunities. These core principles are welcomed, and demonstrate that sustainable travel measures may be implemented at the site. However, a more detailed final travel plan would be required via a recommended condition.
- 10.89 To enable the travel plan to be affective, a Sustainable Travel Fund (STF) would be required. Based on the 77 dwellings that are proposed, the STF would be £39,385.50, which is based on the current cost of a WY Metro Residential Bus Only MCard cost of £511.50 per plot. It is noted that the STF may be used for a variety of travel plan measures that can be agreed in the final travel plan, although given the good quality bus services that are available, the MCard scheme may be appropriate for this site and should form part of the travel plan offer.
- 10.90 A travel plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, to ensure its effective implementation. This would be secured via a Section 106 as part of this application.

Highway, conclusion

- 10.91 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 and LP21 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.

Drainage and flood risk

- 10.92 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. Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.
- 10.93 The application is supported by a Flood Risk Assessment that includes a surface water drainage strategy which has been reviewed by K.C. Lead Local Flood Authority. Comments have also been received from Yorkshire Water.

- 10.94 First considering flood risk from fluvial sources, the site is wholly within Flood Zone 1. The River Spen is located circa 180m to the north of the site, with there being several minor tributaries between the site and river, but due to their minor scale, separation distance, and the topography of the area, the risk of flooding to the site due to these watercourses is negligible.
- 10.95 Considering surface water arrangements, the applicant has provided an indicative strategy which has followed best practice and the drainage hierarchy in reaching their proposed discharge point. Due to ground conditions and topography, infiltration has been ruled out. The aforementioned topographical and level differences prohibit discharging to the northern watercourses (the River Spen and its tributaries) – a culvert within the site heading towards said watercourses was initially considered an option, however following CCTV survey it was found to be in too poor of a state to be used. It is therefore intended to discharge, via gravity, to the combined sewer beneath Darley Road.
- 10.96 Attenuation is to be provided via a subterranean tank, with the capacity and features designed for up to the 1 in 100-year event plus climate change. The applicant has proposed a discharge rate of 3.5l/s, although because of concerns of potential pipe blockage the LLFA advised 3.8l/s would be more appropriate. While nominally higher than greenfield discharge rate, as the lowest feasible discharge rate that would not be at risk of blockage, this rate is considered acceptable. A condition for full and final technical details of the drainage strategy is, however, recommended.
- 10.97 Based on the submitted layout and topography, the Lead Local Flood Authority hold no in-principal concerns regarding exceedance event flood-routing (i.e., in an unexpected event where the drainage system fails) at the site. In such events, water is expected to be directed away from dwelling houses and avoiding their domestic curtilages wherever possible. As the site falls northwards, with no third-party dwellings to the north, no flood water would be directed towards third party dwellings. Nonetheless, a condition for a detailed exceedance event flood routing strategy being submitted and implemented is recommended.
- 10.98 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements during construction are proposed to be secured via a condition.
- 10.99 Foul water from the proposed development would discharge via gravity to the existing combined sewer beneath Darley Road. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.100 Considering the above, subject to the proposed conditions and securing management and maintenance arrangements via the Section 106 agreement, the proposal is considered by officers and the LLFA to comply with the aims and objectives of Policies LP28 and LP29 of the Kirklees Local Plan.

Ecology

- 10.101 Policy LP30 of the Kirklees Local Plan states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist. The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. This document, which is informed by on-site surveys, considers the site's value as habitat as well as the proposal's direct and indirect impact on local species.
- 10.102 First considering local species, the submitted EclA and Bat Survey report provides a detailed assessment of the site and its suitability for protected species. Overall, the site is considered to provide some potential for bats, breeding birds and hedgehogs however there are no significant negative impacts anticipated as a result of the development proposals. The residual impacts of the development are either of moderate benefit, minor benefit or of negligible impact. The EclA lays out a number of recommendations with regard to protected species mitigation and enhancement measures that can be secured through appropriately worded conditions for an Ecological Design Strategy.
- 10.103 Regarding habitat, the site is dominated by species-poor modified grassland, with an area of broadleaved woodland in the northern section of the site, which is designated as part of the Kirklees Wildlife Habitat Network that is protected by Policy LP30 of the Local Plan. Policy LP30 states that developments must aim to safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term. The proposals are likely to result in a minor negative impact on woodland habitat, as an area of broadleaved plantation woodland (dominated by sycamore *Acer pseudoplatanus*) would be lost to provide access from Darley Road and to enable a water pipe to be installed through the woodland along an existing desire line used by the general public.
- 10.104 While the above harm is noted, it would not amount to a complete loss and the remaining woodland (circa 0.593ha) would be enhanced by improving its structural diversity and sub-canopy. The removal would not prejudice the function and role of the woodland as part of the Wildlife Habitat Network, due to the limited removal proposed, the mitigatory works, and given that the section of woodland is on the edge and would not bisect the main route. It is considered that this small removal of woodland is acceptable, as the scheme would enhance the remaining woodland, making it better quality, throughout.
- 10.105 A Biodiversity Net Gain calculation has been undertaken using the DEFRA Metric. This sets out that that the development would result in a 2.25% net gain in habitats and a 143.91% net gain in hedgerows post-development. In order for the proposals to come forward in line with national and local policies and guidance, to achieve a 10% net gain, a further 0.63 habitat units would need to be delivered. Officers are satisfied that options for further on-site delivery have been sufficiently explored and discounted. Therefore, a commuted sum of £14,467 would be required in order for the development to achieve a 10% biodiversity net gain, unless the applicant is able to find an alternative site in the vicinity where this could be delivered. It is recommended that this be secured within the Section 106.

- 10.106 Notwithstanding the identified off-site contribution, as noted above, the proposal would deliver some habitat and hedgerow units on site. A condition for an Ecological Design Strategy (EDS), to detail and secure this on-site delivery, is proposed. The management and maintenance of the on-site features would be secured within the recommended Section 106 agreement, for a minimum of 30 years. A condition for a Construction Environmental Management Plan: Biodiversity is also recommended, to ensure construction activity is managed in a considerate way, along with a lighting strategy to ensure external lighting does not prejudice habitats on or adjacent to the site.
- 10.107 No invasive plant species within the site were identified within the survey work undertaken.
- 10.108 In summary the proposal would not unduly affect local habitats and, through contributions and on-site improvements, an appropriate biodiversity net gain would be achieved. Furthermore, the proposal would have no significant impacts upon important 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 Policy LP30 of the Kirklees Local Plan.

Planning obligations

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

Affordable housing

- 10.110 Policy LP11 of the Local Plan and the council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 77 units would be 15 units.
- 10.111 The council seeks the tenure of affordable dwellings to be 55% affordable rent and 45% intermediate, or eight and seven units respectively in this case, which the applicant has offered. National policy also requires that at least 25% of affordable homes are First Homes (a type of immediate tenure), which would be four in this case. The applicant has offered five first homes. The number and tenure of the affordable homes is therefore acceptable.
- 10.112 Notwithstanding the above, the council's Affordable Housing and Housing Mix SPD sets our expectations for affordable housing unit size and mixture. Falling within the Batley and Spen sub-area, the SPD seeks the following mix of affordable units:

| <i>Batley and Spen</i> | Affordable Rent | Affordable Intermediate |
|------------------------|------------------------|--------------------------------|
| 1- and 2-beds | 40 – 79% | 60%+ |
| 3-beds | 0 – 19% | 20 – 39% |
| 4-beds + | 0 – 19% | 0 – 19% |

The following sets out the proposal's offer:

| | Affordable Rent | Affordable Intermediate |
|----------------------|------------------------|--------------------------------|
| 1- and 2-beds | 7 (87.5%) | 5 (71.5%) |
| 3-beds | 1 (12.5%) | 2 (28.5%) |
| 4-beds + | 0 | 0 |
| Total | 8 (53%) | 7 (47%) |

- 10.113 While the above shows a slight over-provision in the proportion of 1- and 2-bed affordable rent units, it is a modest departure and not a cause for concern. Thus, the sizes of affordable units are accepted.
- 10.114 Policy seeks to ensure that the affordable units are indistinguishable from market homes. K.C. Strategic Housing have raised concerns that the offered 1- and 2-bed units are grouped across two apartment blocks (six units per block). No comparable market units are included within these blocks, or elsewhere within the site. While officers accept this would, to a degree, distinguish them from the market units and may be a negative of the proposals, officers are nonetheless satisfied that the quality of the buildings and accommodation would be to the same standard. Furthermore, officers have noted in paragraph 10.11 matters relating to the housing mixture of the site and the applicant's opposition to providing additional 1- and 2-bed units. There is also a clear need for small affordable units (as per the first table above, which identifies a need for 40 – 79% affordable rent and 60%+ intermediate 1- and 2-bed units). Therefore, while K.C. Strategic Housing's concerns are noted, on balance the proposed offer is considered the best outcome for the current proposal.
- 10.115 The other units (3-beds) would be the same as the market units within the site, and raise no concern with regard to whether they are indistinguishable.
- 10.116 Relevant planning policy also seeks to ensure affordable units are spread through the site. Officers consider this to be achieved in the proposed development. While the blocks would group the flats, the two apartments are well separated from each other.
- 10.117 Overall, on balance, the proposed affordable housing offer is considered acceptable and would meet the expectations of Policy LP11 and the council's Affordable Housing and Housing Mix SPD.

Public open space

- 10.118 In accordance with Policy LP63 of the Kirklees Local Plan new housing developments are required to provide public open space, or contribute towards the improvement of existing provision in the area.
- 10.119 The application proposes 5,700sqm of on-site Public Open Space (comprising 860sqm of amenity grassland and 4,840sqm of natural / semi-natural space), with an off-site contribution of £118,220 agreed, which is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the Section 106 agreement. This is considered appropriate to comply with Policy LP63 of the Kirklees Local Plan.

Education

- 10.120 K.C. Education has reviewed the capacity at nearby schools, namely Headlands CE and Spen Valley High School. A contribution of £118,791 towards education provision has been identified by K.C. Education and agreed with the applicant.
- 10.121 The provision of this contribution is considered to comply with the aims of Policy LP49 of the Local Plan.

Highways and sustainable travel

- 10.123 As detailed within the highway section of this report, it is recommended that the following contributions towards highways and sustainable travel be secured:
- TRO Contribution for 'No waiting' restrictions on Darley Road and at Ripley Road / Halifax Road junction - £10,000;
 - Provision of two Real Time Information displays (Stop ID's 15037 and 15038) - £20,000;
 - Sustainable Transport Fund (STF) £39,385.50 (based on 77 dwellings); and
 - Travel Plan Monitoring Fee - £10,000 (£2,000 x 5 years).
- 10.124 The provision of the above is considered to comply with the aims of Policy LP20 of the Local Plan.

Management and maintenance

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

Other Matters

Air quality

- 10.126 The application is supported by an Air Quality Impact Assessment (AQIA). This has been reviewed by K.C. Environmental Health in accordance with West Yorkshire Low Emission Strategy (WYLES) Planning Guidance. The report details the impact that the development would have on existing air quality, and how this would impact existing and future sensitive receptors during the construction and operational phases.
- 10.127 The site is not within an Air Quality Management Area, nor near to any roads of concern. The report concludes that future pollutant concentrations at the proposed development site are predicted to be below the national air quality objectives. Notwithstanding this, in accordance with WYLES guidance, all developments are required to incorporate measures to mitigate air quality harm. Those proposed are:

- The provision of Electric Vehicle Charging Points (EVCP);
- Travel plan (to push for a modal shift away from private car usage) to be provided;
- Improved pedestrian links to bus stops, and enhanced local bus stops with a sustainable travel fund; and
- Pedestrian links through the site to promote walking in and around the area.

10.128 These mitigation measures are welcomed and are incorporated into the proposal, as is detailed elsewhere within this report, bar the provision of EVCP, the delivery and retention of which may be secured via condition.

10.129 Due regard has also been given to air pollution during the construction phase, principally regarding dust generated by construction. The report concluded that there is the potential for air quality impacts because of fugitive dust emissions from the site, from earthworks, construction and track-out. The report goes on to say that these impacts are considered to be temporary and short term and can be controlled by the implementation of good practice dust control mitigation during construction, the implementation of which may be secured via condition.

10.130 Subject to the recommended conditions, officers are satisfied that the proposal would not harm local air quality, nor would new residents suffer from existing poor air quality. The proposed development is therefore considered to be in accordance with Policy LP51 of the Kirklees Local Plan.

Coal mining legacy

10.131 The site falls within the Development High Risk Area zone for legacy coal workings. This means that there are records of coal mining related features at surface or shallow depths in and around the site. For context, a sizable portion of Kirklees falls within this zone. Due to being within the zone, the application is supported by a Coal Mining Risk Assessment (CMRA), which assesses the potential for conflict between the development proposal and legacy coal mining features. This has been reviewed by the Coal Authority (CA).

10.132 The CMRA has identified that five mine entries are present within the site. Three of these have been capped and are located within the site's northern woodland. Another is located just south of the woodland, around where plots 06 to 10 would be located. The final shaft is located to the south of the site, between where plots 54 and 55 would be. There is also the potential for shallow, unrecorded, mine workings in and around the site. The presence of these features on site led to the CA initially objecting to the proposal. While the CMRA identified the risk, it did not satisfactorily demonstrate said risk could be overcome.

10.133 In response, the applicant and their technical team has engaged directly with the CA to resolve the matter. It was concluded that the sole outstanding concern of the CA related to plots 6, 7, and the garage for plot 10. Therefore, the CA have confirmed their objection would be removed if a condition was imposed prohibiting the commencement on these plots (and plot 10's garage) until adequate investigation and remediation measures were provided. If such reports conclude the plots cannot be safely remediated and constructed, an alternative plan showing the land in question being subsumed into the gardens of 08, 09, and 10 has been provided.

10.134 Notwithstanding the CA's position, while the applicant and officers would be agreeable to such a condition (subject to suitable appropriate wording being settled), the preferred outcome for each party would be for the intrusive investigations be undertaken prior to final determination. This is in the interest of ensuring the decision, including the conditions and Section 106, are precise and accurate without the potential need for later amendments. However, such works are expensive and time consuming and therefore undertaking them is a risk to the applicant. Thus, they have requested that the application be presented to committee prior to the works being undertaken, to establish whether Members consider the development otherwise acceptable.

10.135 The council (as Local Planning Authority) is required to work proactively and reasonably with applicants. Given the understood small (but which cannot currently be discounted) likelihood of the northern coal mine shaft being both a substantial conflict with the siting of plots 06, 07, and/or plot 10's garage, and having no suitable remediation options, officers consider the applicant's proposed approach to be reasonable. Therefore, the officer's recommendation to approve the application is subject to delegation back to officers to receive the Intrusive Site Investigation Report, to re-consult with the CA, and thereafter proceed on the following basis:

a) In the scenario where the report concludes there is no conflict with plots 06, 07, and / or 10, determine the application as set out elsewhere in this report.

b) In the scenario where the report concludes that there is a conflict with plots 06, 07, and / or 10, which cannot be remediated to the satisfaction of the Local Planning Authority (advised by the CA), amend the proposal to remove the plot(s) in conflict. Thereafter, complete the list of conditions including those contained within this report and to secure a Section 106 agreement (with the contributions to be recalculated, pro-rata, to account for the reduced housing provision).

10.136 The two options present a robust approach to either scenario and are considered adequate to address the CA's original concerns. The options would ensure the development is safe for its lifetime. Accordingly, the proposal is deemed to comply with Policy LP53 of the Kirklees Local Plan.

Contaminated land

10.137 In accordance with Local Plan Policy LP53, as a major residential development consideration of ground contamination is required. Furthermore, council records indicate the site as being potentially contaminated due to historic use (coal mining). The application is supported by Phase 1 (desktop) Contaminated Land report which has been reviewed by K.C. Environmental Health.

10.138 The report identifies the historic colliery use to the north of the site as a potential source of pollution, and the report recommends that further on-site investigations be undertaken to inform an adequate remediation strategy.

10.139 K.C. Environmental Health have requested that this be investigated prior to determination, citing specific risks associated with gas and shallow coal, including potential combustion. The applicant initially objected to such works being undertaken prior to determination as the necessary investigations required include extensive works within the woodland (sited over the old colliery), raising the same issues detailed in paragraph 10.134. However, following the above detailed approach to addressing coal legacy investigations being agreed, it is considered that the investigations required by K.C. Environmental Health may be undertaken at the same time. Therefore, the same approach, as that detailed within paragraph 10.135 is recommended, to ensure the proposal complies with Policy LP53.

Crime Mitigation

10.140 The Designing Out Crime Officer has made a number of comments and recommendations, particularly with regard to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant.

10.141 It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan Policy LP24(e).

Minerals

10.142 The site is within a wider mineral safeguarding area relating to shallow coal with sandstone and/or clay and shale. Local Plan Policy LP38 therefore applies. This states that surface development at the application site would only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Representations

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

Amenity

- The proposal will result in odour, light, air and noise pollution.

Response: Residential developments adjacent to one another are considered compatible, and not reasonably expected to lead to materially harmful odour, light, or noise pollution. Matters of air pollution are considered in paragraph 10.126 – 10.130.

- The proposal will remove valuable green space from the community, used by walkers and promotes mental wellbeing.

Response: The site is a private field. PROWs are adjacent to the field, which would not be materially impacted upon via the proposal and would be retained.

- The proposal will result in a loss of a view for existing properties.
- The proposal will devalue local properties.

Response: The above are not material planning considerations.

Highways

- Darley Road is not suitable for an increase in traffic volume. It is already heavily trafficked. A further increase in vehicles will risk pedestrians who use the pavements and cross the road, including children. Young children often play on the local roads. Similar concerns for other roads, including Lower Hall Close.
- Concerns regarding Darley Road are made worse in winter, when snow and ice make traversing the steep road more difficult and result in people parking higher up the road.
- The Ripley Road and Halifax Road junction is difficult to use, due to parked cars on the radii, which the proposal will make worse.
- The development will result in too many vehicles using the Ripley Road and Halifax Road junction, up to as many as (an estimate of) 468, or circa 56% increase.
- Concerns over the impact on local roads of construction traffic, particularly given the business and parking on the street. Claims construction traffic could simply not use the road, due to parked vehicles. Likewise, concerns over access for waste collection and emergency services.

Response: The above matters were raised within the vast majority of representations received, which is noted for information purposes. These matters have been considered in depth by K.C. Highways Development Management, as detailed in paragraphs 10.64 – 10.70 where it is concluded that the impacts would not be severe.

- The local road network is in a poor state of repair, and the proposal will exacerbate this.

Response: It is outside the remit of this application to address pre-existing issues such as this. A condition is recommended for a pre-commencement road condition survey, to ensure any damage caused by construction traffic may be identified and resolved.

- Access should be via Lower Hall Close or Primrose Lane.

Response: Primrose Lane is a narrow bridleway and not suitable for vehicular access into the site, where it adjoins the site.

Concerns were held over the suitability of the Lower Hall Drive / Halifax Road junction to accommodate the traffic of the development, due to its restricted sightlines, road and junction narrowness, and existing on-street parking. Also, the applicant expressed concerns over the necessary level for engineering to facilitate an access from Lower Hall Close, which as the steepest part of the

site would have necessitated notable engineering works that would have impeded on the effective use of the allocation. Because of these issues, the applicant proposed a single access from Darley Road, which highways officers have concluded to be acceptable.

- Introducing yellow lines on Darley Road will simply move cars to other problem areas. Also, such features would not be enforced or controlled by the police.

Response: A Traffic Regulation Order scheme including limited yellow lining, to limit such impacts, is sought, to address the greatest 'pinch' points. This would be separate to the separate TRO process, which includes public consultation processes.

- The development will introduce 'boy racers' into the area, which will affect peoples' mental health.

Response: The new road is not designed to have long, straight roads and officers do not share the concern it would contribute to anti-social driving.

- Concerns over the impact on Primrose Lane. It is a bridleway, but frequently used by cars which are damaging it. The proposal will cause this to happen more.

Response: Officers do not share the concern that this development, which would be directly accessible via Darley Road, would lead to a material increase in vehicle movements on Primrose Lane.

Ecology

- The proposals ecological reports are out of date, being over 18 months old.

Response: K.C. Ecology considered the reports to be adequate and fit for purpose to enable a sound and detailed assessment of the proposal.

- The ecological report identifies 'no protected nature sites' within 2km, however the Jo Cox Community Woods is nearby.

Response: This is noted, however, it is understood that the Jo Cox Community Woods holds no statutory protection status.

Drainage

- The proposal will put strain on waste and water pipes, and there are already issues.
- The proposal will result in the loss of natural drainage. Darley Road already has poor drainage and flooding, which the proposal will exacerbate. It will also lead to more water going into the River Spen, which will result in flooding downstream.

Response: As detailed in paragraphs 10.95 – 10.96 above, the site is to include a positive drainage system which would discharge surface water from the site at a greenfield rate, therefore not increasing flood risk elsewhere. It is beyond the remit of this application to address existing drainage issues on Darley Road.

Other

- No new houses are needed within this area, there have been numerous developments nearby.
- The proposed houses are not to be affordable nor designed for the elderly, and therefore not fit for an aging population.
- The Local Plan was based on a forecasted 11% population increase between 2023 and 2024, however 2021 Census data shows this was actually circa 2.6% along with a fall in birthrates. Furthermore, data shows that the need for larger homes is expected to drop *‘Therefore, the increases in population are going to be primarily driven by people living longer, and immigration – neither of which this proposal is relevant to’*. The government has removed the need for housing targets.
- The proposal is dominated by 4-bed properties which are not needed within the area. Smaller units which are affordable for first time buyers and social properties are needed.

Response: Applications must be assessed and determined in accordance with adopted local and national planning policy. Paragraphs 10.2 – 10.14 consider the local need for housing and consider the scale of dwellings proposed.

- Brownfield sites should be developed before greenfield.

Response: For allocated sites, local and national planning policies do not require brownfield sites to be developed before planning permission is granted for development on greenfield sites. In Kirklees, relevant planning policies encourage the development of brownfield sites, and several major developments on brownfield sites have been granted planning permission by the council.

- The application has been increased from 67 to 77 properties, which shouldn't be allowed.

Response: Such amendments are permitted within the planning process and were re-advertised.

- There is inadequate social infrastructure, including school, dentists, and doctors' surgeries, in the area.

Response: There is no planning policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that educational and health impacts are an important consideration and that the impact on health

services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Regarding schools, an education financial contribution has been secured.

- The proposal will harm the Luddites Walk route, which goes past the site, to the detriment of local history. The route should be a non-designated heritage asset.

Response: The site is adjacent to part of the Luddites Walk route. However, presumably various developments will have taken place adjacent or near the walk's route, given it took place in 1812. Furthermore, the site would be adjacent to only a small percentage of the total walk, therefore limiting any impact on the overall walk. This does not warrant refusal of the proposal nor amount to material harm.

- The site hosts several mineshafts, which should not be built near to. Part of the site was a former colliery. Questions over who will insure properties near mineshafts?
- Objections have been raised by consultees, including the coal authority and drainage.

Response: The matter of the site's coal legacy has been addressed in paragraph 10.131 – 10.136. Matters of insurance are not a material planning consideration.

- The proposal will put strain on communications infrastructure, including phone and internet provision. This may result in needing more masts and facilities.

Response: No evidence has been provided to substantiate the claim and it would be a matter for the relevant utility providers to address.

11.0 CONCLUSION

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

11.2 The site is allocated as a housing allocation within the Local Plan. The proposed density is considered to comply with the expectations of the Local Plan. The housing mixture (i.e., sizes) proposed departs from the expectations of the council's Affordable Housing and Housing Mix SPD, which is a negative of the proposal. However, the departure from expectations is not substantial and, along with the justification provided with the applicant, the harm caused is not considered to outweigh the presumption in favour of sustainable development, established by the council's lack of a five-year housing land supply. Accordingly, the principle of development is concluded to be acceptable.

- 11.3 Site constraints including topography, trees, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. During negotiations with the applicant, the design and appearance of the site has evolved to an acceptable position that would be attractive and would harmonise well with the character of the area. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been addressed through the proposal.
- 11.4 A full policy-compliant Section 106 package has been agreed with the applicant.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**
- 1) Three years to commence development.
 - 2) Development to be carried out in accordance with the approved plans and specifications.
 - 3) Material samples to be submitted and approved.
 - 4) Details of boundary treatment, not to include 'brick', to be submitted and approved.
 - 5) Construction Environmental Management Plan (CEMP), to include dust mitigation, to be submitted, approved, and implemented.
 - 6) Road condition survey to be submitted and approved.
 - 7) Details of preliminary street design details to be submitted and approved.
 - 8) Completion of Estate Street Phasing Plan to be submitted and approved.
 - 9) Details of management of waste to be submitted and approved.
 - 10) Construction phase waste collection strategy.
 - 11) Vehicle and pedestrian spaces to be laid out.
 - 12) Details of footpaths and Active Travel Links to be submitted and approved.
 - 13) Details travel plan to be submitted and approved.
 - 14) Details of highway retaining walls and structures to be submitted and approved.
 - 15) Details of cycle storage facilities to be provided and approved.
 - 16) Full technical details of the drainage strategy to be provided, approved and implemented.
 - 17) Flood routing strategy to be provided, approved, and implemented.
 - 18) Details of temporary surface water drainage arrangements, during construction, to be provided and adhered to.
 - 19) CEMP: Biodiversity to be submitted, approved, and implemented.
 - 20) Ecological Design Strategy to secure habitat units on site plus ecological mitigation measures and improvement to woodland.
 - 21) No site clearance within the bird breeding season (unless appropriate survey undertaken).
 - 22) EVCP to be provided and retained.
 - 23) Dust mitigation measures to be implemented during construction.

24) Landscape strategy, to include management and maintenance arrangements, to be provided and implemented.

25) Coal legacy investigation and/or remediation to be undertaken (subject to review of further details).

26) Contamination investigation and/or remediation to be undertaken (subject to review of further details).

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f91116>

Certificate of Ownership

Certificate C signed.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Dec-2024

Subject: Planning Application 2023/91212 Erection of 21 dwellings with access from Laithe Avenue Land off, Bankfield Drive, Holmbridge, Holmfirth, HD9 2PH

APPLICANT

Orion Homes Ltd

DATE VALID

04-Oct-2023

TARGET DATE

03-Jan-2024

EXTENSION EXPIRY DATE

19-Dec-2024

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Holme Valley South

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 Section 106 agreement to cover the following matters:

1. Affordable Housing: Three affordable housing units (all First Homes, comprising 2x 2-bed and 1x 3-bed) to be provided in perpetuity.
2. Biodiversity: Contribution of £104,880 towards off-site measures to achieve biodiversity net gain.
3. Public Open Space: An off-site contribution of £55,932.16.
4. Public Right of Way: A contribution of £10,000 for the connection onto the Public Right of Way (HOL/91/20).
5. 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, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

All contributions are to be indexed-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 benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 This is an application for planning permission for a residential development of 21 dwellings.
- 1.2 The application is presented to Strategic Planning Committee due to the development not providing all of the planning contributions required in line with local and national planning policy, and given the substantial number of representations received (contrary to the officer recommendation). Additionally, former ward Councillor Firth asked for the application to be brought to committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises site allocation HS183 (allocated for housing). The site is 0.66 hectares and is of a rectangular shape.

- 2.2 The site is currently a greenfield site bounded by low dry stone retaining walls. Land levels fall quite substantially from the southeast to the northwest of the site. To the west of the site is a separate parcel of land currently safeguarded within the Kirklees Local Plan (SLS15), with Laithe Avenue to the east. To the south of the site is the Public Right of Way HOL/91/20.
- 2.3 The area surrounding the site is predominantly residential to the north and east, with more sparsely distributed properties to the west, and open countryside to the south which is Green Belt land. The nearest part of the Peak District National Park lies approximately 650m to the south.
- 2.4 The site is not within a conservation area or within close proximity to any listed buildings.

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 21 dwellings with access from Laithe Avenue. Internally, a new estate road would be provided.
- 3.2 Dwellings would be arranged along the new estate road, provided as 14 semi-detached properties, a small row of three terrace properties and four detached dwellings. The mix would comprise five 2-beds, twelve 3-beds and four 4-beds. Five house types have been proposed – these are the Edinburgh, Preston, Bamburgh, Gosford and Cheltenham. Materials would include artificial stone to the walls with concrete tiles to the roofs.
- 3.3 All the dwellings would have off-street car parking.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

At the application site:

Planning applications:

- 4.1 92/04281 Outline application for residential development – Refused and appeal dismissed.

Pre application advice:

- 4.2 2022/20239 Pre-application advice sought for residential development – Comments provided.

Surrounding the application site:

A number of planning applications have been submitted regarding nearby residential properties for extensions and outbuildings.

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

- 5.1 Amendments and additional information has been sought as part of this application process regarding, but not limited to, achieving the required density and housing mix, protecting residential amenity and an acceptable highway layout. A viability appraisal has also been submitted with this application.

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 Site allocation HS183 relates to 0.66 hectares (gross and net) and sets out an indicative capacity of 23 dwellings. The site allocation identifies the following constraints:

- Public right of way to the south of the site
- Proximity to Special Protection Area/Special Area of Conservation
- Proximity to a Local Wildlife Site

Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Master planning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing Mix and Affordable Housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvements of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

Neighbourhood Development Plans

6.3 The Holme Valley Neighbourhood Development Plan was adopted on 08/12/2021 and forms part of the Development Plan.

- Policy 1 – Protecting and Enhancing the Landscape Character of Holme Valley
- Policy 2 – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- Policy 11 – Improving Transport, Accessibility and Local Infrastructure
- Policy 12 – Promoting Sustainability
- Policy 13 – Protecting Wildlife and Securing Biodiversity Net Gain

6.4 The application site is within Landscape Character Area 4: River Holme Settled Valley Floor.

The key landscape characteristics of the area are:

- Framed views from the settled valley floor to the upper valley sides and views across to opposing valley slopes and beyond towards the Peak District National Park.
- Boundary treatments comprised largely of millstone grit walling. The stone walling which runs parallel with Upperthong Lane is representative of local vernacular detailing.
- A network of Public Rights of Way (PROW) including the Holme Valley Riverside Way which follows the River Holme from Holmbridge through Holmfirth and downstream. National Cycle Route 68 follows minor roads through Upperthong towards the centre of Holmfirth before climbing the opposing valley slopes.
- Mill ponds reflect industrial heritage and offer recreation facilities.

The key built characteristic of the area are:

- Mill buildings, chimneys and ponds, including Ribbleden Mill with its chimney, associated mill worker houses and ashlar fronted villas link the area to its industrial and commercial heritage and are a legacy of the area's former textile industry.
- Terraced cottages and distinctive over and under dwellings feature on the steep hillsides with steep ginnels, often with stone setts and narrow roads.
- Narrow winding streets with stepped passageways, stone troughs and setts characterise the sloping hillsides above Holmfirth town centre.
- Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage.
- There are mixed areas of historic and more recent residential and commercial developments. Small tight knit settlements on the upper slopes are characterised by their former agricultural and domestic textile heritage.
- There are mixed areas of historic and more recent residential and commercial developments.

6.5 Supplementary Planning Guidance / Documents:

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

6.6 Guidance Documents:

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Streets Principles for the West Yorkshire Transport Fund (2017)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Viability Guidance Note (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)

6.7 National Planning Guidance:

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

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

6.8 Other relevant national guidance and documents:

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

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:

- 7.1 The application has been advertised as major development and development affecting the setting of a Public Right of Way.
- 7.2 The application has been advertised via site notices, within the press and letters delivered to neighbours adjacent to the application site. Final publicity expires on the 29/11/2024, which would be two days after the publication of this committee report. Final comments will therefore be included within the committee update.
- 7.3 As a result of the above publicity, 121 representations (all objecting to the development) have been received from local residents. The concerns raised are summarised as follows:

Visual amenity/density:

- The housing density of the planned development is far higher than on the existing estate. The revised plan which alters the style of housing in order to accommodate 21 homes rather than 16 would have a highly detrimental effect on the character of the area and would contradict Kirklees Council's own guidelines on rural development.
- 21 dwellings would be an over intensification of the site regardless of highway issues.
- 21 houses is 31% more than the original plan. This is too intensive with the concentration and character of the properties out of line with the existing estate which has 12 houses on a similar plot size.
- Over-intensification, the proposed plot has 21 properties, whereas the neighbouring plot in Bankfield has 11 houses, this breaches planning.
- Additionally, artificial stone which is proposed would further negatively impact this planned blot on the landscape.
- Natural stone must be used to match these houses.

- The natural stone is very important to preserve the character of the valley, these proposed properties will damage the character of the village which will cause a negative impact for years to come.
- The development does not share the same character as the adjacent housing stock e.g. wholly detached, open front gardens, some single storey properties.
- The development would be an intrusion on the landscape and will not blend in with the Green Belt it abuts. No effort has been made to design houses sympathetic to the site location so close to the greenbelt.
- I would like to know why the proposed plans have increased in volume from 16 to 21 properties and a new design layout. Is this because Orion Homes are trying to influence Kirklees with some affordable properties to push through the application? I find the design of these properties appalling, a total lack of respect for the area and the community. Typical new housing development.
- The development would destroy a green field site.
- The Phase 1 document showed 25 houses, the April 2023 version dealt with 16 houses and the October 2023 version now shows 21 houses. Each of these applications had different "styles" of house and totally different road / plot layouts.
- The proposed development is on the edge of the village and would result in the loss of more of Holmbridge's surrounding green band. It is close to if not directly in the Green Belt area of Holmbridge. The site borders the north end of the Peak District National Park.
- We now seem to have abandoned the higher principles of our Grandparents by being prepared to build more and more housing developments right up to the boundary of this National Park. This planning application and others within the curtilage of such a beautiful public space should be refused.
- Over time the beautiful village of Holmbridge is being slowly ruined by the number of developments being considered and passed for construction. We are losing our countryside, green spaces, character and charm. The countryside, scenic views, peace and tranquillity are disappearing, and all in the name of commercial gain and greed.
- The visual impact of the development would be detrimental to the landscape which can be clearly seen from the Woodhead Road as it is high above. The size and scale of the given development would be unattractive from the road compared to a green field. Holmbridge is a tourist area which borders the Peak District and many walks around reservoirs, and therefore my point about the visual impact consigns the development to be refused on this basis alone.
- This is a greenfield site and unbelievably it was highlighted as part of the Kirklees development plan 2019, therefore I do not have much confidence that Kirklees will refuse this planning application. However, I do hope they will enforce the concerns of the local residents. If it does go ahead then the design of this development should be changed as it is not in keeping with the surrounding area. The plots are a generic design and the whole development would be an eyesore on the landscape, not to mention the other issues around infrastructure etc. My major concern would be that the area will attract other developers which will ruin Holmbridge.
- The plans include link detached houses but there are no link detached properties on Laithe Avenue, Bankfield Drive, or Laithe Bank Drive.

- In 1993 when a previous application for development was rejected, Kirklees stated that 'the proposed development would significantly detract from the character and scale of Holmbridge and destroy the visual amenity'. In addition, very close to the site, Yorkshire Water were instructed to build underground as it was recognised that building above ground would again 'destroy the visual amenity'.
- The proposed development observes only 'minimum' distancing guidelines from existing properties. Given the uneven sloping nature of the site and the differences in levels of existing properties the new development will dominate and overshadow the existing houses on Bankfield Drive. No elevation plans have been made available which show how the new houses (or any new boundary fencing/planting or possible garden terracing) will sit in relation to the existing adjacent properties and existing boundary wall heights.
- There is no clarity in the proposed plans that the development will reflect the character and appearance of nearby housing.
- I strongly object to the design of buildings proposed by Orion Homes, these are out of character for the street, the size and design along with materials.
- The proposed development contrasts dramatically with the surrounding countryside/Bankfield estate and will form a stark intrusion on the landscape.
- I would like to object to this application based on its effect on the local landscape and contravention of sensible Kirklees and Holme Valley Development Policies. The field involved is currently used as pasture, is directly adjacent to the Green Belt, is alongside a footpath used by walkers and only 600 yards from the boundary of the Peak District National Park – Britain's first National Park .
- There is no adherence to the Holme Valley Neighbourhood Plan which was compiled to preserve the character of the valley.

Residential amenity:

- The closeness of the properties to Bankfield Drive and Laithe Avenue would lead to a lack of privacy, overlooking and overshadowing.
- Existing residents have the right to light.
- Loss of light to existing properties and gardens during the winter months.
- There is a very similar planning application to this one for 35 houses to be built on a site at Wesley Avenue, Netherthong (2023/61/90714/W). However, there has been much greater separation distances given to the existing houses on this site than we have been given on Laithe Avenue despite the layout and levels being much the same (see plan below). I note that the end property on Wesley Avenue (equivalent to our position on Laithe Avenue) only has one window on the side wall, towards the rear, rather than two, and the principal entrance is at the front of the property, facing the road, and not at the side facing the development like ours. There is also a privacy strip with hedging and fencing between the existing property and the first plot on the new development. For the sake of consistency, the site off Bankfield Drive should be given the same treatment as the site off Wesley Avenue to provide sufficient privacy and prevent loss of light and overshadowing.
- In relation to the PROW planned at the side of our house, if for any reason the footpath does not materialise, please can a condition be attached that the strip of land between our property and plot number one

will remain for the benefit of privacy and will not be used for any other purpose or engulfed into the garden of plot number one.

- Concerns regarding separation distances to existing residential dwellings, with references being made to the council's Housebuilders Design Guide SPD and Policy LP24 of the Kirklees Local Plan.
- The planning application does not contain any cross-sectional plans or mention of how the steep gradient of the site will be built into. This could have a significant effect on the light into existing properties. The distance of only 12 metres from the existing properties on Bankfield Drive is unacceptable.
- There are far too many houses for the plot creating over-intensification of the site and plot 1 is much too close to 2 Laithe Avenue which, according to Kirklees SPD Guidelines, should have a separation distance of at least 12 metres as there are windows to habitable rooms on the side wall of the house. The small distance that has been provided will give rise to overlooking, overshadowing and lack of privacy.

Highway safety

- The only access to the site is via Bankfield Drive or Laithe Bank Drive which have 1:5 and 1:6 gradients respectively. These two roads form part of the 5-way junction also involving Smithy Lane and Dobb Top Road. The junction has no level standing, the slopes of Bankfield Drive and Laithe Bank Drive continuing across Dobb Top Road and into a dry stone wall opposite. There are poor sight lines due to the steep gradient of Smithy Lane and a wall on the corner of a blind bend where the carriageway narrows to a width of 4.8 metres. Dobb Top Road, Smithy Lane and Bank Lane are narrow, devoid of footways, and have constant parked cars due to there being no off-road parking. They are effectively reduced to single track. The junction contravenes guidelines within the Kirklees Highways Design Guide, Kirklees Highways Guidance Notes and the National Planning Policy Framework in terms of gradients, no level standing, poor sight lines, carriageway widths and lack of footways. This junction is dangerous.
- The junction is part of a rural school route for children walking to and from Hinchcliffe Mill J & I School, Holmbridge Pre School and Holmbridge Out of School Club, and by children attending Holmfirth High who walk down to the A6024 to catch the bus.
- There are a number of accidents at this junction every year. In wet, icy or snowy conditions vehicles lose control on Bankfield Drive and Laithe Bank Drive (which are never gritted) and plough into the retaining wall on the other side. The repairs to this wall by the council are plain to see. There have also been many collisions between vehicles which are not officially recorded as police have not been called. Recently, after losing control on Laithe Bank Drive, a driver actually bailed out of his vehicle as he feared his car demolishing the wall and plunging down the sheer 40 foot drop on the other side.
- Should ice or snow be forecast many residents of the estate do attempt to park on Smithy Lane or Dobb Top Road in the evening to enable a safer commute the following day, but due to limited availability this is not possible for everyone. Those unable to find a space take a chance in the morning. Only this week (Monday morning 5th December) 2 vehicles lost control and descended Bankfield Drive sideways (having been unable to find a parking space on Smithy or Dobb Top the previous evening).

Fortunately, due to a partial thaw in the early hours, grit had taken effect to a degree on Dobb Top thus preventing two more collisions with the wall, or possibly with pedestrians. Any further development to this estate would exacerbate this problem to an unacceptable degree.

- Planning permission for development of this site has been refused in the past, most recently in 1993 when it was refused first by Kirklees and later on appeal by the Planning Inspectorate who concluded 'The proposed development would lead to an increased hazard for road other road users and pedestrians' and that 'the danger would be sufficient to warrant dismissal of the appeal'.
- Currently on the estate there are 49 houses and 105 cars. 2.14 cars per household, more than twice what it was in 1993. By ratio, 21 new homes would result in a further 45 cars and potentially up to 90 additional commutes per day. Bankfield Drive, the steepest of the 2 access roads is used by 12 homes. Its use would be tripled should the development be approved.
- The transport statement significantly underestimates the additional car journeys the development will generate.
- Concerns raised regarding the traffic generation predicted as set out within the transport statement. It is also important to note that Figure 101 in the report indicates that there were no PSVs included in the total vehicle count. However, Dobb Lane, Dobb Top Road and Smithy Lane are used by the H5 bus service provided by Stotts which runs hourly from 09.30 to 16.30. The counts reported only include traffic flows between 08.45 to 09.45 and 17.30 to 18.30. This casts further doubt on the weight that can be placed on the conclusions reached in this report.
- Some of the assumptions on which the impact on traffic flows are based are questionable, given the inaccuracy of the ATC data. These include the traffic generation, traffic flows, all possible routes to the site not being assessed, the gradient of the highway, visibility.
- The likely number of work-related journeys at peak times is likely to be far higher than the applicant suggests – it is very conceivable that two or three people from each household will be over driving age and in work or using a car to get to higher education etc.
- According to the Office for National Statistics, only 12% of people in this area have no access to a car or van. So, the vast majority have a vehicle. This says that because there is no public transport infrastructure, vehicle ownership is essential. I see this only increasing unless Kirklees get their finger out and sort it. So, when the plans say the car total is 45, this will no doubt increase over time as families have children and children have cars and sons and daughters stay at home longer as they cannot afford to move out. I think 45 cars is on the low side.
- If we assume that each of the households has two cars, works away from the property, this surely would mean that during the AM and PM there would be four journeys per household making a potential of 64 trips during peak times. This isn't inconceivable, is it? A further 64 trips down country roads, abutted by poorly constructed walls with no pavements and blind corners.
- How can Kirklees Council, after all the evidence, deem this junction to suddenly become safe? It is plainly dangerous. House building is clearly being prioritised over general road and especially pedestrian safety. As residents we experience the issues first hand.
- 21 new houses would triple the number of cars using Bankfield Drive and triple the probability of a child being killed at the dangerous junction with

Dobb Top Road. All Committee members should be made aware of this possibility before approving this application.

- Every one of the 111 public consultation comments so far on the planning application is against this development. Over 90% of the objections quote road safety as a major reason. Not only have Kirklees Council ignored these comments, they have chosen to increase the number of dwellings from 16 to 21.
- The proposed mitigation measures to the junction are merely superficial. They make no difference to the layout of the junction as the layout cannot be altered. A new kerb 470mm from the wall is proposed. This kerb would be 325mm high to supposedly stop vehicles breaching the wall. It fails to mention that the result of this would be to force schoolchildren to walk even further into the road than they do now. The other two measures of new road markings and high friction road surfacing, although welcome, will have minimal impact in icy or snowy conditions and will need maintaining. High friction road surfacing has a finite lifespan.
- The council should disregard the Transport Assessments submitted by Optima on behalf of Orion Homes. They contain a whole raft of erroneous and misleading statements and figures and should not be relied upon. Including the width of Smithy Lane with Dobb Topp Road and Bankfield Drive.
- The revised transport statement (October 2023) does not account for these additional vehicles and their impact on surrounding roads. All local approach roads are either estate roads on a steep hillside or narrow lanes linking to the main A6024 at Holmbridge or Hinchliffe Mill.
- The anti-skid coating is proposed for Bankfield Drive only and its effectiveness even if regularly maintained is very limited, particularly in winter weather.
- The development would put wider pressure on the existing road network.
- The parking provision is inadequate and impractical, new homeowners expected to park one behind the other or away from their properties. As a result there will be additional on road parking or use of visitor parking by homeowners.
- It is questionable whether the introduction of an anti-skid/high-friction surface at the junction of Bankfield Drive and Dobb Top Road would be sufficient to reduce the risk of skid-related accidents when the road is covered with snow and ice.
- Without proper gritting services in place, it would be hazardous for vehicles to navigate safely, increasing the risk of accidents and injuries. There would also not be enough parking in other local roads to accommodate the cars from the houses when the road is impassable.
- The proposed installation of a 50m safety kerb will reduce the width of an already narrow road by approximately 5 metres. The installation would also require substantial infill work up to the boundary stone wall because of the steep camber that has developed on the northern side of the road.
- This safety kerb is really a "Wall Protection Kerb" which would do nothing to increase pedestrian safety and may actually decrease it by narrowing the roadway.
- Introducing additional traffic from such a large number of new houses would exacerbate the situation, leading to increased congestion, potential safety hazards, and inconvenience for the residents. It is crucial that measures are taken to address these concerns, ensuring safe and

efficient access for emergency service vehicles, school children, local buses, and local residents.

- During bad weather accidents happen, with children wearing fluorescent tabards since their route to school involves walking along Bank Lane, Smithy Lane and Dobb Top Road which have no pavements. In the case of an accident, a child could be crushed by a car against the wall. The only pragmatic partial answer to this problem is to coat these shared roads with non-slip surfaces and renew / improve road markings whilst not increasing the amount of traffic using such dangerous "shared" roads.
- The current road system, consisting of Smithy Lane, Dobb Top Road, Bankfield Drive and Laithe Avenue carries significant risk which would be severely exacerbated by the proposed development, both from a vehicular access and also from a pedestrian perspective. The suggestion of re-painting a few white lines will not mitigate the risks that these junctions pose, further highlighting the factual inaccuracies in the addendum, particularly given the fact that the transport statement appears to gloss over this (e.g. in relation to the increase of traffic quoted at 300% increase not being a severe impact, the lack of reported accidents etc).
- Child safety is one of the most important problems and therefore a separate report should deal solely with this.
- By suggesting improvements, both the builders and Kirklees Council have admitted the dangers associated with Dobb Top Road at its junctions with Smithy Lane, Bankfield Drive and Laithe Bank Drive.
- There are a lot of comments, and quite rightly, surrounding the gradients of the two primary access routes to the development, and the fact that they contravene Kirklees's own planning policies. How are these being overlooked?
- A Kirklees Highways Guidance Note which immediately followed the Local Plan in March 2019 regarding "Existing Roads Affected by New Developments" outlines requirements for access roads such as Bankfield Drive and Smithy Lane. A further Kirklees Highways Guidance Note (March 2019) entitled "Gradients" gives more detailed recommendations by specifying the actual gradients suitable for infirm or elderly pedestrians, push-chair users etc. This was also written so that new developments within Kirklees would comply with the Equalities Act 2010. I would therefore like Kirklees Council to reject this application and to consider removing site HS183 from the revised Local Plan currently being evaluated.
- Kirklees Design Guides state that no new estates should be built with access roads having gradients steeper than 1 in 20. Laithe Bank Drive and Bankfield Drive have gradients of 1 in 6 and 1 in 5 respectively. This was clearly acceptable in the 1970s but legislation, recommendations and road safety have all moved on and these routes are not compliant with modern thinking. Even the Design Guides of 2019, when the Kirklees Development Plan was written, have now been superseded. Just because the roads are there does not justify Kirklees contravening its own policies and compounding the mistakes of the past.
- This proposed 300% increase in traffic down Bankfield Drive is not acceptable. The probability of a vehicle losing control on wet leaves or frost and crushing a pedestrian, especially a child, against the Dobb Top Road retaining wall would be increased by a factor of three.

- Why is Kirklees allowing more and more building in the Holme Valley when it is obvious that the roads in this area are at saturation point? It takes a minor road closure or accident to render Holmfirth and surrounding areas to gridlock.
- Traffic has increased with more delivery and commercial vehicles all adding to noise and air pollution.
- The access to the proposed development is clearly not suitable, it already services a reasonable sized residential close. Access once leaving the main Woodhead Road through the village is steep and narrow and winding in more than one location.
- The elevations show a steeply rising hill from the dwellings at north of the site and residents will have to drive steeply up hill to exit the site. This will prove difficult in icy and snowy conditions and mean that emergency vehicles will have difficulty accessing the site via Bankfield Drive and Laithe Bank Drive and down the new road at such times. The high elevation of this site of over 200 metres, with greater than average inclement weather, should not be overlooked.
- The planning request grossly underestimates the traffic, access and road safety issues.
- At a "Transport" meeting between "the Council " and Optima / Orion Homes in July 2023, the builders revealed yet another plan with a totally different layout for 21 homes with four affordable homes. No minutes have been provided from this meeting and no reasons given for the change of layout etc. Local residents were informed of this change on 13th October, but the only new information provided to date is a new, very basic Layout Diagram attached to the modified Transport Report relating to the 16 house plan.
- I recognise that this application is on HS183 of which was in the Kirklees Local Plan. However, since the Local Plan was ratified there has been a large increase in house building and vehicle movements in the area with a further 19 houses to be built on the mill site in Hinchliffe Mill bringing with it further increases in traffic issues along Coop Lane, Old Road, Ford Gate, Dobb Lane, Dobb Top Road, Holling Brigg Lane, Smithy Lane, Bank Lane and Woodhead Road. The latter is the main road which has vehicles parked on both sides of the road in Hinchliffe Mill so the other country lanes / roads are already used as a rat run to avoid the main road so in turn is an issue in itself.
- In the world we are living in then it is not just residents' vehicles that use these roads it is also all of the delivery vans that we see on our roads today, many that drive too fast. Having any more houses built in the area on these rural roads is totally acceptable as it is a health and safety issue for all that walk along these country lanes with no pavements which includes residents, children, walkers, tourists, horses and walking groups.
- The description of the bus services in the locality are just plain wrong. The train service is also poor.
- The pavements on Bankfield Drive, Laithe Bank Drive and Laithe Avenue are in a very poor state. They are crumbling away and full of moss and weeds which makes them very slippery. With such steep gradients, people tend to walk on the road to avoid falling but this is obviously dangerous. The developers claim that Kirklees are responsible for maintaining the pavements but there is no maintenance which is why they are in such bad repair.

- The Holme Valley Parish Council have already expressed concerns regarding the amount of traffic on the main A6024 Woodhead Road and the number of parked cars creating obstacles for traffic and pedestrians.
- This junction is simply not safe and has been the scene of numerous accidents over the years especially during the winter time. To increase its use still further would seem to me to be irresponsible. The constant Kirklees Highways argument of it being 'only a few extra houses and therefore not a threat to the safety of pedestrians and other road users' surely cannot continue to be used time after time. These developments add up. I would suggest the highways department visit this junction between 8.30 and 9.00 a.m. on a school day to see the danger for themselves.
- The vast majority of residents of Holmbridge use cars to commute to work as the local public transport facility is wholly inadequate. Almost all of these journeys need to flow through Holmfirth Town Centre which, as everyone is well aware, is becoming more of a bottleneck. Various changes to the traffic system have been put forward as an attempt to mitigate the problem but without success. The road layout in the town centre is what it is and the only way to arrest this ever worsening issue is to stop building these large developments to the west of the town.
- The transport statement describes this location as 'Suburban Edge of Town'? Semi-rural seems more fitting, most residents require a car for travel anywhere as the local bus service is very restricted in terms of destination, service frequency and reliability of journey times. The number of journeys that the development would generate seems understated. Walking times appear to take no account of the topography.
- Most traffic from the development will head towards Holmfirth (58% seems another understatement). From Holmbridge to Shaw Lane, the majority of the Woodhead Road is now only one-way due to the obstruction of parked cars. The existing traffic dangers will be exacerbated by the 19 dwellings which have already been given permission to be built at the Water Street development in Hinchliffe Mill.
- The proposed development would vastly increase the number of vehicles using these dangerously difficult roads and this planning application should be rejected on grounds of road safety.
- Residents have to use cars not public transport to get to work and to access basic services. Developing on this plot would go against Kirklees's aim of concentrating developments in areas where public transport can be effectively utilised. Using the same ratio, 16 new houses would result in 34 more cars and therefore potentially up to 68 extra work trips per day.
- The proposal has not fully considered the safety impact to pedestrians and road users of the increased use of vehicles. They are proposing 45 car park spaces, building 16 houses x two vehicles per house – two movements per day = extra 64 vehicles using the roads.
- An independent risk assessment would identify that the risk of accident/incident is high due to a number of factors and the severity of risk is high, which fails to prioritise the risk to residents or users of our local area.
- In 2018, HM Inspector of Planning was made aware of these dangers by local residents and she specified that a Transport Statement should be submitted with any future plans for Site H183 (then known as H 626). At this time it was implicit that a Road Safety Audit would be included to deal with access to this difficult site. Optima Ltd have recently provided

Orion Homes with a Transport Statement to be included with their planning application but this falls well below normal standards by containing several mistakes and omitting many important facts regarding pedestrian safety.

- Optima have themselves concluded that there is no need to carry out a Road Safety Audit on the two access roads to Laithe Avenue. I would suggest that HM Inspectorate of Planning might have different views on this matter.
- The bus doesn't run during snow as it has to turn round in Holme which is far too treacherous to get to hence the cars being left on all nearby roads.
- Planning has just recently been granted for 19 new dwellings and no improvements in the local infrastructure were included in that planning on Water Street. Since the pandemic ended and the Vineyard is back in full swing driving in the local area is nearly impossible, the volume of traffic has increased significantly – most of the roads are reduced to single lane and should you meet a large vehicle such as a bin wagon or delivery vehicle this causes a significant blockage. Also, there are very few places where there are pavements – as a dog walker in the area it feels very dangerous walking on these roads at peak times. Perhaps if this planning is approved you ensure roads are widened where possible or you find a solution to the hundreds of parked cars that are on the highway.
- I would urge, however, that in addition, careful consideration be given to imposing a 20mph speed limit on Dobb Top Road. The HDM response indicates that whilst the speed of majority of traffic using this route is 20.7mph, there is still a minority of vehicles that travel faster than this.
- Whilst the amendments proposed will certainly mitigate some of the concerns identified about traffic flow and road surfaces at the junction of Laithe Bank Drive and Dobb Top Road, and whilst the proposed additional signage is important improvement, these amendments fail to take full account of the risks to pedestrians and cyclists using this route, which will be made greater by even a modest increase in traffic. I would therefore ask the council to address this issue by imposing a 20mph speed limit on the length of Dobb Top Road.
- Dobb Top Road is a designated rural school route (and a designated cycle route) the width of which varies and although it is relatively wide at the point at which Bankfield Drive and Laithe Bank Drive join it, in some places it is extremely narrow, particularly towards the eastern end, where there are also blind corners on a length of road where there are also frequently parked vehicles. As a consequence, pedestrians and cyclists travelling westwards along Dobb Top Road are frequently confronted with vehicles coming round these blind bends, often at some speed.
- This problem is exacerbated by the absence of footpaths. The HDM comments note that there is "no (or very limited) footway provision" on the route. This is true but this statement fails to give the full picture. There is just one length of footway, which is only some 25m long, which runs eastwards on the south side of Dobb Top Road from the bottom of Bankfield Drive. On a road that is some 800m long, this is *extremely* limited and pedestrians therefore have no choice but to walk on the road for almost its entire length, which can be quite hazardous.

Landscaping:

- The recent landscaping plan submitted by Orion is full of vagaries and omissions. In the Arboricultural Survey dated 24/04/2023 Orion agreed after consultation with the council that the existing hedgerow and trees at the northern border of the site would remain intact. They have now submitted a landscaping plan which takes it away!
- There is no detail of ownership and responsibility of maintenance for communal planted areas as well as there being wholly inadequate screening to existing properties. The suggested new native hedge being even lower than the low dry stone wall we assume it will sit in front of. Subsequent ownership and maintenance responsibility for said wall has also not been supplied despite repeated requests.
- It is stated in the Kirklees Council consultation response from landscaping dated 25/08/2023, that 'the approved landscaping scheme shall, from its completion, be maintained for a period of five years'. Who will own these areas and who will be responsible for their maintenance after five years? Are we also right to assume that should the developer cease trading during the initial five years, that the responsibility will fall to the council?
- The proposed native hedge has a height of 60 – 80 cm. This is wholly inadequate screening to the existing properties which have a habitable floor level in some areas of around 170 cm above the level of the field (please see topography point below). 60 – 80 cm does not even reach anywhere near the top of the current low dry stone wall. Additionally, are we right to assume that any hedge will be on the field side of the existing low dry stone wall? As point 2, who will adopt ownership and be responsible maintenance of the hedge on completion?
- On the plan the proposed new trees have a girth of 6 – 8 cm. This would provide no real screening to existing properties especially in the early years. We would therefore request that far more mature trees are provided to enable them to be fit for purpose from a screening point of view.

Ecology

- I provided detailed ecological comments on the application in a previous objection. I have reviewed the latest EclA report (rev 3 dated 07/11/2023) and I do not agree that potential impacts upon the Peak District Moors (South Pennine Moors Phase I) Special Protection Area (SPA) have been adequately considered. At the Competent Authority it is the responsibility of Kirklees Council to consider whether impacts upon the SPA could arise, for example through 'linked functionality' or indirect recreational impacts. The Site is only 2km or so from the SPA, and the EclA concludes that this is a sufficient distance such that impacts cannot arise.
- Guidance from Bradford City Council (Emerging Local Plan and Core Strategy) states that development of land up to 7km from the SPA can have an impact upon the SPA. As a professional ecologist myself, with over 27 years relevant experience, I can confirm that curlew feed locally, and that golden plover also feed on grassland to the east of the SPA, though I have not personally observed them within or immediately adjacent to the application site itself.

- In my view Kirklees Council will not be discharging its responsibilities fully, without requesting further information, and obtaining further evidence, that linked functionality or recreation based impacts will not arise upon the SPA, from the scheme in isolation and in combination with other schemes.
- Various wildlife visit the site including house martins, owls, bats, hedgehogs, raptors (kestrel and sparrowhawks). Disturbance during the building of the estate will undermine these habitats. UK is recognised as one of the most nature-depleted countries in the world, it would be unforgivable to make it more so.
- The site is rich with wildlife that will be impacted by this proposal.
- The ecology report was undertaken during winter therefore it was outside the ideal dates for surveying summer migrant birds. According to The People's Trust for Endangered Species, hedgehogs are deemed to be vulnerable to extinction and the organisation Save our Wild Isles (WWF, RSPB and National Trust) state that over the last half century, 30 million birds have vanished from our skies and 97% of wildflower meadows have been lost since the 1930s. We need to preserve the nature and wildlife in the Holme Valley, not deplete it.
- Ecological site survey was undertaken in winter before summer migrants return, and house martins have been observed foraging over the site for many years, a species that is now on the red list in the UK. We object to the loss of this important foraging habitat, and if any development does go ahead it should include mitigation measures such as artificial nest cups for house martins, water features designed for availability of mud for additional nest building, and replacement high-quality foraging habitat on site such as open water and meadow, following guidance from a suitably qualified ecologist.
- I am not satisfied that sufficient evidence has been provided to demonstrate that there will be no impact upon the integrity of the South Pennine Moors SPA, which lies only 1.5km away. There is a clear pathway for 'linked functionality' to arise, for example, as curlew, golden plover and short-eared owl have all been observed locally, and curlew in particular are frequently heard calling from fields to the south-west of Laithe Avenue during the breeding season. It is possible that curlew breeding within the SPA feed within the application site, and surveys should be carried out between March and June to demonstrate whether or not this is the case.
- We need to preserve the nature and wildlife in the Holme Valley, not deplete it.
- I welcome the inclusion of hedgehog highways within the application but feel that more could be done for protected species, for example the incorporation of integrated bat boxes and bird boxes. In some years a maternity colony of common pipistrelle bats is present within a property on Laithe Avenue (50 bats emerged on the evening of 15/06/2023), and whiskered bats roost in a property at the bottom of Smithy Lane. Brown long-eared also occur locally. House martins nest on some nearby properties and I would encourage artificial nesting cups on some properties to expand this colony. Starlings and house sparrow also breed locally, and should be accommodated within the new development.
- In my view the field has scope to support common lizard, though I have not personally seen this species in the immediate vicinity of the site. I believe that reptile presence / absence surveys should therefore be

carried out, and the results submitted as Supplementary Ecological Information (SEI).

- I agree that the site supports 'other neutral grassland', and the EclA predicts a net loss of 3.93 habitat units. However, the calculation is flawed as urban trees within gardens should not count towards this total; as clearly stated within the guidelines for the most recent Defra metric (Metric 4.0) only trees located outside of gardens should contribute to the overall level of BNG. Furthermore, the EclA does not state how this 3.93 habitat unit shall be overcome, and a net gain achieved (to accord with local planning policy and the NPPF).
- Interestingly, the above ecological impact assessment fails to specifically mention the section 1 birds – owls, kestrels, and sparrowhawks, which I see foraging over the area. Buzzards are regularly seen roosting in the enormous trees just west of the site and within 100 metres. An important omission as I believe these are all protected species.
- I have seen deer roaming in this area along with many other animals and birds, having witnessed a deer jumping over a high wall to its death in order to escape an oncoming car due to the noise.
- Impact on noise for wildlife.

Drainage:

- There are already a number of drainage issues connected to the current estate which have resulted in subsidence to roads and sewage escapes into the River Holme below. Significant volumes of surface water from the field run onto Dobb Top Road already, potentially weakening the high dry stone retaining wall bordering the north of the site. Development of this field could compromise the structural stability of the wall still further and, should it collapse, the knock-on affect to the properties on Smithy Lane would be catastrophic. Appropriate disposal of surface water has not been addressed on the plans submitted. The comments of Kirklees Lead Local Flood Authority dated 26th May 26/05/2023 and 01/11/2023 stated that the drainage strategy on the submitted plans was inadequate and required a revised surface water drainage strategy. This has not been forthcoming. Additionally, the effects of climate change on this severely sloping site also appear to have been entirely disregarded.
- Concerns are raised regarding the possible damage that may occur to houses on Smithy Lane if soakaways are allowed due to the permeability of the 10m high dry stone wall on the south side of Dobb Top Road below the development site.
- The presence of a spring on the site is a potential risk of water pressure to this wall if it is hard covered over. Even culverting the spring may cause the water to appear elsewhere and cause excess water pressure to this wall and potential damage to the wall / road and houses on Smithy Lane. It is imperative that soakaways are not allowed on the site and that all surface water from the roofs and hard cover is sent to attenuation tanks and drained through the main drains.
- There are a number of streams/watercourses that run through the site, and planning to put additional sewers into Dobb Top Road could very easily upset the natural drainage.
- Site HS183 frequently floods, presumably due to natural spring water plus extra surface water from higher fields to the south (ducks have been seen swimming on the ponds formed on this site). Current plans do not show any methods for diverting this extra water from reaching the site.

- The water and sewerage network is already under increased pressure in this area. There have been several recorded sewer flooding incidents, and also issues with clean water pipes bursting and causing flooding on the highway. These new houses won't be the ones who suffer the consequences it will be the residents in Dobb top road, smithy lane and bank lane. I question as to why inspections, testing and modelling were carried out in drier and warmer months, and not the more colder, wetter times this area experiences more often.
- A Legal Constraint applies to this site regarding a Water Right which serves both Bankfield Farm and The Barn on Dobb Top Road. The supply was installed in 1986/87 following the sale of the properties. The original water supply came over the hill from Dobb Dyke. Permission has not been given and will not be given for the supply to be interfered with in any way. Deeds etc refer, the site landowner apparently does not have a copy. Please note that permission has not and will not be given to interfere with the water supply in any way. These properties (The Barn and Bankfield Farm on Dobb Top Road) rely on these water rights for their daily needs and any disruption or interference could have a significant impact on residents' wellbeing. It is imperative that the planning office ensures a long-term solution is in place to protect and maintain the uninterrupted water supply, providing reassurance to the affected property owners.
- The Climate Change Act of 2008 places responsibility to protect public from flooding as climate breaks down. Our rights will be breached if Kirklees Planning does not ensure that the developer pays full attention to flood control.
- The new houses will put stress on the existing water, drainage, sewage and power systems.
- So much water flows from the hills behind, how will this be addressed to ensure flooding doesn't occur (and subsidence and sewage leaks).
- The dry-stone supporting wall on the south side of Dobb Top Road (formerly a cart-track known as Bank Top Lane) has had to be rebuilt in several places. Drainage holes have been built into the bottom of these new sections of wall suggesting that water has caused this wall to collapse. The views of a professional engineering expert, unconnected with Orion Homes, should be sought on all of the above points before proceeding further.
- Are all parties satisfied that the existing drainage system is fit for purpose?
- Residents of Bankfield Drive and Laithe Bank Drive have repeatedly reported issues with the sewerage system over the years. I understand Yorkshire Water do not have the existing estate layout fully mapped – surely any addition to the loads or adjustments to the existing system could have huge implications.
- The plan shows significant numbers of water flow tanks on site under drives and gardens, it would be irresponsible to add further drainage issue to an area.
- I am concerned there is a risk to this wall by changing the use of the land and plans to install sewerage pipes under this wall may impact on the structural strength of the wall. Those of us in the local area are fully aware of the Burnlee Road closure which has gone on for over two years now after the collapse of the dry-stone wall.
- The impact rainfall may have on the retaining wall and the further impact it may have on residents if the wall collapses.

- Where is all this water going when building excavations will obviously disturb its natural flow? The Farmhouse and The Barn both have underground rooms and cellars with a drain. Should the sumps be disturbed, they may well backfire and cause us to flood.
- The additional sewage flow is also connected to the pipe going down Smithy Lane. If additional sewer pipes are required to take this extra flow, it should be noted that the flue for the chimney of the former Clarence Mill passes underneath Smithy Lane, which may cause complications.
- We have lived in this house since 1987 and in that time, during even moderate rainfall, significant volumes of surface water run down Dobb Top Road from the field above. As there are no surface water drains, the surface water in addition to running into Smithy Lane, leaches into the supporting 30ft retaining wall for Dobb Top Road potentially weakening the structure and posing a threat of the wall collapsing creating a danger to life and property, and which ultimately may require structural repairs by the council.
- There is concern that water ingress may occur to the Smithy garden and detrimentally affect the retaining wall, house walls / foundations. The house is believed to date from the mid-18th Century and therefore has no recognisable foundations, being constructed directly on the bedrock.

General objections:

- Could I make the point that the Kirklees Development Plan is not sacrosanct, despite recent quotes from some local Councillor. When allocating site HS183 for housing in 2019, H.M. Inspector of Planning stated that this decision was subject to a number of site constraints including contamination, surface water, transport, etc. The current planning procedure involves the builder supplying such reports as "supporting information" but this method can prove unsatisfactory due to possible conflicts of interest. To be professional, such reports should always be unbiased and not mislead the public by omission or manipulation of data. Since some of the reports issued in this case do not meet this standard, I feel that I must object to this application.
- On the Kirklees Council Strategic Housing consultation response dated 31/05/2023 it states 'affordable homes should be distributed evenly throughout the development'. In a further response dated 24/10/2023 they state 'affordable dwellings should be well integrated within the site layout and not located at specific areas at the edges of sites'. Four affordable homes are designated for this site on the revised plan. Three out of the four are located at the northeast of the site. This is not 'even distribution'. It also contravenes 'Kirklees Affordable Housing and Housing Mix' document Section 6 dated March 2023 as well as national planning policy guidelines.
- It is plain to see on the proposed plan of the site in question that the affordable homes are not dispersed throughout the site. Plots 18 and 19 are next to each other and plot 21 is just behind. Surely one of either plot 18 or 19 should be moved up to plot 7, 8, or 9 in order to follow the guidelines. Putting three affordable homes at the northeast of the site and nothing in the south goes against policy guidelines and invites potential issues, not least from a social exclusion standpoint.
- In addition, a slope stability study should be undertaken to assess the risk of a landslip taking into account the spring water, as water is a major contributor to landslips. Such slips can be seen all over the Holme Valley.

- There is zero evidence presented by the developer that their proposed development will not have an impact on the existing retaining walls to the north of the development, on Dobb Top Road and consequently those on Smithy Lane and Bank Lane, too. This is despite KC Highways and Structures' response to the application clearly indicating this is required. At the very least geological surveys need to be carried out to show what the impact of the proposed development will have on these retaining walls, and if there is a negative impact what is to be done to ensure the integrity of the retaining walls remains intact.
- As others have noted in more detail there are significant concerns about the structural integrity of site retaining walls and responsibility for future maintenance and the potential impact of collapse on other existing walls/roads/properties/drainage. Increasing the site density adds to the risks.
- The stone wall has collapsed and has been replaced in section. This wall borders other properties on Bankfield and Dobb Top Road there is no consideration of the impact the build on this wall and neighbouring properties.
- On the opposite side of Dobb Top Road from this wall is a much larger retaining wall and below this wall are a number of houses. Given the amount of disturbance to the road and wall structures that any building work would create in order to install the planned drainage, who is ultimately responsible for signing off these structures as 100% safe and stable?
- Clearly any subsidence or structural movement in this area will have a very significant impact on the infrastructure but also on the other properties. A wall collapse would be potentially life threatening. None of this is evident without a site visit as maps/drone shots will not show the site geography in the same way.
- There appears to be no guarantee given by Orion Homes as to the stability of the dry stone wall in this case. There also seems to be no acceptance of responsibility should the wall collapse or require repair subsequent to the completion of any development. Additionally, should the wall collapse it could take with it the properties of 2 and 4 Bankfield Drive as well as creating a domino effect compromising the stability of the dry stone retaining wall on the opposite side of Dobb Top Road.
- There is no adherence to the Holme Valley Neighbourhood Plan which was compiled to preserve the character of the valley. The application should use natural stone, there is a quarry very close by and should include solar panels, ground or air source heating and added insulation. The natural stone is very important to preserve the character of the valley.
- Kirklees needs more housing but it should not be sites in areas that would increase danger to pedestrians, be inaccessible, reduce the visual amenity of the National Park and would affect the wildlife in the Holme Valley. Since the supporting documents do not fully address the points mentioned above I feel that I must object to this application whilst hoping that more suitable sites can be found.
- The effect climate breakdown will have on the underlying structure and integrity within the development site, particularly the northern boundary dry stone wall, beyond which lies a 12-13m drop onto Smithy Lane via Dobb Top Road. It would be unforgivable to ignore such warnings in the pursuit of political objectives, however honourable, or deferentially

following actions simply because they are part of a council development plan.

- It is a matter of regret that there was no prior consultation between the developers and the Parish Council or local residents. Had this taken place, at least some of the concerns that are currently being expressed by residents right have been addressed in advance of submitting this application.
- It is still not clear from the application that this meets the concerns expressed by the Parish Council and Kirklees about affordable housing provision, or that it meets the requirements of NDP Policy 6, which is in conformity with Policies LP3 and LP11 of the Kirklees Local Plan.
- The proposed development does not appear to meet these requirements, or the concerns expressed in the public consultations for the NDP. In addition, the inclusion of an additional five houses increases the density of housing on the site by a third.
- In terms of climate mitigation, these properties should have heat pumps (air or ground source) installed rather than gas condensing boilers in order to reduce further their carbon impact.
- Will these new houses be energy efficient? Will they have low fossil fuel emissions, solar panels and insulation that addresses climate change? These are vital if we are to reach UK net zero targets.
- I objection on the matters of site access, transport, drainage, aesthetics, effects on wildlife and the fact that Holmbridge attracts tourism and does not need 21 new homes.
- Greater weight is given to private profit. Profits from developments go to the developers. Losses will fall to the local council and council tax payers.
- Should damage to infrastructure occur following the undermining of the site's foundations who would pay for repair, compensation etc?
- Council budgets have been drastically cut over the last 13 years. Private companies have enjoyed huge profits, e.g. water companies, resulting in large bonuses for bosses and shareholders. Meanwhile public and social infrastructure has been pillaged. Why should a council accept developments that may result in additional costs which, following 13 years of austerity, they cannot afford, whilst the developer makes significant profits?
- The plans show our "muckheap" which abuts our boundary wall. The site is downwind of it and you need to be 15 metres from it to avoid the effects of smells, flies, mice, rats and self-combustion, otherwise there will be complaints. Our chicken run is sited just over the wall from plot 14 and won't be moving. Can be noisy and a bit smelly.
- Plots 15, 14 and 6 are too close to our dry stone boundary wall. Foundation excavations may well cause collapse. They are expensive to re-build – at £55.00 a Linear Course metre and of course would create security issues for our horse. The walls are only 4ft 6ins high which means she will be able to reach over into gardens. There are no signs of suitable fencing on the site side to prevent this. A horse can reach over, so fencing will need to be on the site side to prevent feeding access. Most garden plants/shrubs etc are poisonous to horses.
- Where is the replacement grazing for the loss of this site?
- Building so that the footpath is no longer fully visible and is apparently inviting additional use, which creates a whole host of Health and Safety questions both for the users and any horses.
- Gardens would be reasonable over the wall, electric fencing would not be allowed on a public footpath.

- Only from the public footpath that abuts HS183 can the three moors views be seen (Wessenden, Saddleworth and down to Derbyshire). A “quirky” feature!
- All sites have to pass Health and Safety Risk assessments. How is this site going to pass with a horse in the immediate vicinity? And of course, the Public Footpath? It cannot possibly pass and therefore will probably invalidate any insurances so will not be able to operate.
- We wish to remind you that the council owns the dry stone wall sections bordering the rear of all houses on Smithy Lane and Bank Lane and is responsible for maintenance and liability. This was confirmed in 2014.
- The 10m high dry-stone wall to which I am referring is of considerable age and this particular section appears to be sound. However there have been breaches further along and with climate change, increased rainfall, more housing development which will impact on natural land drainage will cause immense problems if addressed with flood management in mind. Should the wall be breached by ingress of water a risk to life and property will forever threaten those who live beneath the development. We charge Kirklees with the responsibility to ensure we and our properties are all safe from harm.
- This increase in number of houses only highlights the developers lack understanding of local issues by increasing the number of houses to ‘meet’ the need for affordable housing does not mitigate existing concerns of local people and an attempt to address this by increasing the number of houses only exacerbates the issues already raised. It underscores the need for a comprehensive re-evaluation of the proposal to ensure that it aligns with the best interests of the community and existing infrastructure.
- I would strongly suggest that all the persons on the planning committee visit site prior to making any decisions regarding this development. (not just one maybe two as is often the case, if any). It is totally wrong that people who sit upon the planning committee who do not reside in the immediate local vicinity of the development in question often do not fully familiarise themselves with the full facts and a firsthand view and tour of the location to understand the implications it will place on the already overloaded infrastructure, the wishes of the wider local community and the immediate existing village residents.
- There are no reports from Orion as to whether the structural integrity of the existing retaining 2.8 metre high wall on the northern boundary of the site has been assessed, as recommended in 8.7 of the Ground Investigation Report. The future stability of the wall may not be suitable for the long-term support of the site and surely undermining this wall with sewerage pipes will affect its stability. The conditions required by KC Bridges and Structures Manager in the report dated 19 October should be strictly adhered to and the development turned down if these conditions cannot be met.
- Any fencing should let the strong prevailing winds pass through. Residents on Bankfield Drive can confirm that any solid fencing will not last the first storm.
- Noise disturbance from the site will be significant.
- Increased noise and air pollution.
- The revised application has only been accompanied by a new Transport Statement Addendum (Oct 2023). All other documentation supplied by Orion is un-altered, and many issues raised in the Consultee Responses and Comments on the original application have not been addressed. It

is therefore difficult to comment on the application without clarification on, e.g., drainage (Kirklees Lead local Flood Authority did not accept the existing plans and calculations for flood risk), landscaping, road layout etc.

- Infrastructure is currently inadequate and this is a quiet village area and the proposed development is out of character.
- The planning amendments have not addressed the serious issues raised.
- I also believe the inclusion of affordable housing in an area which has limited facilities and very poor public transport infrastructure makes little sense.
- Surely this planning application should include detailed plans for improvement to road infrastructure in the area and plans for a significant improvement in amenities. There are no local shops nearby, the local school is already full and public transport is inadequate.
- All residents have to travel for basic necessities and fuel but there is very limited infrastructure in place i.e. public transport, good quality roads, parking amenities and shops. Residents are currently subjected to very lengthy power cuts, not a recent occurrence as it has been continually happening for many years. Schools in the area are limited and already full without the addition of a family housing development. Secondary education from the area entails further travel which requires more public transport which is very limited now and always has been i.e. hourly bus services that is if they turn up!
- We are a small and rural village with one pub, shop and cricket club. I believe the local school is full which will mean that new homeowners will long commutes to the nearest school. It will affect my own family with the overpopulation if I cannot get future children into the school.
- Very disappointing that a development for 16 houses received so much objection and appears to have been ignored and increased to 21 houses.
- Following the revised plans on the above application, I would like to request an extension to the deadline for submitting comments. At the moment it is stated as the 2nd November but as the plans have radically changed and the number of properties has increased from 16 to 21, I feel that this is not a reasonable length of time for local residents to peruse all the information and gather public opinion. The new application did not arrive in time for it to be included on the agenda for the next HVPC and as the next committee meeting is not until the 4th December, I suggest that the deadline is moved until after this date. We are still waiting for a plan to show the topography of the site, details of the building materials to be used, and whether there is permission for the PROW to be installed over the wall dividing the fields.
- Local residents are now being given only three weeks to comment on a totally revised plan. The plan is now for 21 rather than 16 houses with different types of houses (no garages, reduced parking spaces) and a totally different road layout. Most of the reports made by various Kirklees Departments are therefore no longer relevant and will need to be re-submitted.
- For these reasons alone the application for 21 dwellings is quite clear to all who know the area an over intensification of the site and should be reduced back to 16 or below. I notice that Kirklees planning looks to have insisted on building five “affordable homes”. These houses should be called “affordable rented housing” as you cannot buy them outright so not “affordable housing” but “affordable rented housing”.

- I have just had a look in the area and there are 16 houses to rent in the area proving that five affordable housing on this application is not needed as there are already houses to rent in the area vacant.
- I have also looked and under the current pricing formula worked out by councils and building companies for affordable housing there are 87 what would be classified as affordable to buy housing within the area. Again proving that increasing the housing from 16 to 21 by adding five “affordable houses” then there is no need to increase housing numbers in this site. However, If Kirklees planning insists on adding five so called “affordable houses” there should be a reduction of the larger housing so as to have no more than 16 houses on this application no matter what the housing mix.
- The local school would not cope with the extra children. The J & I school is currently under subscribed and was reduced to three classes for this term. How will the school be able to cope with the extra children when the curriculum and staff have been tailored to a three class school?
- Over time the beautiful village of Holmbridge is being slowly ruined by the number of developments being considered and passed for construction. We are losing our countryside, green spaces, character and charm. The countryside, scenic views, peace and tranquillity are disappearing, and all in the name of commercial gain and greed.
- The infrastructure in all aspects is not sufficient in Holmbridge to cope with further residential developments.
- There are many suitable locations in the south Huddersfield area for additional housing – this is not one of them. I am shocked that this development proposal has been allowed to progress at all. The site is not suitable without significant improvement of the local road infrastructure.
- What the UK, Kirklees and in particular Holme Valley South needs is social housing, affordable housing would help, but it must be affordable taking into account the level of the local housing allowance (rent levels ‘allowed’ for social security benefits). The Holme Valley would be enhanced by being a mixed community. It’s not – there’s little dispute that it’s become an area for the middle class.
- The application does not show a cross-sectional plan of the development therefore it is impossible to see how the properties and gardens will lie in relation to the existing houses on Laithe Avenue and Bankfield Drive. For a development of this size, it is surely essential that a cross-sectional plan showing the topography of the land is included.
- Walkers on the public footpath (Holmfirth 91) regularly stop to take advantage of the magnificent views towards the Peak District which will be lost for ever if planning permission is granted.
- I note that none of the sites in the Holmfirth area that are in the LDP have been rejected as yet and am concerned that with all the building taking place we will lose what tourists visit the Holme Valley for. We are in danger of taking a very short sighted view which will result in this area ceasing to be sufficiently rural and therefore no longer being attractive to potential visitors. Tourism is of paramount importance to many businesses in the Holme Valley with a growing number of holiday lets and B&Bs. We are in severe danger of destroying the appeal of the valley to visitors forever.
- I believe Orion are ‘off setting’ the social housing aspect with the plans. There are not affordable housing. They are all 3-5 bedroom houses in an area of outstanding beauty their price point will be, in my opinion,

£500,000 upwards. This development is clearly a money making opportunity. It does not in keep with increasing affordable housing for the area despite 'off setting'. Houses and gardens on Bankfield Drive will be overlooked and impact the residents' privacy.

- Some of the proposed houses are sited too close to our muck heaps and chicken run. All are downwind of our yard and stable areas. Dangerously and potentially confrontational planning.
- We are losing a key aspect of our habitat, which supports our mental wellbeing – a peaceful green field to look over, a beautiful treescape, a wonderful, diverse, rich ecological environment. It is obvious that the building of houses on this site is going to impact on all who live nearby and significantly on those who live closest.
- The 26 houses on Bankfield Drive and Laithe Bank Drive were built in the early 1970s. Since then, a further 20 houses have been constructed on Laithe Avenue and Laithe Court. Presumably these are also connected to the sewer passing down Smithy Lane, Holmbridge.
- There appear to be several errors and inaccuracies in various sections of this application and I would like to thank Kirklees Environmental for picking up on the incorrect soil analysis.
- The PROW has been marked as next to our house, please can you confirm if the applicant has obtained permission for a right of way on to the footpath over the field boundary wall as if not, the PROW is not feasible and should not be included on the plans.
- Other infrastructures such as access to broadband and public transport - the small local school the drainage and water supply are all stretched and limited so addition of further properties without consideration of this will put further strain on the local area.
- There is no affordable or social housing being built - the houses are all 3- or 4-beds so one can anticipate that (a) they will be expensive and (b) the population of the site is likely to be around 90-100 people, in a small village that has no infrastructure to support additional numbers e.g. no shop, only one bus every hour etc, a very small village school.
- There is another planning application in for holiday chalets near this site so maybe the council needs to decide whether it wants to keep green spaces, wildlife and quiet roads for locals and tourists or whether it wants Holmbridge to become a suburban area. If the latter, then a better infrastructure needs to be developed first.

7.4 Responses to the above comments are addressed within this report.

7.5 Holme Valley Parish Council: Concerns raised in respect of affordable housing (as none are intended for rent), climate mitigation, highway and road safety, drainage, run off and saturation of adjacent land, and the fact that a lower density has not been accepted to improve ecology, in line with the HVNP. The Parish Council are also disappointed that the plans proposed artificial stone so close to the Peak District National Park.

Officer comment: These concerns are noted and have been addressed within the report below.

Ward Members:

7.6 Former Councillor Firth: Objections have been raised for the following reasons:

- The road infrastructure around Holmbridge is not capable of handling the properties that are already built, never mind the ones proposed as part of this application.
- The main road through Hinchliffe Mill is barely wide enough to take the extra traffic generated from the previous builds, never mind future development. The road width is less than 3 metres although the ruling is road widths need to be at least 4.5 metres if used by more than two houses, which rules out properties that are already built and certainly the ones that are down for a decision. Ninety percent of the time Woodhead Road is semi blocked up with the weight of traffic using the road to and from Holme Village / Holmbridge / Austonely / Brownhill Road and it is also a through road for traffic going into Derbyshire.
- The builder I am told has paid out for a traffic check on the movement into and out of Holmbridge and guess what they have overlooked it.
- Before anymore decisions are made with regard to all building in Holme Valley South, I would like a complete assessment of all road widths in all our villages both to and from to make sure the standard 4.5 metre rule on road width exists and to make sure there is enough on street car parking, without causing traffic jams.
- Road infrastructure in the Holme Valley is quite capable to handle traffic of 30 plus years ago and nothing can be done in this respect, but we can as a council help to alleviate this problem stop building more houses and ruining the only areas left of our beautiful Yorkshire countryside,
- One of my main worries besides being overrun with traffic is the sewage system which is already overloaded and bursts are getting more regular now than they used to be. The system includes, quite a lot of old Victorian sewer pipes which are being used and coupled on to modern sewage systems. I have actually seen sewer pipes unearthed/manufactured by Hepworth Iron Co. over 150 years ago and house builders told to couple up regardless of the condition of the old sewer pipe, Yorkshire Water refused to replace.
- As planning officials you may think you are not responsible for the outcome of the Planning Committees, but most committees consist of Councillors of other areas who don't or don't want to know the problems of areas they don't represent, if they were given the true facts they may have a different attitude to passing plans.

Officer comment: The concerns have been addressed within the committee report in respect of highway safety and drainage.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Lead Local Flood Authority: Officers accept the proposed surface water discharge rate of 3.5l/s and associated attenuation storage and proposed discharge to the Yorkshire Water 225mm Diameter Surface Water sewer in Dobb Top Road (subject to Yorkshire Water approvals) as set out on the drainage plan.

8.2 Non-statutory:

KC Environmental Health: No objections subject to conditions being attached to the decision notice in relation to unexpected land contamination, imported materials, the requirement of electric vehicle charging points and a Construction Environmental Management Plan.

KC Highways Development Management: In support of the application subject to conditions regarding cycle parking, highway condition surveys, construction management, the management of waste, vehicle and pedestrian spaces to be laid out, approved access and preliminary street and footpath design details. Request that the public right of way connection be secured within a Section 106 obligation.

KC Waste Strategy: The additional information supplied addresses the concerns officers originally raised. However, if properties are to be occupied before the site construction is complete, provision must be made for temporary waste collection, as refuse vehicles will not enter a construction site. As such, a temporary waste collection condition is required.

KC Strategic Housing: Based on 21 units, four affordable dwellings would be required with the following tenure split: two affordable or social rent, one first home and one RP-led intermediate.

KC Highway Structures: Conditions in relation to a full dilapidation survey of the existing dry stone highway retaining wall adjacent to Dobb Top Road, the design and detail of any new retaining walls adjacent to the highway and any details of any new surface water attenuation features within the proposed highway footprint or influence zone of highway loading are required.

KC Trees: No objection subject to a condition in the case of an approval ensuring that the Arboricultural Method Statement and specifically section 2 is followed and implemented during construction.

KC Landscape: In support of the development proposed subject to a management and maintenance condition for the green open spaces.

KC Ecology: No objections, subject to the securement of the above commuted sum in order to achieve a 10% biodiversity net gain and conditions to secure a Construction Environmental Management Plan (for Biodiversity) and a Biodiversity Enhancement Management Plan.

KC Public Rights of Way (PROW): Officers welcome the new footpath to the definitive footpath to the rear of the development and are pleased to see that it is shown at 2.5m in width.

West Yorkshire Police Designing Out Crime Officer: No objection subject to a security measures condition.

Yorkshire Water: No objection to the proposal.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design
- Residential amenity
- Landscape issues
- Highway issues
- Drainage issues
- Other matters
- Representations
- Planning obligations and viability

10.0 APPRAISAL

Land use and principle of development

Residential development

- 10.1 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.
- 10.2 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 3-year period (the “pass” threshold is 75%).
- 10.3 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. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7); or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 10.4 The council’s inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers’ assessment.
- 10.5 The site comprises site allocation HS183 to which full weight can be given.

10.6 The 21 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan, which carries positive weight in the balance of planning considerations. Substantial weight must also 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.

Quantum

10.7 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. In this instance, the site is situated within the area covered by the Holme Valley Neighbourhood Plan where paragraph 4.5.16 states that “based on the Local Plan’s identified size of the allocated sites and number of proposed houses, it is estimated that the housing density in the Holme Valley will be approximately 30 dwellings per hectare”.

10.8 In this instance, the site is 0.66 hectares, and the site allocation refers to an indicative capacity of 23 dwellings. The 21 units proposed would provide a density of 32 dwellings per hectare. The quantum of proposed development considered acceptable as it takes into account the topography of the site and the requirement to provide adequate separation distances to third party dwellings.

Unit size mix

10.9 Progressing to housing mix, Local Plan Policy LP11 seeks for proposals to provide a representative mix of house types for local needs. This is expanded upon and detailed within the council’s Affordable Housing and Housing Mix SPD (March 2023).

10.10 The application seeks to provide 21 dwellings which would compromise five 2-beds, 12 3-beds and four 4-bbeds. Of the 21 dwellings, three affordable units would be provided in the form of one 2-bed and two 3-bed units. The table below shows how the proposal would compare with the council’s expectations for meeting housing need for Kirklees Rural West.

| Kirklees Rural West | Market Housing Need | Market Housing proposed |
|---------------------|---------------------|-------------------------|
| 1- and 2-bed | 30-60% | 22% |
| 3-bed | 25-45% | 56% |
| 4+-bed | 10-30% | 22% |

10.11 As is evident, the proposal does not fully conform with the adopted SPD’s expectations, as it over-provides 3-bed dwellings and under-provides 2-bed dwellings. However, given that this application was submitted before the SPD was adopted and provides an acceptable density, it is recommended that the housing mixture proposed, on balance, can be supported.

Minerals

- 10.12 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 the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Sustainability and climate change

- 10.13 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. It is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area.
- 10.14 The submitted Climate Change Statement further sets out what measures would be put in place to reduce the energy demand associated with the proposed development beyond the minimum required by the Building Regulations. These include constructing every home to a high level of insulation, including triple glazing and photovoltaics, and the white goods to be installed in each property or offered to purchasers would be energy efficient with an A+/A rating. Materials are to be sourced locally where possible and the building works would be carried out by local trades and contractors. These measures are considered acceptable for the size of the site and the number of dwellings proposed.

Urban Design issues

- 10.15 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) where Paragraph 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 10.16 Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.
- 10.17 Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring: “a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”.

- 10.18 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 10.19 Policy 1 of the Holme Valley Neighbourhood Development Plan (HVNDP) relates to protecting and enhancing the landscape character of Holme Valley, and states that: *“All development proposals should demonstrate how they have been informed by the characteristics of the Landscape Character Area (LCA) in which they are located”*. The Policy goes on to note that proposals should be designed in accordance with the character and management principles in respect of landscape set out for each LCA in order to avoid detrimental impact on the LCA.
- 10.20 Policy 2 of the HVNDP relates to protecting and enhancing the built character of the Holme Valley and promoting high quality design. Policy 2 notes that proposals should be designed in accordance with the management principles for each LCA in respect of built character in order to avoid detrimental harm to the LCA.
- 10.21 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals would be expected to respect and enhance the local character of the area by:*
- *Taking cues from the character of the built and natural environment within the locality.*
 - *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
 - *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context”*.
- 10.22 Principle 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography”*.
- 10.23 Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.
- 10.24 The application site is located on the edge of an existing, well-established settlement. Residential development exists to the north and east, with more scattered development to the west. The site is also bounded by dry stone walls. Given these existing human interventions around the site, the proposed development would sit comfortably within its context, without appearing as a sprawling, inappropriate enlargement of Holmbridge. Given the change in levels within the wider vicinity, the proposed development would be visible from several viewpoints. However, officers consider the visual impact of the

proposed built form here to not have a significant or adverse impact on the context of the surrounding development already built. Green Belt land lies immediately to the south of the site and would continue to provide a green framing around the settlement, without being directly impacted upon. The Peak District National Park also lies to the south and west of the development, and the western and southern edges of the development are likely to be visible within the long-distance views of the site. As such, natural boundary treatment and planting would be appropriate for these site boundaries.

- 10.25 The proposed layout, and the development's quantum and density, is considered to respond to the site's shape and constraints. The dwellings would be situated well within their plot, giving suitable separation from the highway and appropriate side-to-side spacing. Driveways are proposed to the side of dwellings where feasible and this would help the development comply with Principle 12 of the Housebuilders Design Guide SPD, which states that car parking should *"not dominate street frontages through parking arrangements that place cars at the front of all dwellings and with overly dominant integral garages at the front of dwellings"*. Some parking, however, has been proposed to the front of the dwellings, as the only practical solution, however, this is not uncommon, and in this case the spaces would be suitably broken up by front landscaping where possible.
- 10.26 The proposed scale of the buildings are typical for modern dwellings and would be two storey in height. Section plans have been provided (referenced site sections/street scenes rev B) which show how the dwellings would relate to the existing built form. The plans show the overall height of the dwellings to the south of the site to be similar to 2 Laithe Avenue. The new dwellings would be slightly taller than those that exist on Bankfield Drive due to changes in topography, however, the difference would be inconsequential with any impact mitigated by the extensive separation distances proposed.
- 10.27 Regarding architectural form, the proposed dwellings would have a typical modern vernacular, some of which would benefit from a front gable, or projecting lean-to for the integral garage, in order to add some variation to the house types. Dwellings in the area have some variations in their appearance but are mostly respectful of the traditional Pennine vernacular that characterises the Holme Valley. This context includes two-storey dwellings and bungalows. In terms of openings, adequately sized windows are proposed. To the rear elevations, the inclusion of larger areas of glazing to some of the dwellings is considered acceptable. This would accord with Principle 14 of the Housebuilders Design Guide SPD which states that *"innovation for energy efficiency is encouraged, particularly for maximising solar gain"*. All new window frames should be set back into the reveal by 100mm and it is recommended that this be added as a condition to the decision notice. Roof forms in the area are predominantly pitched with gables, and therefore the scheme has been designed to include gable roofs, to respond to the local character.
- 10.28 The dwellings would be faced in artificial stone to the walls with concrete tiles to the roofs, to reflect some of the existing housing to the east. While natural stone would have been preferable due to the site's sensitive location, a high quality artificial stone can be supported at this site (which is not within a conservation area, and which is adjacent to a street where brick and other materials have been used). However, samples of the materials to be used (specifying manufacturers, products and colours) would need to be provided prior to their use. Samples of window and door materials would also be required prior to their installation.

- 10.29 Limited information regarding the proposed development's boundary treatments has been provided and therefore, it is recommended that full details of all boundary treatments, fences and walls be secured and considered at conditions stage, prior to the commencement of development. It is, however, noted that the intention is to retain the existing stone boundary walls to the perimeter of the site. Careful consideration should be given to additional planting/natural screening to the southern and western boundaries given their sensitive location adjacent to the open countryside.
- 10.30 In conclusion, it is considered that the details provided within this full planning application demonstrate that the development has been designed to sympathetically respond to the character of the area and would comply with the council's guidance documents for residential developments.

Residential Amenity

- 10.31 A core planning principle as set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of policy LP24 of the Kirklees Local Plan. Principle 6 of the Housebuilders Design Guide SPD sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Specifically, it outlines that for two storey dwellings the following, typical minimum separation distances between existing and proposed dwellings, are advised:
- 21 metres between facing windows of habitable rooms at the back of dwellings.
 - 12 metres between windows of habitable rooms that face onto windows of non-habitable room.
 - 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land.
 - For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metre distance from the side wall of the new dwelling to a shared boundary.
- 10.32 In addition to this, Paragraph 135 (f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.
- 10.33 Principle 16 of the Housebuilders Design Guide seeks to ensure the floorspace of dwellings provide a good standard of amenity for future residents and make reference to the 'Nationally Described Space Standards' document (March 2015). Principle 17 states that development should ensure an appropriately sized and useable area of private outdoor space is retained.
- 10.34 The application site is surrounded by residential development mainly to the north and east, with more scattered development to the west and open fields to the south and west. With regard to separation distances, it is noted that the majority of the dwellings would retain 21m between windows of habitable rooms and 12m between windows of habitable rooms that face onto a non-habitable room, both within the site and to third party properties. This would ensure that there would be no undue overlooking, commensurate with the minimum recommended separation distances set out in the SPD.

10.35 Notwithstanding the above, officers note the concerns raised by some residents along Bankfield Drive and Laithe Avenue, and therefore the relationship between the application site and the nearest properties is discussed in more detail below.

4 Bankfield Drive

10.36 This property is situated to the east of the proposed plots 20 and 21. A separation distance of approximately 21.8m is proposed to these neighbours conservatory and 24m to their nearest side elevation. 4 Bankfield Drive also has a detached outbuilding, which lies close to the boundary with this site. A separation distance of 18m would be retained to this building. Officers are therefore satisfied that there would be no material overbearing, overshadowing or overlooking affecting these neighbours' amenity, as a result of the development proposed. However, the hedgerow proposed adjacent to the dry stone wall to the eastern boundary of the site, appears to be relatively low in overall height and therefore, officers would wish to see this slightly heightened in order to provide some natural screening between the application site and the properties along Bankfield Drive. This would be secured in the proposed boundary treatment condition.

6 Bankfield Drive

10.37 This property is situated to the east of plot 19 and would have a rear-to-side relationship. A separation distance of 16m is proposed, which would exceed the guidance set out within the council's Housebuilders Design Guide SPD. Furthermore, the only ground floor opening proposed within the side elevation of plot 16 would be to serve the kitchen, which is considered to be non-habitable. At first floor a bathroom window is proposed which is also likely to be fitted with obscure glazing. As such, officers are satisfied that the development would not lead to any undue overbearing, overshadowing or overlooking at these neighbours.

8 Bankfield Drive

10.38 Plots 12 and 13 would be situated directly adjacent to the rear elevation of 8 Bankfield Drive. There would be a separation distance of approximately 24m between these neighbours. As such, officers are satisfied that there would be no undue overbearing, overshadowing or overlooking as a result of the development proposed. As mentioned previously, the height of the proposed hedge along the eastern boundary should be increased to afford more privacy to these neighbours, and this would be secured via condition.

10 Bankfield Drive

10.39 Plots 7-10 would be situated adjacent to the rear elevation of 10 Bankfield Drive. A separation distance of 23m would be retained between these neighbours and the aforementioned plots. As such, officers are satisfied that there would be no material harm to these neighbours' amenity as part of the development proposed.

2 Laithe Avenue

10.40 These neighbours are situated to the east of plot 1. There would be a separation distance of 9m including plot 1's off-street parking and the new proposed pedestrian link to the PROW. Officers note that 2 Laithe Avenue has side openings which could be impacted by this proposal. However, there is considered to be sufficient space between these neighbours to ensure that any overbearing would not be detrimental. For instance, plot 1 is situated slightly further forward within its curtilage. With regards to overshadowing, 2 Laithe Avenue is situated to the east, meaning that any overshadowing would only be evident in an evening and their garden and side openings would still receive daylight for the majority of the day. The floor plans for the house type Bamburgh also show that the only window to be proposed within the side elevation would be to serve a hallway and therefore officers are satisfied that the development would not give rise to any material overlooking. As such, this relationship can be supported.

75 Dobb Top Road

10.41 This neighbouring property is situated to the west of the application site, however, it benefits from a generous curtilage, meaning that there would be over 40m between the dwellinghouse known as 75 Dobb Top Road and plots 14 and 15. As such, officers are satisfied with this relationship, as it would preserve these neighbours' residential amenity.

1-3 Smithy Lane and The Smithy

10.42 The aforementioned dwellings are situated to the north of the application site. Given the substantial change in levels between the application site and 1-3 Smithy Lane and The Smithy, officers are satisfied that there would be no undue overbearing, overshadowing or overlooking upon these neighbours' amenity.

10.43 Consideration must also be given to internal separation distances and the amenity of future occupiers. The proposed internal separation distances meet or exceed the minimums set out within the Housebuilders Design Guide SPD and therefore the proposed layout, for residential amenity purposes, is considered acceptable. The layout meets the aims and objectives of Policy LP24 of the Kirklees Local Plan.

10.44 The quality of the proposed residential accommodation is also a material planning consideration. Officers are satisfied that each unit would meet or exceed the Government's Nationally Described Space Standards and would be provided with dual aspect for all residents, with regard to outlook, privacy and light.

10.45 The proposed private gardens are considered commensurate in scale to their host dwellings. They offer good separation and space about dwellings, while offering private amenity space for residents, and securing a high standard of visual and residential amenity.

Landscape Issues

- 10.46 The impacts of the proposed development upon the wider landscape (including on views from the adjacent Public Rights of Way network, and on views that also take in the settlement of Holmbridge, the Green Belt and/or the Peak District National Park) is considered acceptable, given the site's relationship with the existing built-up area.
- 10.47 It is accepted that no meaningful on site public open space can be achieved on this site due to density requirements and the site's topography. In line with Policy LP63 of the Kirklees Local Plan, a contribution towards off-site provision would instead be appropriate in this instance. This would equate to £55,932.16, and it is recommended that this be secured within a Section 106 agreement.
- 10.48 A landscaping plan has been submitted as part of this application. The proposed landscaping has been appropriately designed. The species proposed within the green space are acceptable, subject to a condition requiring their management and maintenance.

Highway issues

- 10.49 Paragraph 114 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.50 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.
- 10.51 The application site is located in Holmbridge to the south of the village centre, and is proposed to be accessed via Laithe Avenue, which is an existing residential estate road. The site is allocated for residential development in the Local Plan (with site reference HS183) and has an indicative capacity of 23 dwellings.
- 10.52 Immediately to the west of the site is further 'safeguarded land' designated in the Local Plan, which may be accessed in future via the HS183 site. As such, in accordance with Local Plan Policy LP6, the proposals must not prejudice the possibility of long term development of the safeguarded land. This requirement has been accommodated within the site layout, with the extended section of Laithe Avenue passing through the site and connecting to the sites western boundary with the safeguarded land.

Site access

- 10.53 Access to the site is proposed via Laithe Avenue, which links to Dobb Top Road / Smithy Lane to the north via Bankfield Drive and Laithe Bank Drive, which are both residential estate roads that are c.5.5m wide with c.1.8m wide footways and street lighting.
- 10.54 On the approach to the Dobb Top Road / Smithy Lane junctions, both Bankfield Drive and Laithe Bank Drive have steep downhill gradients (circa 1:6-1:7). At the Bankfield Drive / Dobb Top Road / Smithy Lane junction, there is also restricted visibility to the west along Smithy Lane, and Dobb Top Road forms a further junction on the west side of the Bankfield Drive minor arm in the large bellmouth area. The applicant has now proposed a package of improvements at this junction, in response to these existing issues, which will be set out in more detail below.

Site layout, servicing and waste collection

- 10.55 The site layout includes an initial section of highway that is designed to Local Residential Street (Type 2) standard, which includes a 5.5m wide carriageway and 2m wide footways on both sides. A shared surface street is then provided, which serves the northern section of the site. The shared surface street is 5.5m wide, with a 2m wide pedestrian route provided on the west side, which has been provided due to the shared surface street being steeper than 1:20 (the street gradient is 1:12 at its steepest).
- 10.56 The shared surface street includes a turning head that has been designed to accommodate the council's Design Refuse vehicle, and additional turning provision has been provided for light vans at the end of the shared private drives located at the end of the shared surface street. Swept path analysis has been provided to confirm that these turning facilities are adequate. Bin presentation points have also been identified.
- 10.57 The site layout has been subject to an independent Stage 1 Road Safety Audit, which has not identified any safety issues that cannot be addressed at the detailed design stage.

Highway adoption

- 10.58 The applicant has confirmed that the internal roads would be built to adoptable standards, and a plan has been provided to confirm the areas that are proposed to be offered for adoption, which includes the areas required for junction and forward visibility splays.
- 10.59 The applicant has confirmed that the existing retaining wall that runs along the north site boundary adjacent to Dobb Top Road is proposed to be partially reconstructed, to enable the proposed drainage connections to be installed beneath it. This approach has been discussed with the council's Highways Structures team and is acceptable in principle, and the final details of these works will need to be secured by condition.

Parking

- 10.60 All dwellings would be provided with off-street car parking in line with the council's Highway Design Guide SPD, which recommends that two spaces are provided for 2- and 3-bed dwellings and three spaces for 4+-bed dwellings. To achieve the required car parking provision, some of the dwellings include garages. As such, the applicant has confirmed that these would have minimum internal dimensions of 3m x 6m, which is in accordance with the council's design guidance.
- 10.61 The proposals include five visitor parking bays, which are provided in formalised laybys on the shared surface street. The street layout also provides other opportunities for informal on-street parking. This level of visitor parking provision is in accordance with Council guidance that recommends 1 visitor parking space per 4 dwellings.
- 10.62 For the dwellings with garages, cycle parking can be accommodated within the garages. However, for dwellings without garages, an external cycle store / shed would be required, and it is recommended that the details of this provision be secured by condition. External access to rear gardens is to be provided for all dwellings, which would enable access to the secure cycle store to be accommodated. All dwellings are proposed to include one electric vehicle charging point, with the location shown on the site layout plan. This provision is considered acceptable.

Public Right of Way

- 10.63 PROW footpath HOL/91/20 runs along the southern boundary of the site, and it is proposed to provide a 2.5m wide link to the PROW from the site access road. This link is welcomed and is acceptable. However, it is understood that the applicant has not yet been reached agreement with the adjacent landowner to break through the boundary wall (which may be in shared ownership) to make the final connection to the existing PROW. Therefore, should the applicant be unable to reach agreement with the adjacent landowner, the council's PROW team have confirmed that they would be willing to use the available powers in Sections 25 and 26 of the Highways Act to help facilitate the final connection of this PROW link. To enable the council to progress this process, a Section 106 contribution would be required of £10,000. This is to cover the council's costs relating to the order process, and other associated costs in delivering the connection through the boundary wall only.

Road safety / off-site highway improvements

- 10.64 The applicant has proposed a package of improvement measures at the Bankfield Drive and Laithe Bank Drive junctions with Dobb Top Road, as shown on drawing 22027/GA/01 rev D. These works have been subject to a Stage 1 Road Safety Audit, which has not identified any issues that would prevent the works from being deliverable and are acceptable.

10.65 The proposed junction improvements works are summarised and assessed as follows:

- Improvement to junction visibility at Bankfield Drive / Dobb Top Road / Smithy Lane junction:

Visibility from the Bankfield Drive minor arm looking west (to the left) towards approaching traffic from Smithy Lane is currently restricted due to the presence of a dry stone wall. Therefore, improvements to the junction's road markings are proposed to improve visibility. This includes amendments to the centreline on the Bankfield Drive minor arm, and changes to the give-way lines on the adjacent junction with Dobb Top Road. These changes are intended to make the junction more compact and encourage drivers waiting to enter Smithy Lane to position their vehicle further to the east, where the sight line to/from approaching traffic from Smithy Lane to the west are improved.

In addition to the benefits of the amended road markings to the users of Bankfield Drive, the changes to the give-way line position for the adjacent Dobb Top Road junction (e.g. bringing the give-way line forward) will improve visibility for vehicles exiting Dobb Top Road, to the benefit of these users.

The proposals also include additional centreline markings on Dobb Top Road / Smithy Lane and edge of carriageway markings, as recommended by the Stage 1 Road Safety Audit.

- Proposed containment kerbs opposite Bankfield Drive and Laithe Bank Drive junctions with Dobb Top Road, and high friction surfacing at Bankfield Drive / Dobb Top Road junction:

As highlighted by many local residents in their objections, there have been a number of junction overshoot incidents (damage only incidents) at the Bankfield Drive and Laithe Bank Drive junctions with Dobb Top Road, which have resulted in vehicles colliding with the stone wall opposite the junction. This has then created gaps in the wall, which have created secondary risks for passing pedestrians, as there is a high drop on the north side of the wall. A contributory factor in these incidents is likely to be due to the steep downhill approach to the junctions from Bankfield Drive and Laithe Bank Drive.

Therefore, to address the above issue, the applicant has agreed to provide new containment kerbs on the north side of Dobb Top Road, opposite both the Bankfield Drive and Laithe Bank Drive junctions. Whilst the containment kerbing would not prevent a junction overshoot incident occurring, it would reduce the safety risk of vehicles striking the wall and then creating gaps. This would reduce the risk of an errant vehicle crashing through the wall, and help to mitigate the secondary risk of gaps in the wall that affect other highway users (e.g. passing pedestrians).

The new containment kerbs would also have secondary benefits in improving drainage adjacent to the wall, by directing water to gullies rather than passing through the wall, and by protecting street furniture (e.g. street lighting columns and warning signage).

To reduce the risk of vehicles skidding on the Bankfield Drive approach to Dobb Top Road (which is likely to be the primary route to and from the site) the applicant has proposed to resurface the Bankfield Drive minor arm approach with high friction surfacing (HFS with 68+PSV), which would help address overshoot incidents in dry and wet conditions.

To ensure the greatest benefit from the HFS is achieved, it is proposed to plane and overlay the carriageway with a HFS wearing course, rather than by an applied surface coating, which would provide a more durable HFS finish.

In addition to the Bankfield Drive approach to the junction, the full extent of the junction would be resurfaced with HFS, including the Dobb Top Road approach to the west, which should reduce the risk of vehicles skidding on all approaches.

- Proposed signing and other improvements on Dobb Top Road / Smithy Lane / Bank Lane:

Dobb Top Road / Smithy Lane / Bank Lane is the primary route to the site from the A6024 Woodhead Road. This route is relatively narrow, has no (or very limited) footway provision and is a bus route. Therefore, 'Rural School Route' signage on yellow backing boards are currently provided on the route to highlight the presence of pedestrians within the shared surface highway. However, one of the sign posts originally provided to the west of the Bankfield Drive junction is currently missing.

Due to the physical constraints on these routes, there is limited scope for improvement (e.g. width constraints do not allow for new footways etc.). However, the improvement works at the Bankfield Drive / Dobb Top Road junction are proposed to include additional 'Pedestrian in road – rural school route' warning signage on yellow backing boards, on both approaches to the junction (including replacement of the missing signs). It is noted that the new signs proposed to the east of the junction would be protected by the proposed containment kerbing, ensuring the signs are less vulnerable to vehicle collisions, and thus easier to maintain and at lower risk of causing secondary incidents. The containment kerbing would similarly protect the adjacent street lighting columns.

- 10.66 Highways officers are in full support of the measures proposed and consider them reasonable for the level of development proposed.

Accessibility

- 10.67 The supporting Transport Statement includes a high level review of the site's accessibility via non-car modes. This has confirmed that site has at least some degree of access by public transport, with hourly services available within walking distance of the site on Woodhead Road, with a lower frequency service available on Dobb Top Road. The provision of the new footpath connection to PROW HOL/91/20 is a significant positive element of the scheme, which would be of benefit to future residents and other highway users, and is welcomed. Whilst no pedestrian improvements are feasible on the local highway network due to width constraints, the off-site highway improvements at the Bankfield Drive and Laithe Bank Drive junctions with Dobb Top Road junction include additional pedestrian warning signage, to highlight the presence of pedestrians in the shared surface highway. The development would include secure cycle parking for all dwellings.

10.68 In light of the above, it is considered that the development has taken up the available opportunities to provide access for sustainable transport modes, in accordance with local and national planning policy.

Traffic Impact / Network Assessment:

10.69 In response to officer comments, the applicant submitted additional traffic information in a Transport Addendum dated October 2023. This included additional weekday peak hour traffic generation data for the development based on bespoke trip rates obtained from surveys of existing traffic using Bankfield Drive. However, following discussions between officers and the applicant's transport consultant, the methodology for deriving the bespoke trip rates has been amended to utilise existing data for both the Bankfield Drive and Laithe Bank Drive junction, and to utilise the peak hourly flows over the 3hr AM and PM survey periods, which provides higher bespoke trip rate, and thus a more robust assessment. This data has been included within the Stage 1 Road Safety Audit Brief (Figures 105 and 106), and has been taken into consideration by the RSA Team when considering the off-site highway works proposals.

10.70 Below is a summary of the average weekday peak hour vehicle trip rates and associated development trips identified in the original Transport Statement report (extrapolated for the 21 dwellings now proposed), together with the more robust bespoke trip rates and associated development trips.

| Time Period | Development Traffic Generation based on TRICS data included in March 2023 Transport Statement | | | | | |
|--------------------------|---|-------|---------|------------------------------------|-----|---------|
| | Trip rate (per dwelling) | | | Development Traffic (21 Dwellings) | | |
| | In | Out | Two-way | In | Out | Two-way |
| AM Peak Hour (0800-0900) | 0.156 | 0.35 | 0.506 | 3 | 7 | 10 |
| PM Peak Hour (1700-1800) | 0.328 | 0.167 | 0.495 | 7 | 3 | 10 |
| Time Period | Development Traffic Generation based on Bespoke Trip Rates included in RSA Brief | | | | | |
| | Trip rate (per dwelling) | | | Development Traffic (21 Dwellings) | | |
| | In | Out | Two-way | In | Out | Two-way |
| AM Peak Hour (0730-0830) | 0.184 | 0.592 | 0.776 | 4 | 12 | 16 |
| PM Peak Hour (1730-1830) | 0.388 | 0.204 | 0.592 | 8 | 4 | 12 |

10.71 Highway Development Management officers accept the above development trip assessment assumptions and agree that the identified development trips and distribution derived from the bespoke trip rates provides a robust basis for assessment.

10.72 The Transport Addendum also includes additional survey data of vehicle, pedestrian and cycle traffic at the Bankfield Drive / Dobb Top Road / Smithy Lane junction, which is summarised as follows (this includes all passing and turning movements):

- 59 and 45 vehicle movements during AM (08:45-09:45) PM (17:30-18:30) weekday network peak hour periods respectively;
- 41 and 38 pedestrian movements during AM (07:00-10:00) and PM (16:00-19:00) weekday 3hr survey periods respectively; and
- 3 cycle movements during both the AM (07:00-10:00) and PM (16:00-19:00) weekday 3hr survey periods.

- 10.73 Based on the robust vehicle trip generations that have been identified, and the additional traffic (vehicular, pedestrian and cyclist) data that has been provided, it has been demonstrated that existing and proposed development traffic on the local highway network is low; and that the impact of additional vehicular traffic (up to 16 additional vehicle trips during peak hourly periods) would not have a significant impact on the operation of the local highway network.

Construction Management Plan (CMP) and Highway Condition Surveys:

- 10.74 During construction of the development, construction access management practices should be implemented that address potential impacts arising from the development and ensure that the site operates efficiently and safely and minimises impact on existing highway users. This should be covered in a Construction Environmental Management Plan (CEMP) that considers construction access arrangements, hours of operation, treatment of delivery/construction vehicles (including wheel washing requirements etc), loading areas, and parking arrangements for construction staff, with the plan secured by a recommended pre-commencement condition.
- 10.75 It is expected that HGV traffic would need to avoid school start / finish times to minimise impact on pedestrians and other highway users on the local network, which will need to be confirmed in the CEMP. As a temporary road closure is anticipated to be required during the works to the retaining wall on Dobb Top Road along the northern site boundary, in addition to any diversion arrangements that are agreed with the Highway Network Management Team, temporary waste collection arrangements will also need to be agreed with the council's Waste Strategy Team, and evidence of the agreed arrangements should be identified in the CEMP.
- 10.76 Highway conditions surveys (prior to and post completion) and remediation works (should damage to the highway occur during the construction works) should also be secured by condition.
- 10.77 In summary, KC Highways Development Management consider the scheme to be acceptable, subject to the conditions identified above and a Section 106 agreement for the PROW connection. This is to accord with Policies LP21, LP22 and LP24 of the Kirklees Local Plan and the aims of the Highway Design Guide SPD and National Planning Policy Framework.

Flood risk and Drainage issues

- 10.78 Paragraphs 165 to 168 of the NPPF and Policy LP27 of the Kirklees Local Plan state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 10.79 The site is within Flood Zone 1, and therefore is at the lowest risk of flooding.
- 10.80 The applicant proposes to dispose of surface water via a new attenuation tank (beneath the new estate road, in front of units 19 to 21), from which water would flow at a rate of 3.5l/s down to existing drainage pipework beneath Dobb Top Road. Foul water would also be disposed of via the existing sewer beneath Dobb Top Road.

10.81 The Lead Local Flood Authority (LLFA) are satisfied that space is available within the layout for water. The LLFA have also confirmed acceptance of the proposed surface water drainage rate of 3.5l/s and associated attenuation storage and proposed discharge to the Yorkshire Water 225mm Diameter Surface Water sewer in Dobb Top Road (subject to Yorkshire Water approvals) as set out on the drainage layout plan (rev H). Conditions are recommended regarding overland flow routing and a construction phase surface water plan. A management company is required to be set up with the specific task of maintaining the drainage infrastructure installed on site until such a time that it is adopted by statutory undertaker or a NAV equivalent. This would be secured under the Section 106 agreement.

Other matters

Ecological considerations

10.82 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 185 of the NPPF outlines that decisions should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 186 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This is echoed in Policy LP30 of the Kirklees Local Plan.

10.83 Furthermore, Policy LP30 of the Kirklees Local Plan outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Principle 9 of the Housebuilders Design Guide SPD echoes the Local Plan in respect of biodiversity.

10.84 A revised Ecological Impact Assessment (EclA) has been submitted. The report makes a number of recommendations with regard to mitigation measures, alongside the need for re-survey of invasive species, to be undertaken in the optimal growing season. This can be secured via condition, given the timeframe of the application and the minimal impact of the potential invasive species that are present.

10.85 The habitats on site comprise grassland and scrub, with some trees also present at the site. The precautionary measures detailed in the EclA can be secured via an appropriately worded condition to ensure that impacts to protected species are adequately mitigated.

10.86 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.

- 10.87 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.
- 10.88 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.
- 10.89 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 | 5.54 | 1.54 | -4.01 | -72.28% |
| Hedgerow | 0.22 | 1.10 | 0.88 | 402.10% |
| Watercourse | 0.00 | 0.00 | 0.00 | 0.00% |

- 10.90 Although it is noted that the sites hedgerow unit baselines are low, the respective 402.10% increase (which would be received on-site) is nonetheless welcomed. A condition securing the delivery of these gains is recommended.
- 10.91 Regarding the development’s impact upon habitat units, in order to compensate for the 72.28% loss and to achieve a 10% gain, 4.56 habitat units would need to be delivered, via off-site compensation. This can be achieved via a financial contribution of £104,880 (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.
- 10.92 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

- 10.93 Policy LP33 of the Kirklees Local Plan states that “the Council would not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity...Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment”. This is supported by Principle 7 of the Housebuilders SPD and Policy 2 of the Holme Valley Neighbourhood Development Plan.

10.94 KC Trees have been consulted as part of this application. The initial Tree Survey and Arboricultural Method Statement (AMS) showed that the early mature English Oak Tree and the semi-early mature hedgerow to the northern boundary of the site would be retained. However, this was based on the original submission for 16 dwellings. Therefore, given the changes to the layout and the requirement to take down part of the retaining wall along Dobb Top Road for drainage and structural purposes, it is likely that these trees would need to be removed. To mitigate against this loss, the submitted landscape plan shows additional tree and hedge planting along the northern edge of the site which would provide adequate mitigation. This is considered to accord with Policy LP33 of the Kirklees Local Plan. From a trees perspective, the proposed development is considered acceptable, provided that an appropriate condition is imposed, ensuring that the submitted AMS (particularly section 2) is followed and implemented during the construction phase.

Contaminated land

10.95 KC Environmental Health have reviewed the Phase I and Phase II reports submitted with this application, along with a letter by GVR Geoservices Ltd dated 11/08/2023. Officers agree with the findings of the reports and the information provided, however, should any sub soils be stockpiled for re-use then additional testing will be necessary given that all the samples to date have been limited to the near surface shallow soils. It is therefore recommended that conditions be imposed regarding the finding of any unexpected land contamination and any imported materials are secured.

Electric vehicle charging points

10.96 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of an electric vehicle charging point for each dwelling. Technical details of the chargers to be submitted would be required at the discharge of condition stage. This is to ensure compliance with Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the NPPF.

Construction activities

10.97 The site is adjacent to existing residential properties. All reasonable steps must be taken to minimise and mitigate adverse effects from construction-related activities that may lead to a loss of amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP), a condition to secure this is recommended.

Crime prevention

10.98 The West Yorkshire Police's Designing Out Crime Officer has been formally consulted as part of this application. The officer has raised no objection to the proposed layout but has requested that a condition requiring security measures be attached to the application in the case of an approval. This would include details of boundary treatments, lighting, window and glazing details, doors and locking systems, CCTV and alarms and cycle and motorcycle storage, in accordance with Policy LP24 (e) of the Kirklees Local Plan.

Representations

10.99 121 representations have been received from local residents. Most of the matters raised have been addressed within the report above. However, responses to the further concerns (raised by residents) are set out below.

Concerns regarding proposed parking – Tandem parking is not usual for new developments.

Query regarding effectiveness of anti-skid surfacing – It is accepted that the anti-skid surfacing would have limited impact in snow/ice conditions. However, it will assist at other times including when the road surface is wet and so will improve the current situation at the junction.

References to highway design guidance – The guidance specified above relates to new streets, not to existing/access roads within the vicinity of the site. The streets within the development itself have been designed in accordance with the Highway Design Guide SPD.

Pavements on Bankfield Drive, Laithe Bank Drive and Laithe Avenue are in a very poor state – This concern has been noted and comments have been sought from the Highway Authority Maintenance Team, who have advised that “whilst I appreciate the footways do not look aesthetically pleasing and in some places the bitumen has eroded to leave simply aggregate I am satisfied that the footpaths do not pose a danger to users of the highway network at this time and are safe for the continued usage by pedestrians. Bankfield Drive, Holmbridge is subject to a scheduled highway safety inspection by our highway asset maintenance technicians on a 12 monthly basis in September of each year and our highway asset maintenance technicians will continue to monitor the location until it is highlighted for a scheme and will programme any routine maintenance repairs require”.

Independent risk assessment required – This is not required as part of the development management process.

20mph speed limit required – This concern has been noted but is not considered necessary as part of this development proposal, however, local residents could make this request directly to the Highway Authority as a separate matter to this planning application.

Materials – Officers consider a high quality artificial stone to be acceptable at this site, as such materials can be found on neighbouring buildings. However, Officers note the sensitivity of the site, on the Green Belt edge and within fairly close proximity to the Peak District National Park. Final samples of the stonework to be proposed would be conditioned for officers to approve.

Wholly detached, open front gardens, and some single storey properties required – This has been noted, however, in line with Policy LP11 of the Kirklees Local Plan new development should provide a mix of house types to help meet local needs.

Query regarding increase in quantum – The council raised concern with the number of dwellings originally proposed and the lack of an appropriate housing mix. An amended scheme to increase the number of dwellings was therefore sought.

Loss of a green field site – The site is designated for housing within the Kirklees Local Plan.

Inclusion of link detached houses – In this instance, providing a link between some of the houses for car parking, would omit the sites frontage from being dominated by a sea of hardstanding.

1993 refusal and Yorkshire Water required to build underground – These points are noted, however developments must be assessed with regard to current policies and considerations, and site-specific circumstances.

Comparison with Wesley Avenue development – This concern has been noted, however, each application is assessed on its own merits. A full assessment upon residential amenity can be found above within the committee report.

Query if PROW connection does not materialise – Officers would wish to see the PROW connection retained for the lifetime of the development. To amend the proposal (in the case of an approval) would require a Variation of Condition application, as the development would not be carried out in accordance with the approved plans. In this instance a full new assessment would need to be undertaken upon residential amenity.

Lack of sections – Section plans have been submitted with this application to show the relationship the new dwellings would have with the existing properties on Bankfield Drive and Laithe Avenue. A full assessment on this can be found within the residential amenity section of the committee report.

Concerns regarding Arboricultural Survey dated 24/04/2023 – The arboricultural survey submitted with the application was based on the initial scheme for 16 dwellings. In this case, the layout of the scheme has been amended and officers are now aware that the dry stone wall to the north of the site would need to be taken down and partially re-built in turn damaging the roots of the existing hedge (G2) and the early-mature English Oak Tree (T1). As such, it is likely that these species would need to be removed as part of this planning application and therefore the revised landscape plan reflects the planting now proposed. KC Trees have confirmed that on balance the density of the replacement trees and the additional hedgerow to be provided on site would provide adequate mitigation for the existing species which would be lost.

Responsibility for communal planted areas – The green space within the site would be managed and maintained by a private management company which would be secured as part of the Section 106 agreement. The maintenance of dry stone wall is not crucial to the acceptability of the proposed development. Therefore, the queries raised regarding this wall are not a material consideration relevant to this application.

Management of landscaping after five years – The green space within the site would be managed and maintained by a private management company in perpetuity. This would be secured as part of the Section 106 agreement.

Proposed hedge height – Officers note the height of the hedge and have requested that this is increased slightly in order to maximise privacy for both the future occupiers and new residents. This information would be submitted under the boundary treatment condition and would be assessed by officers. The hedge as shown on the landscape plan would be situated on the application site and would be managed and maintained by a private management company secured as part of the Section 106 agreement. Officers are, however, satisfied with the height of the trees given the proximity to the highway.

Concerns regarding ecological survey – These concerns have been noted by KC Ecology within their consultation response and therefore an appropriately worded condition to require the re-survey of invasive species, to be undertaken in the optimal growing season has been proposed. An assessment upon the nearby statutory and non-statutory designated sites has also been undertaken within the report. Regarding alleged omissions (relating to kestrel, buzzards etc), it must be noted that ecological surveys sometimes do not capture every species that may visit a site or may be observed nearby over a long period of time.

Bat and bird boxes needed – A Biodiversity Enhancement and Management Plan would be secured via condition which will set out how ecological units can be achieved on the application site. This could include the provision of bat and bird boxes.

Potential for common lizard to be present – The ECIA submitted with the application includes an assessment on reptiles.

Drainage concerns – The revised drainage plans show that there is adequate space within the site for water. The LLFA consider the drainage proposals to be acceptable. Officers also note that part of the retaining wall to the north of the application site would need to be deconstructed and re-built for the installation of two drainage connections.

Concerns regarding soakaways – The drainage scheme does not include a soakaway.

Concerns regarding springs – The council have no record of springs running through the site. However, if these were to be discovered during construction, the developer would need to contact the council's Drainage Team to address this matter.

Concern regarding private water supply serving Bankfield Farm and The Barn on Dobb Top Road – No evidence to support this claim has submitted, and in any case this is considered to be a private matter not relevant to the consideration of this planning application.

Climate change and flooding concerns – The LLFA are satisfied with the information submitted as part of this application, however, have requested a condition with regards to flow routing which would take into account the effects of 1 in 100 year storm events, with an additional allowance for climate change.

Pressure on utilities – This is noted, however, the LLFA and Yorkshire Water consider the information submitted to be acceptable.

Sewer capacity – Foul sewage is assessed by Yorkshire Water and it is their responsibility to ensure that there is sufficient capacity to take the foul sewage from the application site.

Concern regarding site's retaining wall – These concerns have been noted and a Method Statement for the retaining wall has been provided. KC Highway Structures have also requested a condition requiring a full structural dilapidation survey of the existing dry stone highway retaining wall adjacent to Dobb Top Road to be submitted to the council before development commences. An adequate condition regarding a full structural dilapidation survey of the existing dry stone highway retaining wall adjacent to Dobb Top Road has been recommended.

Drainage during excavation – A temporary drainage condition has been recommended for the construction period.

Independent reports required – As is normal with planning applications, reports have been submitted to support the application by the applicant's consultants, which in turn have been assessed by the council's relevant consultees. Their comments can be viewed within the above committee report. Local planning authorities do not normally commission independent reports regarding relevant planning issues (when assessing planning applications), although for this application an independent viability consultant was instructed by the council.

Clustering of affordable housing – Since this comment was submitted, a Viability Assessment has been submitted for the site which shows that only three affordable units can be provided, in the form of First Homes. The First Homes would be situated within the northern parcel of the site, however, they would be indistinguishable in terms of their design. In a development of this size, it is inevitable that the affordable housing units will be located close to each other. Given the size of the site and the limited development proposed, officers consider the location of the affordable units to be acceptable.

Objection to providing affordable housing – This concern has been noted, however, LP11 requires the provision of affordable housing for all residential schemes over 10 units.

Improvements to schools and roads needed – Road improvements have been proposed, however, the size of the site does not require any financial contribution towards local school provisions.

Greater weight is being given to private profit – As with most applications, the applicant is a business. Government guidance states that developments should comply with planning policies, meet known needs, and take into account all material considerations. Developer profit is not a key consideration for local planning authorities, except in financial viability assessments (where, the Government advises, a reasonable level of profit should be accepted to ensure a development would in fact go ahead).

Damage to adjacent property – This would be a private matter to be resolved between the relevant parties.

Cuts to council budgets – This is noted, but is not a materially planning consideration relevant to this application.

Adjacent “muckheap” and chicken run – Paragraph 193 of the NPPF sets out that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. In this case, whilst the site adjacent does not appear to be an existing business, it is not unknown for horsiculture to be located close to residential development. The pile of manure and any noise that may arise from the chicken run is not considered to be of a scale where odour and noise impacts would blight this housing allocation. The responsibility would also be upon the developer to make future residents aware of the adjacent site.

Adjacent dry stone wall and risk of collapse – This has been noted, issues surrounding land stability and the responsibility for securing a safe development rests with the developer and/or landowner as outlined within Paragraph 190 of the NPPF.

Need for replacement grazing – This is not considered necessary to make the proposed development acceptable in planning terms.

Public footpath impacts – Natural surveillance of the public footpath would be provided by the dwellings to the rear of the site. This is a similar relationship to which the PROW has with the properties on Laithe Avenue. KC PROW have also been consulted as part of the application process raising no objection to the scheme.

Reference to holiday chalet application – This has been noted, however, each application has to be assessed on its own merits, with this site being allocated for housing.

Health and safety risk, and insurance – Private insurance is outside of the remit of this planning application. Furthermore, in respect to Health and Safety the onus is on the developer to ensure a safe site during construction works.

Members should visit the site – A site visit has been scheduled.

Lack of public consultation – Additional rounds of publicity have been undertaken as part of this application process, to allow members of the public to comment on the application.

Financial contributions and planning obligations

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

10.101 The following represents a policy-compliant suite of Section 106 obligations for the proposal:

- Affordable homes: Four affordable units (2x affordable/social rent, 1x First Home and 1x Intermediate Home).
- Biodiversity: An off site contribution of £104,880.
- Public Open Space: An off-site contribution of £55,932.16
- Public Right of Way: A contribution of £10,000 for the connection onto the Public Right of Way (HOL/91/20)

10.102 Section 106 obligations that would be required regardless of the financial contributions include the provision of a management/maintenance arrangements for the drainage (prior to adoption) and the on-site green space.

10.103 The applicant has provided a viability assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations was required. The Government's planning practice guidance provides the following overview of the viability assessment process, for context:

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

10.104 The applicant's viability assessment has been reviewed by an independent viability assessor (Altair) appointed by the council, to advise officers on this specialist subject.

10.105 A review of the original viability report submitted was undertaken by the council's consultant, however their findings were contested by the applicant. The applicant's response included additional evidence to substantiate the applicant's position regarding GDV, affordable transfer values, profit margins, contingency, finance and the benchmark land value. This information was reviewed by Altair and the following table was provided:

| Assumption | Applicant – Sep24 | Altair – Sep24 | Comments |
|---|-------------------------------|--|-----------------------------|
| Open Market Values | £6,050,578 | £6,330,000 | Altair original assumption. |
| Build Costs | £3,766,835 | £3,766,835 | Agreed. |
| Contingency | 5.0% | 4.0% | Altair revised assumption. |
| Developer's Return – Private Sale | 20.0% | 17.5% | Altair original assumption. |
| Developer's Return – Affordable Housing | 8.0% | 6.0% | Altair original assumption. |
| Professional Fees | 8.0% | 8.0% | Accepted. |
| Sales & Marketing Fees (Resi) | 2.00% £500 pu legal fees | 2.00% £500 pu legal fees | Accepted. |
| S106 / CIL | BNG: £125,313 POS: £47,040 | BNG: £104,880 POS: £35,844 PROW connection: £10,000 | Accepted. |
| Town Planning Fee | £13,168 | £13,168 | Accepted. |
| Finance Costs | 8.0% | 8.0% | Accepted. |
| Programme | 17 months | 17 months | Accepted. |
| Benchmark Land Value | £486,000 | £445,500 | Altair revised assumption. |

10.106 Taking the above table into account, Altair have concluded that only a 10% affordable housing contribution could be achieved in the form of 1x First Home and 1x Shared Ownership or 2x First Homes plus a £75,000 off-site commuted sum in lieu of an on-site provision of affordable housing. In this instance, it is considered preferable to provide a third affordable unit on site, as opposed to the financial contribution. Therefore, it has been calculated that the financial contribution of £75,000 could achieve an additional 2-bed affordable unit. This would mean three First Homes (comprising two 2-beds and one 3-bed), which would be a 15% affordable housing contribution. The size of the units proposed are considered to meet the needs of the local area and would accord with the council's Affordable Housing and Housing Mix SPD.

10.107 The final Section 106 package would therefore include:

- Affordable homes: Three affordable units (three First Homes in the form of two 2-beds and one 3-bed).
- Biodiversity: An off site contribution of £104,880.
- Public Open Space: An off-site contribution of £55,932.16.
- Public Right of Way: A contribution of £10,000 for the connection onto the Public Right of Way (HOL/91/20).

10.108 Of note, the above could be achieved whilst achieving a profit level of 17.5% for the applicant. This is within the 15%-20% range that the Government advises as being appropriate within financial viability appraisals.

10.108 The applicant has accepted this position and therefore it is recommended that the aforementioned planning obligations be secured within a Section 106 agreement.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The site is allocated for residential development under site allocation HS183, whereby 21 dwellings are proposed. Site constraints include topography, visual and residential amenity and various other material planning considerations. The proposed development adequately addresses each of these. The design and appearance of the proposed development is considered acceptable, with adequate separation distances to third party properties. The proposed access and highway impacts have also been considered, and are deemed acceptable. Other planning issues, such as drainage, ecology, and protected trees, have been satisfactorily addressed through the proposal.
- 11.3 It has been demonstrated that the viability of the development prevents a fully compliant suite of Section 106 financial contributions being offered. A slight reduction in the number of on-site affordable housing from four dwellings to three (achieving 15%) has been agreed by the applicant. However, all other planning obligations would be secured in full as part of this application.
- 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 final neighbour representations being assessed within the committee update and conditions and planning obligations been secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans.
3. Samples of walling and roofing materials.
4. Details of windows and doors.
5. All windows to be set back into the reveal by 100mm.
6. Details of secure cycle storage.
7. Submission of a highway condition survey and remediation measures.
8. Details regarding the management of waste.
9. Details of vehicle and pedestrian spaces.
10. Means of access to and from the site shall be in accordance with the preliminary access arrangements shown on the approved plans.
11. Details of the preliminary street and footpath design.
12. Off-site highway works to be provided as shown on 22027/GA/01 Rev. D.
13. Submission of a full structural dilapidation survey of the existing dry stone highway retaining wall adjacent to Dobb Top Road.
14. Details for new retaining walls / building retaining walls/attenuation tanks adjacent to the proposed adoptable / existing highway including any proposed modifications to the existing highway retaining wall adjacent to Dobb Top Road.
15. Details of the design and construction details for all new surface water attenuation tanks/pipes/manholes located within the proposed highway footprint or influence zone of highway loading

16. Reporting of unexpected land contamination.
17. Submission of a verification report.
18. Submission of a strategy for imported materials.
19. A scheme detailing the EVCPs.
20. Submission of a Construction Environmental Management Plan.
21. Details of measures to deter crime and anti-social behaviour.
22. Management and maintenance of landscaped areas.
23. Submission of a Biodiversity Enhancement and Management Plan.
24. Submission of a CEMP:Biodiversity.
25. Full details of boundary treatment (including the increased size of the hedge to the eastern boundary).
26. Submission of an informed by up-to-date ECIA to include additional surveys of invasive species during optimal growing season.
27. Submission of a revised Method Statement for the Retaining Wall (given the location of the attenuation tank).

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate B has been signed.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Dec-2024

Subject: Planning Application 2023/92490 Erection of 35 dwellings with associated access and landscaping (within a Conservation Area) Former Dowker Works, Dowker Street, Milnsbridge, Huddersfield, HD3 4JX

APPLICANT

Dulson / Lawton,
Westshield / FCHO

DATE VALID

08-Sep-2023

TARGET DATE

08-Dec-2023

EXTENSION EXPIRY DATE

19-Dec-2024

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

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 Section 106 agreement to cover the following matters:

- **Management and Maintenance:** The establishment of a management company for the purpose of maintaining the shared green open spaces (including ecological management), the private parking areas and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

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

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for 35 dwellings with associated access and landscaping.
- 1.2 The application is presented to Strategic Planning Committee due to the development not providing all of the planning contributions required in line with local and national planning policy. In this case, the scheme would provide 100% affordable rent properties.
- 1.3 A viability appraisal has been submitted as part of the application process and externally assessed. More detail of this can be found within paragraphs 10.91 to 10.100 of this report.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises a brownfield site (approximately 0.52 hectares) that was previously used for industrial purposes. The site appears to have been vacant since circa 2007 and is in a derelict condition.
- 2.2 The site is of an irregular shape, with land levels falling slightly from north to south. An open culvert also runs underneath the site and the large majority of the site falls within Flood Zone 2.

2.3 Surrounding the site are predominantly residential properties, however, there are some industrial premises nearby on George Street. Immediately opposite the southeastern corner of the site on the junction with Dowker Street and George Street is a listed building known as Milnsbridge House (Grade II*). The site is also within the Milnsbridge Conservation Area and is directly adjacent to Milnsbridge Local District Centre.

3.0 PROPOSAL:

3.1 The applicant seeks full planning permission for the erection of 35 dwellings.

3.2 A new access is proposed onto Dowker Street from the eastern boundary at the application site. Internally, a new road would be provided, with two private parking areas (outside of domestic curtilage) extending to the north and south.

3.3 The dwellings would be arranged along the site's frontage in two larger terrace rows, with shorter terraced properties within the site. One detached dwelling is proposed to face onto Armitage Road.

3.4 Nine different house/cottage flat types have been proposed, which would provide 14x 1-bed apartments, 7x 2-bed apartments, 8x 2-bed houses and 6x 3-bed houses all for affordable rent. Materials include natural stone and re-constituted stone with tiles to the roofs.

3.5 All the dwellings would have designated parking spaces either within private curtilage or within the highway layout.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 At the application site:

2007/93016 Erection of 41 dwellings (12 houses and 29 flat) and a block of four garages – Refused.

2011/90822 Conversion of existing factory building to three town houses, and the erection of 31 dwellings and two apartments with associated parking and demolition of remaining factory buildings – Granted.

2011/90823 Conservation Area Consent for demolition of factory premises – Granted.

2015/92481 Discharge of conditions 3 (landscaping scheme) , 7 (site investigation report), 13 (drainage) and 19 (storage and access for collection of wastes) of previous permission 2011/90822 – Approved.

4.2 Pre-application advice

2023/20429 Pre-application enquiry relating to residential development – Comments made.

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

5.1 Amendments and additional information have been received regarding drainage and flood risk and the design and layout of the site. The number of units has been reduced as part of this application from 38 to 35. A viability appraisal has also been submitted with this application.

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 site is unallocated on the Kirklees Local Plan but is situated within Milnsbridge Conservation Area and is adjacent to the Grade II and II* Listed Buildings known as 8 and 8a Dowker Street and Milnsbridge House.

6.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing Mix and Affordable Housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity & Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic Environment
- LP47 – Healthy, active and safe lifestyles
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvements of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space

6.4 Supplementary Planning Guidance / Documents:

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

6.5 Guidance Documents:

- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Streets Principles for the West Yorkshire Transport Fund (2017)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Housing Position Statement to Boost Supply (2023)
- Viability Guidance Note (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)

6.6 National Planning Guidance:

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

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

6.7 Relevant National Guidance and Documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)

Climate change

6.8 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.

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as Major Development.

7.2 The application has been advertised via site notices and a press notice, and letters delivered to neighbours adjacent to the application site. Final publicity expired on 20/10/2023.

7.3 As a result of the above publicity, eight representations have been received from local residents. This includes five supportive comments, two objections and one general comment. The points raised have been identified below:

Supportive comments:

- Overall support of the scheme, however, I am aware that the position of the assumed alignment of the culverted section of Longwood Brook shown on the application details is significantly incorrect.
- As the former Chair of Milnsbridge Enhancement Group [MEG], I am delighted at this proposal. The site is a longstanding eyesore in Milnsbridge that we have monitored for years, requesting clear-ups of rubbish and mending of the vulnerable panels. The effect on Milnsbridge will be enormous in removing a source of shame and unhealthy fly-tipping.
- More constructively, the new housing will give a new heart to the village with a working, school and shopping population that will improve the economy and provide new active lives to add to the local school, shops, businesses and other enterprises. Milnsbridge needs both houses and population. I trust this project that offers hope of both will be approved.
- Milnsbridge Enhancement Group is pleased that this very unattractive derelict land is being developed by the building of new homes. The provision of mainly 1- and 2-bed properties with some 3-bed properties seems appropriate for this location near the commercial centre of Milnsbridge. At a time when rental properties are hard to find, this development of affordable homes for rent is welcome.
- It is good that there are more parking spaces (43) within the development than there are properties (38), so that there should be little overflow of parked cars onto the existing streets. The new residents will help boost local retail businesses and support the regeneration of Milnsbridge in the future.
- I am writing as a concerned resident of our village to express my strong support for the development of the waste land. I firmly believe that this development is a crucial step towards enhancing the overall quality of

life in our village. The current state of the waste land has become a persistent eyesore, tarnishing the aesthetics of our village. Its neglected appearance creates an atmosphere that encourages anti-social behaviour. This unfortunate environment has, regrettably, led to frequent instances of fly-tipping and other disruptive activities.

- By redeveloping this waste land, we have a unique opportunity to address these issues effectively. A thoughtfully planned development project can transform this blighted area into a valuable community asset, serving both the present and future generations of our village.
- Some key benefits that I believe the development of this waste land would bring include enhanced aesthetics, crime reduction and economic considerations.
- I fully support this application. It will bring a derelict piece of land in to use providing much needed homes. The mix of houses will also provide those looking to get on to the housing ladder a starting point. It also has the potential to help stimulate the local economy of Milnsbridge.

Objections:

- 38 dwellings seems to be far too many to be squeezed on to a small plot of land. Then there is the parking issue most homes have two cars in each household, some more some less. If we base each property with two cars where at 76 cars going to be parking. These 38 dwellings might also have guest round or property maintenance vehicles so where are all these parking. Think 38 dwellings is a bit excessive maybe less would be more practical.
- I live adjacent to this site on George Street, in Milnsbridge and I strongly believe that this is not a good idea to make all these houses/flats. It is a one way street with a very large amount of traffic especially HGV lorries going down and around these roads as it is not to mention not enough parking spaces round here so it will be even more populated with these properties being built. I have lived in my house for 12 years and will not be happy at all if this planning application goes ahead as it is already a very high traffic volume area in regard to pedestrians and vehicles.

General comments:

- Around the 1970s I recall that the highway authority excavated and laid an extensive concrete cover over the culvert of Longwood Brook with passes diagonally under Armitage Rd. I also recall that I and my deceased Partner inspected the culvert which has a very significant flow and passes under the former engineering shop at the northwest corner of the site from an inspection chamber which recall is now buried under 1m of brick demolition fill which now overlays the original floor on site.
- The history of the line is shown on various historical maps and most clearly on the 1889 edition. The position of the inspection chamber is approximately on the flow direction arrow indicated on the map and more importantly is around the west gable wall of plot 01-03 which is within the 8m environment easement. The surface water attenuation tank is also over the existing culvert also within the same easement.
- In principle I support the proposed development as it provides much needed social housing and utilises a site that has stood empty for years. The one concern I have is for the proposal to include public open green space, in particular a space for children to play safely. Milnsbridge is short of public green spaces and the nearest existing ones and playgrounds are only accessible by crossing very busy roads. The full

requirements under Local Plan Policy LP63 should be adhered to and the applicant should not be allowed to offset the public green space outside of the site.

7.4 Responses to the above comments are provided within this report.

Ward Members:

7.5 Ward Members have been notified of this application, however no formal comments have been received.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

The Environment Agency: Based on the additional information provided, the EA are able to remove their objections from the scheme. However, it is requested that the development not be commenced until an up-to-date culvert survey of Longwood Brook has been submitted to the LPA. Guidance has also been provided on the Biodiversity Net Gain within the culverted watercourse.

KC Lead Local Flood Authority: Officers are satisfied with the surveys submitted as they have identified the line of the culvert and the stand of distance required. The layout can provide a safe flood route for both the culvert and surface water blockage (including in an exceedance event). Officers have, however, requested two conditions regarding full draining details and how the system would be managed and maintained.

8.2 Non-statutory:

KC Environmental Health: In support of the application subject to conditions regarding contamination, noise and a construction environmental management plan being attached to the decision notice in the case of an approval.

KC Waste Strategy: The proposals are considered to be acceptable by the Waste Collection Authority.

KC Conservation and Design: We accept the principle of development as this would be an enhancement on a derelict site within the conservation area and within the setting of several listed buildings. Therefore, officers have no objections subject to conditions being attached in the case of an approval.

KC Trees: No objection from a tree perspective.

KC Strategic Housing: As the proposed development is for 100% affordable housing, no First Homes are required for this development.

KC Landscape: In support of the application, subject to a condition requiring the management and maintenance of the on-site green open space (for biodiversity).

KC Highway Structures: No objections subject to conditions being attached to the decision notice.

KC Policy: A sequential test has been submitted as part of this application and the decision in relation to the assessment of the sites and justification for discounting them would be down to Development Management.

KC Ecology: No objection is raised subject to conditions regarding a Construction Environment Management Plan (Biodiversity), a Biodiversity Enhancement Management Plan and a Lighting Strategy.

KC Education: Given the surplus school places currently available at Crow Lane Primary School and Royds Hall High Secondary School, no education contribution is required.

KC Highway Development Management: No objection to the proposal, however, final comments are awaited in relation to the Road Safety Audit.

Yorkshire Water: No objection as the building would have an adequate stand off to the public sewer.

West Yorkshire Archaeology Services: There are currently no known significant archaeological implications associated with the development.

West Yorkshire Police Designing Out Crime Officer: No objection subject to a condition requiring security measures for the site.

Northern Gas: No objection to the planning application, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved. As such the developer should make contact with Northern Gas to discuss their requirements in detail.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design
- Residential amenity
- Landscape issues
- Highway issues
- Drainage issues
- Other matters
- Representations
- Planning obligations and viability

10.0 APPRAISAL

Land use and principle of development

Residential development

- 10.1 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.

- 10.2 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 3-year period (the “pass” threshold is 75%).
- 10.3 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. This means that for decision making “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of-date (NPPF Footnote 8), granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (NPPF Footnote 7); or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
- 10.4 The council’s inability to demonstrate a five-year supply of housing land weighs in favour of housing development but has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officers’ assessment.
- 10.5 The site comprises a vacant parcel of brownfield land within a predominantly residential area. The site has also historically received consent for the conversion of the then-existing factory building to three town houses, and the erection of 31 dwellings and two apartments, which can be afforded some (albeit limited) weight.
- 10.6 The 35 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan, which carries positive weight in the balance of planning considerations. Substantial weight must also 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.

Quantum

- 10.7 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 would 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. This is supported by policy 4 of the Housebuilders Design Guide SPD.

- 10.8 In this instance, the site area is 0.52 ha and would therefore achieve a density of 67 dwellings per hectare. Whilst this is significantly over the 35 dph target, the site includes a large number of flats and also takes cues from existing adjacent development, which includes close knit terrace properties. It is also noted that the site is very accessible and is close to a wide range of local facilities in the adjacent centre, and to public transport facilities. These considerations also help justify the proposed density.
- 10.9 With these matters taken into consideration, the density can be supported, as it would provide much-needed housing within Milnsbridge.
- 10.10 Regarding housing mix, Local Plan Policy LP11 seeks for proposals to provide a representative mix of house types for local needs. This is expanded upon and detailed within the council's Affordable Housing and Housing Mix SPD (March 2023). However, it must be noted that the council's SPD was adopted after the housing density and mix at this site was discussed with officers. Therefore, a pragmatic approach has been undertaken and full adherence to the SPD is not expected.
- 10.11 In this instance the development would provide 11x 1-beds, 18x 2-beds and six 3-beds, however, all the units would be affordable (for social rent). KC Strategic Housing have confirmed that there is a need for this tenure type and that the current housing mix (including the six 3-bed units) to be acceptable.

Minerals

- 10.12 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 would only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Sustainability and climate change

- 10.13 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. It is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area.
- 10.14 The Climate Change Statement submitted with the application states that the development would be fitted with air source heat pumps and PV arrays for each property. All plots would have smart energy meters installed including amount and cost of energy demand and would have user friendly building service controls that are efficient, up to date and complementary. All plots would have external space for drying washing naturally and where practical buildings have been orientated to utilise passive solar gain. Additional details have been provided in relation to reducing the impacts on flooding and air pollution and to increase biodiversity net gain.

Urban Design issues

- 10.15 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) where Paragraph 131 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 10.16 Kirklees Local Plan Policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

- 10.17 Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*.

- 10.18 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 10.19 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals would be expected to respect and enhance the local character of the area by:*
- *Taking cues from the character of the built and natural environment within the locality.*
 - *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
 - *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

- 10.20 Principle 5 of this SPD states that: *“Buildings should be aligned and set-back to form a coherent building line and designed to front on to the street, including corner plots, to help create active frontages. The layout of the development should enable important views to be maintained to provide a sense of places and visual connections to surrounding areas and seek to enable interesting townscape and landscape features to be viewed at the end of streets, working with site topography.”*

- 10.21 Principle 13 states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.

- 10.22 In this case, the site is situated within Milnsbridge Conservation Area and directly opposite the Grade II* listed Milnsbridge House and the Grade II listed buildings known as 8 and 8a Dowker Street.
- 10.23 Therefore, Section 72 of the Planning (Listed Buildings & Conservation Area) Act (1990) is relevant. This places a duty on the council to pay special attention to the desirability of preserving or enhancing the character and appearance of the Milnsbridge Conservation Area when determining this application.
- 10.24 Furthermore, when making a recommendation in respect of a planning application affecting the setting of a Listed Building, attention must be given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to *'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'*.
- 10.25 Policy LP35 further outlines that proposal which affect designated heritage asset should preserve and enhance the significant of the asset. More specifically in cases likely to *"result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposal would bring substantial public benefits that clearly outweigh the harm to the historic environment"*.
- 10.26 The site was developed from the mid-19th century onwards, with terraced houses and works buildings, and a Liberal Club on the southeast corner (later a telephone exchange). The 1965 OS map shows that the works building had extended across the entire proposal site and was set close to the site boundaries. Other than the terraces on the northern site boundary which have small front gardens, all other buildings within the site perimeter faced directly onto the streets with none or very little amenity space at the front. This is characteristic of the workers' housing and commercial/industrial buildings within the Milnsbridge Conservation Area.
- 10.27 The site is currently a vacant brownfield site, free from any previous built form. The development would bring this previously-developed site back into use. The the current timber boarding that encloses the site would be removed.
- 10.28 The proposed layout reflects the existing character along George Street, Dowker Street and Armitage Road, as two rows of terrace properties are proposed adjacent to the highway. Whilst this layout may not be a typical arrangement for new housing sites, there is a clear character within this area and the proposed built form (which reflects that character) is supported. Additional shorter terrace rows are proposed within the site, along with a detached building facing onto Armitage Road. Whilst this building would differ in its appearance to the existing development along Armitage Road, the stand-off distance for the culverted watercourse that runs beneath the site has dictated the amount of development that can be achieved within this area, and the footprint of this block. Its design, however, gives the appearance of two small semi-detached properties and therefore, when taking into account the above, the design of this building is supported.

- 10.29 Adequate space between dwellings has been proposed, albeit officers note that this is slightly less than the typically required separation distances. However, the existing character for this area allows an exception to the normally-applied distances. Where possible, driveways are proposed to the side of dwellings, along with some in-curtilage parking. The design requirements of the scheme consider existing cues from nearby properties but as a result of this, some of the parking proposed would be within the highway layout, outside of domestic curtilage. Whilst this is not ideal, the greater benefits of having the layout with the dwellings fronting the highway outweighs the harm. The out of curtilage parking areas would also be landscaped to help alleviate any concerns of large areas of hardstanding.
- 10.30 The scale and overall form of the dwellings, with stepped roof lines, reflects the typical form of the terraced dwellings in this area, and officers support the principle of two-storey dwellings on the Dowker Street and George Street elevations as these would be subservient to Milnsbridge House. Plots 1-3 (within the detached building) to the northern edge of the site facing onto Armitage Road would, however, be three-storey to the rear elevation to take into account the slight change in levels within that area of the site. This is supported. The street scene elevations provided show that the development would be of an appropriate height for the area and would be stepped (where necessary) to take into account topography.
- 10.31 Regarding architectural form, the proposed dwellings would have a typical modern vernacular and would benefit from gable roofs to keep in with the character of the area. Front elevations have been amended to show one over one casement windows to broadly reflect the character of the terraces within the conservation area and immediate setting. Some horizontal three light windows are proposed on Dowker Street, and it is accepted that although these do not reflect the surrounding character, the internal layout of the kitchens in these flats makes a tall one over one window difficult to achieve and therefore officers accept this design on balance. Panelled doors are proposed to reflect the character of the 19th century terraces. These details are therefore accepted in principle, however a condition requiring elevations for the windows and doors would be required.
- 10.32 To the rear, each unit whether that be flat or dwelling would benefit from outdoor amenity space. For the flats which face onto Dowker Street and George Street, a shared amenity space is proposed, which would include new tree planting. Private individual gardens would be provided for the dwellings. The proposals of green space to the front of the buildings and to key views into the site are welcomed.
- 10.33 The plans show cottage types 1, 3 and 4 and plots 9 to 13 to be constructed from natural stone to their front elevations and gables with ashlar stone heads and cills. This is due to these units being within prominent locations within the site, adjacent to the heritage assets. Cottage flat type 2 (the building which would front onto Armitage Road) is still proposed to be constructed from reconstituted stone. In this case, this dwelling should be constructed from natural stone to its front and gable elevations, as it would face onto the highway and would be read alongside the existing dwellings constructed from natural materials. It is recommended that this change in material be secured by an appropriately worded condition.

- 10.34 The remaining plots/elevations would be constructed from reconstituted stone as they would be located within a less-sensitive and less-prominent location further into the site. Whilst officers would prefer to see all of the dwellings constructed from natural materials, the costs associated with this have been noted, which is a consideration especially as the scheme would be provided by a non-profit organisation for affordable housing. Grey roof tiles are specified, however natural or artificial blue slate would be preferable to match the surrounding buildings and to enhance the character and setting of the conservation area and nearby listed buildings. This is considered reasonable given the sensitivity of the site and therefore a condition to this effect has been proposed.
- 10.35 PV panels are proposed within the front and rear roof pitches of the buildings. Whilst officers have no concerns about PV panels being located on pitches facing into the site, concern is raised regarding any to the outer pitches (i.e. to front onto George Street, Dowker Street or Armitage Road) unless they are integrated into the surface of the roof slope. As no additional information has been received in this respect a condition would be required on the decision notice in the case of an approval, securing details of the arrays to be submitted for approval, including solar panel type and location. No details have been provided for the air source heat pumps and therefore their details, size and locations would also need to be secured via a condition. These installations would need to be located to the rear elevations of the buildings.
- 10.36 Limited information regarding the proposed boundary treatments has been provided and therefore, the council would require full details of all boundary treatments, fences and walls at conditions stage, prior to the commencement of development.
- 10.37 In conclusion, it is considered that the details provided within this full planning application demonstrate that the development has been designed to sympathetically respond to the local character, with the use of traditional materials where possible, and through the use of elevational detailing. It is considered that the proposal development complies with the council's guidance documents for residential developments and would bring a current vacant brownfield site back into use.
- 10.38 Furthermore, given the amendments sought to ensure the development's acceptable design (including in relation to scale, grain, orientation and materials) it is considered that there would be no undue harm to the significance of the aforementioned heritage assets. The public benefits of the scheme (which would provide 100% affordable units to help meet known needs) are again noted.
- 10.39 Given the above assessment, it is considered that the relevant requirements of Chapters 11, 12 and 16 of the NPPF and Policies LP2, LP7, LP24 and LP35 of the Kirklees Local Plan would be sufficiently complied with. The scheme also complies with the guidance set out within the council's Housebuilders Design Guide SPD.

Residential Amenity

10.40 A core planning principle as set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. This is also reinforced within part (b) of Policy LP24 of the Kirklees Local Plan. Principle 6 of the Housebuilders Design Guide SPD sets out that residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking. Specifically, it outlines that for two storey dwellings the following, typical minimum separation distances between existing and proposed dwellings, are advised:

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

10.41 In addition to this, Paragraph 135 (f) of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.42 Principle 16 of the Housebuilders Design Guide SPD seeks to ensure the floorspace of dwellings provide a good standard of amenity for future residents and make reference to the 'Nationally Described Space Standards' document (March 2015). Principle 17 of the SPD requires development to ensure an appropriately sized and useable area of private outdoor space is retained.

10.43 The site is situated within a wider mixed use area, however, residential properties immediately border the site to north, east, south and west.

88 George Street

10.44 This property is situated to the southwest of the application site. Officers have noted that the nearest plots to these neighbours would be the flats proposed as plots 30 and 31. The submitted plans show that there would be habitable room windows proposed within the western elevations of plots 30 and 31, however, the residential properties would be separated by car parking and an area of green space, which would provide an adequate separation distance (of approximately 19.9m). 88 George Street does not benefit from any existing side openings, and has a large brick wall to its rear amenity space. For these reasons, officers are satisfied that the development would have no undue impact on these neighbours amenity with regards to overbearing, overshadowing or overlooking.

52-86 Market Street

- 10.45 Most of these buildings appear to be within a commercial use, other than 78 and 78a, 80a and 84 Market Street which include residential flats, either occupying the entire building or the upper floors. Nonetheless, the site has been designed to ensure that there would be adequate separation distances to this western boundary. For instance, plots 4 and 32 would be the nearest properties to these existing buildings, whereby significant separation distances are proposed, including at least 15m from the side elevation of plots 14 to 32 to the site's western boundary. As such, officers are satisfied that there would be no detrimental overbearing, overshadowing and overlooking to these neighbours amenity.

119 - 129 and 135 Armitage Road

- 10.46 129 Armitage Road is the residential property which lies to the east of the proposed plots 1 to 3 (residential flats). The plans show that there would be no side openings within these units and that separation distances of 2m to 2.9m would be retained between these neighbours side elevations. The new building would also sit flush with 129 Armitage Road's front elevation but would extend slightly further back than its rear elevation. Given the orientation of these properties and the topography of the land within the application site, any overbearing and overshadowing is not considered to be detrimental. Nonetheless, to help omit some of the bulk and massing, it is recommended that full details of boundary treatments be secured by condition.
- 10.47 Plots 4 to 8 would have a back-to-back relationship with 119-129 Armitage Road. The proposed site plan shows that separation distances of between 18m and 20m would be proposed. Whilst this is a slight shortfall (noting the 21m identified within the council's Housebuilders Design Guide SPD), it is noted that the application site is on a slightly lower level and may help create more privacy for the residents of the existing and proposed properties. Therefore, on balance given the character of the area and the close knit development, officers support this reduced separation distance and are satisfied that there would be no undue loss of amenity from overbearing, overshadowing or overlooking at these neighbours properties.
- 10.48 135 Armitage Road is a commercial property.

15 Dowker Street

- 10.49 This dwelling is located to the north of the proposed plot 9. These neighbours would have a side-to-side relationship and would be separated by the driveway for plot 9. No side openings currently existing within the southern side elevation of 15 Dowker Street, with only a bathroom window proposed within the northern side elevation of plot 9. This would be fitted with obscure glazing and therefore would not lead to any undue overlooking. Plot 9 would also extend slightly further back than 15 Dowker Street, however, the separation distance to allow for the car parking would ensure that there would be no material overbearing and overshadowing upon these neighbours' amenity. As such, this relationship is considered acceptable.

8 Dowker Street and Milnsbridge House

- 10.50 Plots 14-25 (the first and ground floor flats) would be situated adjacent to 8 Dowker Street and Milnsbridge House which are both have a residential use (whether currently occupied or not). There would be approximately 12m between the proposed plots and these neighbours front elevation. Officers note that this is a reduced separation distance, however, given the existing character of the area, there is already a precedent for close-knit development. The highway which runs between these properties would also provide a buffer and therefore, officers support this relationship, as it is unlikely to give rise to any material overbearing, overshadowing or overlooking.

23 – 41 George Street

- 10.51 Plots 24-31 would be situated directly opposite 23 to 41 George Street. As mentioned above, the separation distance between these properties would be slightly below the typical requirement, at approximately 14m. This is deemed acceptable given the context and character of the area. In addition, the public highway which runs between these properties would also provide a natural separation. As such, officers are satisfied that this relationship would not give rise to any detrimental overbearing, overshadowing or overlooking.

Amenity of the future occupiers

- 10.52 Consideration must also be given to internal separation distances and the amenity of the future occupiers. In this case, the internal separation distances are considered to be acceptable, as gardens, open green spaces and the highway would separate the built form. The closest separation distance would be between plot 35 and plots 26 to 29 at 15.5m, however, as mentioned above this is typical for development in this area.
- 10.53 Each unit would meet the Government's Nationally Described Space Standards and would provide a dual aspect for all residents with regard to outlook, privacy and light. Therefore, the proposed layout, for residential amenity purposes, is considered acceptable and complies with guidance contained within the Housebuilders Design Guide SPD and the aims and objectives of Policy LP24 of the Kirklees Local Plan.

Landscaping

- 10.54 The proposed private gardens are considered commensurate in scale to their host dwellings. They would offer good separation and space about dwellings, whilst offering private amenity space for residents, securing a high standard of visual and residential amenity.
- 10.55 Outdoor amenity green space is also proposed for the occupiers of the flats and to the north and south of the private parking areas. This would provide some outdoor space for the residents to enjoy and would also act as a natural buffer to help break up the large areas of hardstanding within the site. The landscaping plan, however, shows the green space adjacent to the car parking to improve biodiversity net gain. This would include large wildflower areas, which would not be publicly accessible. Whilst this is not ideal and would take away some on site public open space, landscape officers are willing to accept this in the planning balance. The species proposed are acceptable.

Highway issues

- 10.56 Paragraph 114 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.57 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.
- 10.58 The applicant proposes to utilise the existing access point onto Dowker Street.
- 10.59 The proposed site plan shows one central road into the site, with private parking areas extending to the north and south.
- 10.60 With regard to on-site parking, it is noted that there would be an overall shortfall as general guidance states that 2- and 3-bedroom dwellings should have two parking spaces each. In this case, a least one off street parking space has been provided for each unit. This has been considered acceptable on balance, given that the site is within a sustainable location on the edge of Milnsbridge Local Centre, with access to shops and amenities within walking distance. In addition, it is again noted that the design of the layout (which would ensure that it is in keeping with the character of the local area, to help preserve the setting of the Conservation Area and nearby listed buildings) has informed the on-site parking proposals.
- 10.61 Swept paths have been demonstrated to show that a refuse vehicle can enter, exit, and turn within the site. This is considered to be acceptable. Visibility from the site access can also be supported, as the dwellings have been set back a minimum of 500mm from the back of the visibility splay with no boundary walls proposed to ensure the splay is kept clear of any obstructions.
- 10.62 The proposed site plan demonstrates bin stores within the rear gardens of the dwellings and a bin store for the residential flats proposed. Final details of the bin stores should be conditioned to ensure that they are of an appropriate size and design. The waste management plan also identifies an orange dashed line showing the walk path and distance from dwellings to bin stores and Bin Collection Points (BCP's). Details of temporary arrangements for bin collection would be secured by condition. This is considered satisfactory by the Waste Collection Authority.

- 10.63 Further comments from KC Highway Development Management will be captured within the committee update in respect of the findings of the Road Safety Audit, along with any conditions required to comply with Policy LP21 of the Kirklees Local Plan and aims of the Highway Design Guide SPD and National Planning Policy Framework.
- 10.64 KC Highways Structures have also reviewed this planning application, raising no objection subject to conditions being applied regarding any new retaining walls adjacent to the highway, details of any drainage within the adopted highway and the proposed design and construction details for the reconstruction/strengthening of culverted section of Longwood Brook within the highway footprint.

Flood risk and drainage issues

- 10.65 Chapter 14 of the NPPF and Policy LP27 of the Kirklees Local Plan state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 10.66 The application has been submitted Flood Risk Assessment which has been reviewed by KC Lead Local Flood Authority (LLFA) and the Environment Agency (EA). The EA and the LLFA are satisfied that surveys have identified the line of the culvert (which runs beneath the application site) and a stand-off distance has been imposed.
- 10.67 Officers are satisfied that the layout can provide a safe flood route for both a culvert and surface water blockage (including an exceedance event). This accords with Policy LP28 of the Kirklees Local Plan.
- 10.68 The submitted drainage plans show that there is adequate space for water within the site, albeit the attenuation would include crate storage. This would be located within the northern parking area outside of the highway which is proposed to be adopted. In this instance the LLFA have requested two conditions, one being for full drainage details, to ensure the location of the attenuation create can be achieved and is not too close to the culvert's easement. The second condition would require a management and maintenance plan for the crate storage and ensures that it would be replaced every 25 years, unless further certifications for its lifespan can be provided. This storage would be privately managed and maintained by the developer/management company, unless this drainage feature is adopted by Yorkshire Water under a Section 104 agreement.

Sequential test

- 10.69 The site is partially located within Flood Zone 2, which triggers the requirement of a sequential test. Paragraph 168 of the NPPF states that *'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'*

- 10.70 Paragraph 003 of the relevant Planning Policy Guidance (Flood Risk Coastal Change) states that *'when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.'*
- 10.71 A sequential test has been submitted as part of this application. A smaller area of search has been proposed by the applicant using the council's latest Strategic Housing Market Assessment (SHMA). This has included the Huddersfield Local Market Area. This is acceptable as an area of search as the SHMA sets out the National Housing and Planning Advice Unit housing market evidence showing three local market areas within Kirklees (Huddersfield Local Market Area being one of them).
- 10.72 As sources of site, the submitted sequential test uses local plan allocations, sites with extant planning consent, recently-expired applications and sites contained on the brownfield register. However, the test does not include windfall sites.
- 10.73 The report concludes by setting out that there are no sites available that are sequentially preferable to the proposed development site. This site offers a unique opportunity for high-quality affordable housing within a sustainable residential area of Kirklees.
- 10.74 The submitted Design and Access Statement and submitted technical reports clarify how the proposals meet a defined local need. It is pertinent to note that the proposal relates exclusively to the provision of affordable housing, with a viability assessment having been submitted to show that the site can only be developed for 100% affordable units. Therefore, this has discounted a significant number of sites. Other sites have also been discounted where existing structures/hardstanding would need to be removed along with any associated contamination, as have sites that would require cut and fill and associated earthworks.
- 10.75 As such, officers are satisfied with the sequential test (demonstrating that the proposal for residential development in Flood Zone 2 is justified, as there are no sequentially preferable sites available) as the land is a current vacant brownfield site, just out of the centre of Milnsbridge. It is also again noted that planning permission has historically also been granted for development at this site under planning application 2011/90823 granted in November 2012.

Other matters

Ecological considerations

- 10.76 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 185 of the NPPF outlines that decisions should promote the protection and recovery of priority species and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 186 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This is echoed in Policy LP30 of the Kirklees Local Plan.

- 10.77 Furthermore, Policy LP30 of the Kirklees Local Plan outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist. Principle 9 of the Housebuilders Design Guide SPD echo the Local Plan in respect of biodiversity.
- 10.78 An Ecological Appraisal has been submitted with this application, outlining that the site comprises 0.21ha of dense (inaccessible scrub and saplings) 0.31 ha of hardstanding with chipped vegetation and scattered scrub. Remaining building foundations were present on the southern aspect, while on the northern aspect a rubble / brick pile wall had been created. Nesting birds were noted on site to the north within the dense scrub. Given the presence of nesting birds, limited lighting on site and dense vegetation, the report suggests that a Construction and Environmental Management Plan (CEMP) should be conditioned and produced. The CEMP would detail protection measures, and pre/during clearance ecology checks for protected species. The report also outlines that “enhancements are easily achievable within the development where the incorporation of native planting, bat, bird and hedgehog nesting boxes are recommended. Inclusion of hedgehog highways and residential information of artificial boxes and hedgehogs are also recommended”. As such, a condition requiring on-site biodiversity enhancements is recommended.
- 10.79 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.
- 10.80 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 | 0.42 | 0.52 | 0.10 | 24.34% |
| Hedgerow | 0.00 | 0.03 | 0.03 | N/A |
| Watercourse | 0.20 | 0.20 | 0.00 | 0.00 |

- 10.81 In this case, KC Ecology are satisfied that the scheme can achieve an on-site 10% net gain and therefore this would be secured via a recommended condition requiring a Biodiversity Enhancement Management Plan to secure 0.52 habitat units, 0.03 hedgerow units and 0.22 river units.

Trees

- 10.82 Policy LP33 of the Kirklees Local Plan states that “the Council would not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity...Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment”. This is supported by Principle 7 of the Housebuilders SPD.

- 10.83 In this case, KC Trees have confirmed that there are no trees or shrubs at the site that merit retention or proposal. As a result, there is no objection to the scheme from a tree perspective.

Contaminated land

- 10.84 This site has been identified on the council's mapping system as potentially contaminated land due to its former use/s (site reference: 275/9). As such, a Stage II Report and Contamination Remediation Statement have been submitted in support of the application.
- 10.85 In this instance, officers require the Stage I Report referred to in the Stage II Report to confirm its validity, post-clearance sampling to confirm the site condition and to inform a revised remediation strategy, clarification regarding changes to site levels, and further commentary on asbestos risk and the depth of clean cover proposed. As such, full land contamination conditions are recommended.

Noise

- 10.86 The proposals introduce sensitive noise receptors close to potential noise sources. KC Environmental Health therefore recommend a Noise Assessment be submitted before any enabling or construction work commences.

Electric vehicle charging points

- 10.87 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of an electric vehicle charging point for each dwelling. Technical details of the chargers to be submitted would be required at the discharge of condition stage. This is to ensure compliance with Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the NPPF.

Construction activities

- 10.88 The site is adjacent to existing residential properties. All reasonable steps must be taken to minimise and mitigate adverse effects from construction-related activities that may lead to a loss of amenity. As the submitted documents do not include a Construction Environmental Management Plan (CEMP), a condition to secure this is recommended.

Crime prevention

- 10.89 The West Yorkshire Police's Designing Out Crime Officer has been formally consulted as part of this application. The officer has raised no objection to the proposed layout but has requested that a condition requiring security measures be attached to the application in the case of an approval. This would include details of boundary treatments, lighting, window and glazing details, doors and locking systems, CCTV and alarms and cycle and motorcycle storage, in accordance with Policy LP24 (e) of the Kirklees Local Plan.

Representations

10.90 As noted above, eight representations have been received by local residents. This includes five supportive comments, two objections and one general comment. The representations have been considered in the above assessment.

Financial contributions and planning obligations

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

10.92 The following represents a policy-compliant suite of Section 106 obligations for the proposal:

- Affordable Homes: Seven units (albeit the proposal is for 100% affordable housing).
- Public Open Space (off site contribution): £74,430.69.

10.93 Section 106 obligations that would be required regardless of the financial contributions include the provision of the site's on-site green space and management / maintenance arrangements for the drainage (prior to adoption) and the private parking areas to the north and south of the internal access road.

10.94 The applicant has provided a viability assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them. The applicant has also stated that the site is only developable for 100% affordable housing. The Government's planning practice guidance provides the following overview of the viability assessment process, for context:

Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.

Any viability assessment should be supported by appropriate available evidence informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making.

In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

- 10.95 The applicant's viability assessment has been reviewed by an independent viability assessor (Altair) appointed by the council, to advise officers on this specialist subject.
- 10.96 A review of the applicants viability report has been undertaken which has been considered as two different scenarios: a fully compliant Section 106 package (including 20% affordable housing (in line with Policy LP11) and the off-site POS contribution of £80,583) and a scheme to deliver 100% affordable housing with no further financial contributions. The applicant's viability assessment for the scheme concludes that it is not viable for them to provide a fully compliant Section 106 package.
- 10.97 Altair have therefore reviewed the submitted information and drawn conclusions upon the accuracy of the applications assumptions. In doing this, Altair have used the applicant's residual land value calculation and examined how the applicant's figures compare to industry benchmarks along with current economic factors and evidence. The following table illustrates the key assumptions within the report and how they compare:

| Assumption | Applicant | Altair |
|---|---|--|
| Open Market Values | £6,695,000 | £6,895,000 |
| 100% Affordable Rent Income | 80% of OMV | 80% of OMV |
| Build Costs | £4,604,819 | £4,343,104 |
| Contingency Fees | 3.00% | 3.00% |
| Developer's Return (Private Sale) | 17.50% | 17.50% |
| Developer's Return (Affordable Housing) | 8.00% | 6.00% |
| Professional Fees | 8.00% | 8.00% |
| Sales & Marketing Fees | 3.00% | 2.50% |
| Sales Legal Fees | £750 pu | £750 pu |
| S106 / CIL | £80,583 | £80,583 |
| Finance Costs | 8.50% | 7.50% |
| Programme | Pre Con: 3 mths Construction: 18 months Sales: 2.5 pcm AH Sales: At completion | Pre Con: 3 mths Construction: 18 months Sales: 2.5 pcm (30% sold off plan) AH Sales: S-Curve through construction |
| Benchmark Land Value | £390,000 | £390,000 |

Table 8 - Summary of Assumptions

- 10.98 Altair's report concludes that the application cannot viably support the normal affordable housing requirement and Section 106 financial contribution when considering industry standard profits (i.e. a 17.5% profit margin). However, their assessment demonstrates that for a not-for-profit developer (who would deliver only the 100% affordable units) the scheme may be feasible, when taking into account current day income and cost assumptions.
- 10.99 Officers accept this position and agree that the only viable solution for the site would be to deliver it for 100% affordable units, with no other Section 106 contributions to be secured.

10.100 An Affordable Housing Statement has been submitted in support of the application following the viability review, which sets out that the units within the site would be retained as 100% affordable in perpetuity. This is welcomed and an appropriately worded condition to secure this would be attached to the decision notice.

11.0 CONCLUSION

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

11.2 The site is currently a vacant brownfield site, within an existing residential area, close to the centre of Milnsbridge. A planning permission was previously granted for residential development under application 2011/90822.

11.3 Site constraints include neighbouring properties, nearby heritage assets and a culvert that runs beneath the site. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable, with conditions proposed to ensure that a high quality development would be delivered, to protect the setting of the nearby listed buildings and conservation area. There would be no undue harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed and can on balance be supported. Other planning issues such as drainage, contamination, ecology for example have been addressed through the proposal.

11.4 Viability issues have demonstrated that the site can only be delivered for 100% affordable dwellings, with no financial contributions towards off-site public open space improvements. The tenure proposal is greatly welcomed as the scheme would provide much-needed affordable units within the area of Milnsbridge.

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

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Samples of all walling materials.
4. Notwithstanding the submitted plans, plots 1-3 to be developed from natural stone to the front and gable elevations.
5. Notwithstanding the submitted plans, the roofing materials to include artificial or natural blue slate, including samples.
6. Details of windows and doors.
7. All windows to be set back into the reveal by 100mm.
8. Full details/locations of PV panels.
9. Full details/locations of the air source heat pumps.
10. Full details of boundary treatments.

11. Details of measures to deter crime and anti-social behaviour.
12. Submission of a CEMP.
13. Management and maintenance of green space.
14. Submission of full drainage details.
15. Management and maintenance of drainage features (crate storage/attenuation).
16. Bin store details.
17. Details of temporary waste storage and collection (during construction).
18. Submission of Phase 1.
19. Submission of Phase 2.
20. Submission of Remediation Strategy.
21. Implementation of Remediation Strategy.
22. Submission of Validation Report.
23. Submission of a Noise Assessment and Mitigation Scheme.
24. Details of EVCP's.
25. Permeable surfacing to all vehicle parking areas.
26. Details of any new retaining walls/ building retaining walls adjacent to the proposed adoptable highway.
27. Proposed design and construction details for the reconstruction/strengthening of culverted section of longwood Brook within the highway footprint.
28. Details of any drainage in the highway.
29. Submission of an up to date survey of Longwood Brook.
30. Development in accordance with Affordable Housing Statement.

Background Papers:

Application and history files.

[Planning application details | Kirklees Council](#)

Certificate of Ownership – Certificate B signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 05-Dec-2024

Subject: Planning Application 2024/90357 Removal of conditions 10, 12, 13, 14, 20, 33, 38, 39 and 40 and variation of conditions 1, 19, 24, 29, 34, 36 and 37 of previous permission 2019/90949 for variation of condition 18 (crushing and screening operations) of previous permission 2013/90793 for mineral extraction Land Adj, Thewlis Lane, Crosland Hill, Huddersfield, HD4 7AB

APPLICANT

Myers Group

DATE VALID

15-Jul-2024

TARGET DATE

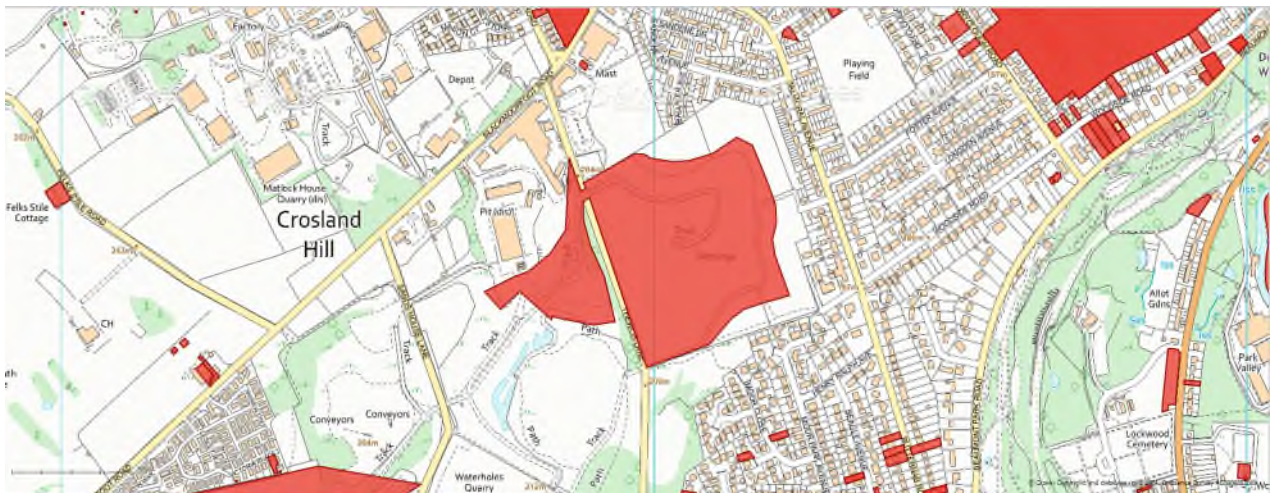
14-Oct-2024

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Crosland Moor and Netherton

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 allow the publicity period to expire, complete the list of conditions including those contained within this report and to secure a Deed of Variation to the original Section 106 agreement dated 09/06/2006 and associated with permission 2003/91691.

Should the remaining public consultation raise issues that would result in substantive changes to the officer recommendation, the application shall be discussed with the Chair and/or considered again by the Strategic Planning Committee.

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

1.0 INTRODUCTION:

- 1.1 The application is brought to Strategic Planning Committee in accordance with the scheme of delegation as the proposal is a major development and represents a significant departure from the Local Plan.
- 1.2 The site forms a large part of a housing allocation (site reference: HS22). The indicative capacity for the site is 243 dwellings to be delivered during the Local Plan period with a further 257 dwellings beyond the plan period (500 total). The site comprises an active quarry site. Given the site's use for mineral extraction and allocation for 500 homes in the Kirklees Local Plan, the 2013/90793 permission required the site to be backfilled to an engineered solution, to accommodate future development of the site for housing.
- 1.3 The applicant is now seeking to vary and remove a number of planning conditions relating to the 2019/90949 permission (this being the latest planning permission, which varied permission 2013/90793 – see paragraph 3.1 below) including those requiring an engineered backfill, stating that the engineered backfill to provide housing on the full site is unviable. The applicant is therefore now proposing a lower level of restoration and the option to deliver housing (up to 327 dwellings) on the remaining parts of the site housing allocation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site occupies an area of approximately 10.3 hectares in total and is currently in use as an operational quarry which forms part of a larger complex of quarries and associated infrastructure. The application site is located approximately 3km southwest of Huddersfield town centre, on the periphery of Crosland Hill. The current mineral extraction area is bounded to the west by Thewlis Lane which meets Blackmoorfoot Road to the north. The application site red line boundary also includes an area on the western side of Thewlis Lane which is currently being used in association with the wider operations of the mineral extraction business. This area also overlaps and forms part of the site to which application 2003/91691 (and the associated Section 106 agreement) related.
- 2.2 There are residential properties to the north, east and south, the nearest being approximately 100 metres from the quarry void. Areas to the east and southeast (beyond the application site red line boundary) comprise grazing land, with the eastern and southeastern boundaries being adjacent to existing residential dwellings and gardens along Balmoral Avenue (to the east) and Moor Park Avenue (to the southeast).
- 2.3 Previous permissions for the development of this site allowed for mineral extraction, and the construction of screen bunds around the perimeter of the working area. Other than from the quarry entrance onto Thewlis Lane, direct views of the quarry workings are not readily gained from public vantagepoints.
- 2.4 A Public Right of Way (PROW) (refs: HUD/220/20 and HUD/220/30) run parallel to the southern boundary of the housing allocation and the site is bisected through the middle by a claimed bridleway HUD 139/10. A diverted route was approved under discharge of condition application 2014/90396.

3.0 PROPOSAL:

- 3.1 The operations at the site are being carried out under the 2013/90793 extant permission, with the relevant phasing and restoration details having been approved under subsequent discharge of condition application 2014/90920 and referenced in the last Section 73 application 2019/90949. The proposals are now seeking to vary conditions 1, 19, 24, 29, 34, 36 and 37, to enable a low level restoration scheme (as opposed to an engineered backfill of the former quarry area), and to remove conditions 10, 12, 13, 14, 20, 33, 38, 39 and 40 of the 2019/90949 permission, under the Section 73 process.
- 3.2 The applicant proposes removal of these conditions which the applicant believes are no longer relevant to the site, given the details therein have either been superseded by events and or they refer to a restoration scheme which is no longer proposed by the applicant and which requires an engineered backfill and restoration of the site for agriculture and nature conservation.
- 3.3 The proposed variation to condition 1 also seeks an extension of time (for the extraction of minerals, restoration of the site and other works) from the previously-approved 31/12/2025 to 31/12/2027.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 Application site:

92/62/05699/W0: Mineral Extraction and Landfill – Granted.

2003/91691: Extension of mineral working with restoration and demolition and subsequent reinstatement of dwelling and adjacent buildings – Granted with Section 106 agreement.

2013/90793: Mineral extraction – Granted with Deed of variation to Section 106 on planning permission 2003/91691.

2014/90396: Discharge conditions 10 (bridleway), 13 (screen mound), 47 (noise), 49 and 50 (dust) on previous permission 2013/90793 for Mineral extraction – Granted.

2014/90920: Discharge conditions 8 (plant crossing), 11 (highway structures), 12 (geotechnical stability), 19 (backfill), 29 (restoration), 53 (archaeological recording) on previous permission 2013/90793 for mineral extraction – Granted.

2019/90949: Variation condition 18 (crushing and screening operations) on previous permission 2013/90793 for mineral extraction – Granted.

2019/91053: Discharge condition 19 (backfill) on previous permission.

2022/20327: Pre-application enquiry for residential development and variation of extant consent 2013/90793. Accompanied by a Viability Appraisal – comments provided.

Surrounding Area:

Woodcock & Wilson Ltd, Blackmoorfoot Road

2022/90834: Erection of extension and new accessway within the site – Granted. Noted here due to proximity to site.

Lowdham Leisureworld, Crosland Hill Road, Crosland Moor

2021/93150: Residential development for 87 dwellings including demolition of existing buildings and ground works, provision of open space, landscaping and on-site infrastructure – Pending consideration.

Land off Blackmoorfoot Road and Felks Street, Crosland Moor (Black Cat site)

2018/90748: Outline application for the development of up to 630 residential dwellings (Use Class C3), up to 70 care apartments with doctors surgery of up to 350 sq m (Use Classes C2/C3/D1), up to 500 sq m of Use Class A1/A2/A3/A4/A5/D1 floorspace (dual use), vehicular and pedestrian access points off Blackmoorfoot Road and Felks Stile Road and associated works – Refused.

2020/92546: Outline application (with details of points of access only) for the development of up to 770 residential dwellings (Use Class C3), including up to 70 care apartments (Use Classes C2/C3) with doctors surgery of up to 350 sq m (Use Class D1); up to 500 sq m of Use Class A1/A2/A3/A4/A5/D1 floorspace (dual use), vehicular and pedestrian access points off Blackmoorfoot Road and Felks Stile Road and associated works – Outline permission granted subject to Section 106 agreement.

2024/90035: Non material amendment to previous permission 2020/92546 for outline application – Approved.

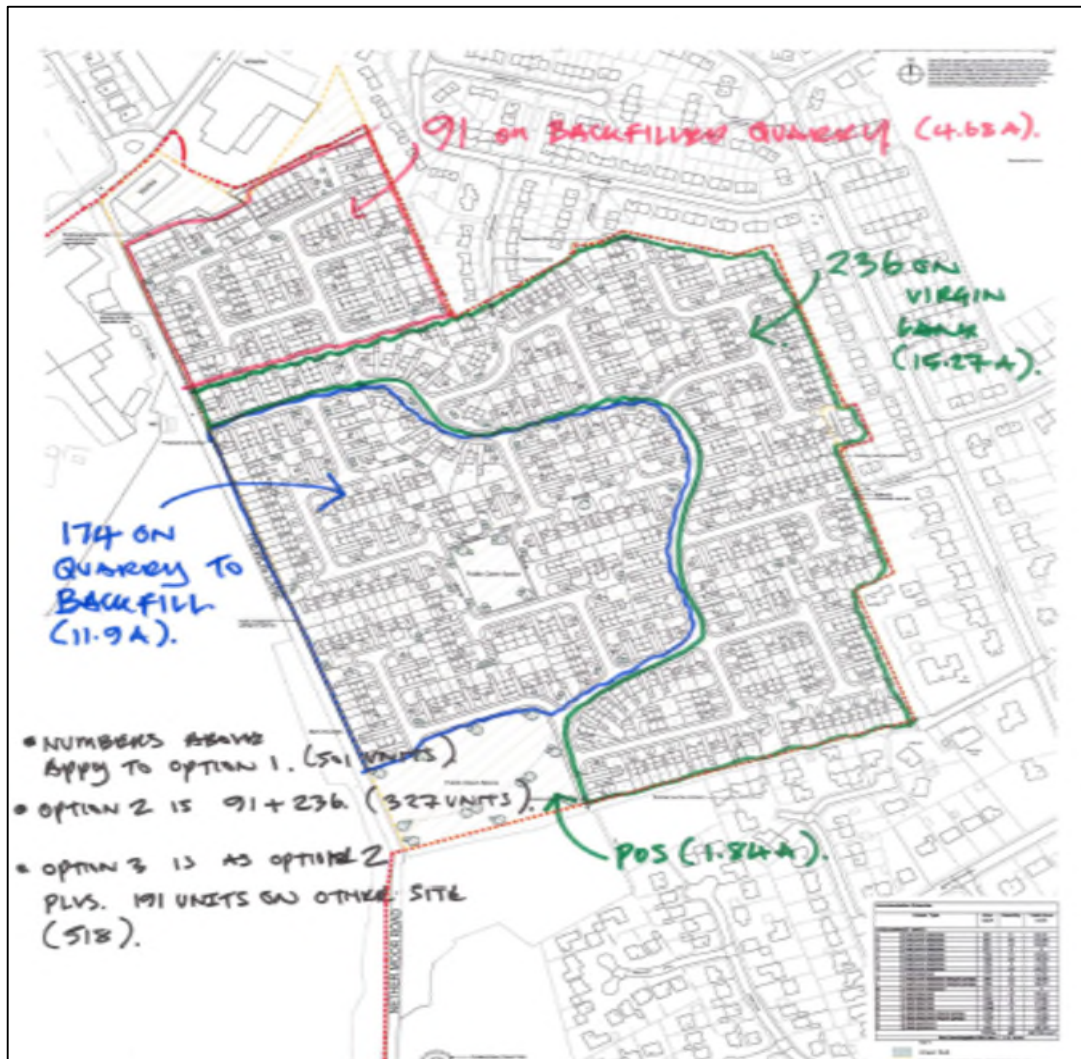
2024/92235: Reserved Matters application (including considerations of appearance, scale, layout, access (including pedestrian and cycle access into and within the site and vehicular access within the site)), and landscaping) for the erection of 231 residential dwellings and associated works including landscaping and the provision of open space, pursuant to [WESTERN PARCEL] outline permission 2020/92546 (with details of points of access only) for the development of up to 770 residential dwellings (Use Class C3), including up to 70 care apartments (Use Classes C2/C3) with doctors surgery of up to 350 sqm (Use Class D1); up to 500 sqm of Use Class A1/A2/A3/A4/A5/D1 floorspace (dual use), vehicular and pedestrian access points off Blackmoorfoot Road and Felks Stile Road and associated works – Pending consideration.

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

Pre-application stage – consideration of financial viability

- 5.1 In March 2022, the council received a pre-application enquiry, where the applicant proposed to vary the previously-approved restoration scheme for this site, and instead implement a 'low level restoration' scheme. The reasoning for seeking this was principally one of viability. The applicant claimed it would not be viable to redevelop the entire site for residential use due to the prohibitive costs of the approved restoration plan. Instead, the applicant claimed redevelopment of the site for residential use would only be viable if a low level of restoration to the quarry hole, to provide public open space, was implemented as part of a wider residential scheme on the remainder of the site. The applicant also stated that "*it has become too costly to restore the site as approved*" as the costs were deemed prohibitive and would be financially damaging to their business.
- 5.2 During the pre-application enquiry the applicant was advised to submit a viability report which assessed the financial implications of infilling the quarry void, to substantiate the applicant's assertion. This was received and independently verified by an appropriate independent viability assessor on behalf of the council. The independent assessment's purpose was to:
- Consider the viability of redeveloping the site for circa 500 dwellings (in line with the current site allocation, including the approved restoration plan (engineered backfill) for the quarry hole (referred to as Option 1); and
 - Consider the viability of a low level restoration of the quarry hole to provide public open space with circa 327 units on the remainder of the site (referred to as Option 2).

Both options are shown on the plan below:



5.3 At the time the independent assessor undertook a high-level analysis of the company accounts for Johnson Wellfield Limited over a period of five years. The accounts highlighted that the company made a loss in 2017 followed by small profit in 2018 followed by a loss in 2019 and then profits in 2020 and 2021. The assessment advised that the high level analysis supported the applicant's claim that the cost of restoring the site, based on the costs provided, would damage or severely impact the company financially. It was also acknowledged that the applicant (Johnson Wellfield Limited) is a subsidiary of the Myers Group, which according to their most recent accounts available at the time, generated a profit (after taxation) in 2021 but made a loss in 2020. Whilst it is unclear from a legal perspective whether the obligation to restore the site can be passed up to the parent company, it was acknowledged by the assessor that at the time the most recent accounts for the Myers Group also suggested that the cost of restoring the quarry hole, based on the information provided, would also be financially damaging to this company.

5.4 The following provides the key viability assumptions adopted by the independent assessor for the development appraisals for Options 1 and 2:

| Input | Option 1 | Option 2 | Comments |
|-------------------------------|--|------------|---|
| Sales values (market sale) | Between £250psf and £275psf | | Values dependent on house types. |
| Sales values (first homes) | Based on 30% of market vale subject to - ceiling price of £250,000 | | |
| Sale values (social rent) | £80psf | | based on the transfer process set out in the Council's Affordable Housing and Housing Mix SPD |
| Sale values (intermediate) | £120psf | | |
| Build costs – houses | £140spf | | Inclusive of preliminaries, external works and Part L uplifts |
| Build costs – apartments | £155psf | | |
| Quarry hole restoration costs | £13,271,884 | £6,635,942 | Based on a single quotation from Blackwell Earthmoving |
| Abnormal costs | £2,491,115 | | Costs relating to gas measures, stiffened rafts, piling, cut and turn and importing of clean cover and crush. |
| Bio diversity net gain | £315,000 | £200,000 | Estimated costs |
| Planning obligations | £2,620,048 | £905,000 | Costs to be confirmed with LPA but cover, off site highways, POS, travel plan and education contributions. |
| Contingency | 10% | 10% | Considered to be a reasonable assessment given complexities of the site, with significant ground issues. |
| Project fees | 8% | 8% | Considered a reasonable allowance for a scheme of this size and complexity. |
| Disposal costs | 3% | 3% | Of private sales GDV |
| Interest | 6% | 6% | |
| Developers Profit | 20% | 20% | Target return based on 20% of total GDV. |

5.5 The independent assessor concluded that neither option would be viable, and advised that:

“Even when affordable housing and other S106 obligations are removed Option 1 remains unviable, generating a negative land value. Sensitivity testing has demonstrated that Option 1 only becomes viable when the developer’s profit is reduced to 15% of GDV alongside the removal of affordable housing and other S106 obligations. Under this scenario the land value is £642,927. Whilst this option is viable the land value is significantly below the benchmark land value (£1,970,000).

If affordable housing and S106 obligations are removed for Option 2 the residual land value is circa £535,000. Therefore, the site is viable but the land value is considerably, below the benchmark land value of £1,970,000. The only scenario for Option 2 which exceeds the benchmark land value is when developers profit is reduced to 15% of GDV and alongside the removal of affordable housing and S106 obligations.”

5.6 Subsequently, a number of other low level restoration options were presented to the council during the pre-application process (with additional information regarding working days and carbon emissions), as set out below:

Option 0

Original ground level restoration – Not to engineered specification

Working days: 410

Cost: £1,806,000

Carbon: 950 Tonnes (equivalent to 4.3 million miles in an average UK car)

Option 1

Low level restoration – Moderate slope gradient

Working days: 436

Cost: £954k

Carbon: 493 Tonnes (equivalent to 2.2 million miles in an average UK car)

Option 2

Low level restoration – Maximum slope gradient

Working days: 261

Cost: £564k

Carbon: 281 Tonnes (equivalent to 1.3 million miles in an average UK car)

Option 3

Low level restoration – Retaining geological feature

Working days: 144

Cost: £306k

Carbon: 146 Tonnes (equivalent to 0.7 million miles in an average UK car)

- 5.7 In view of these details the independent assessor provided the following further comments:

“Within my original report, I assumed a cost of £6,635,942 for the low-level restoration of the site. The information that was subsequently issued by the Applicant showed costs ranging between £306,000 and £1,806,000.

This information doesn't change our initial advice in that the full restoration of the site isn't viable, as these costs relate to alternative scenario focussed on low level restoration of the quarry hole to POS with residential on the remainder of the site.

However, the reduced costs for the low-level restoration do make more of our original sensitivities viable. As demonstrated in the table below.

As demonstrated our base appraisal which assumes 20% profit doesn't generate a land value which exceeds our Benchmark Land Value of £1,970,000. But if developers' profit is reduced to 15%, low level restoration options 1, 2 and 3 would ensure the BLV is exceeded, which includes affordable housing and other S106. If developers' profit is reduced to 17.5% then only low level restoration option 3 would generate a land value greater than the benchmark. Option 2 would be marginal, being only slightly below.

With the lower cost options for the low level of restoration there is more scope to secure a scheme without any concessions on affordable housing and other planning obligations but this does rely on the costs being more aligned to Options 2 and 3.

| | Low Level Restoration | | | | |
|--|-----------------------|------------|------------|------------|------------|
| | AY Assumption | Option 0 | Option 1 | Option 2 | Option 3 |
| | £6,635,942 | £1,806,000 | £954,000 | £564,000 | £306,000 |
| Base Appraisal | (£5,481,389) | £101,142 | £980,169 | £1,385,145 | £1,653,052 |
| 1 Reduction in developers profit to 15%. | (£3,702,708) | £1,656,821 | £2,541,542 | £2,946,519 | £2,797,115 |
| 2 Reduction in developer's profit to 15% and removal of affordable housing. | £1,811,282 | £6,826,707 | £7,711,406 | £8,116,382 | £8,384,288 |
| 3 Reduction in developer's profit to 15%, removal of affordable housing and other S106 obligations. | £2,605,719 | £7,621,125 | £8,505,840 | £8,910,815 | £9,178,722 |
| 4 Reduction in developers profit to 17.5%. | (£4,942,473) | £568,524 | £1,453,240 | £1,858,215 | £2,126,122 |
| 5 Reduction in developers profit to 17.5% and removal of affordable housing. | £822,058 | £5,837,485 | £6,722,188 | £7,127,164 | £7,395,070 |
| 6 Reduction in developers profit to 17.5%, removal of affordable housing and other S106 obligations. | £1,616,498 | £6,631,928 | £7,516,622 | £7,921,597 | £8,189,503 |

Current application

- 5.8 The Residual Appraisal and Engineered Backfill Report, accompanying this application are representative of the details submitted under the above pre-application enquiry and considered by the independent assessor on behalf of the council. The appraisal states “*redevelopment of the site under Option 1 is not viable due prohibitive development costs involved in restoring the current quarry to a developable state*”.
- 5.9 During the life of the current application, the applicant submitted drawings and documents in response to officer's requests for clarity of works (including sectional and landscaping details) and consultee comments regarding PROW and ecology matters.
- 5.10 On 30/10/2024 the applicant also requested a further extension of time to that initially proposed, now to 31/12/2027, to allow additional time for the restoration scheme to be delivered at the site. This, together with the need to advertise the application as a departure from the Local Plan, necessitated a further round of public consultation by site notice and in the local press. The final publicity is due to expire 20/12/2024.
- 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 27/02/2019).

Kirklees Local Plan

- 6.2 The application red line covers several allocations and designations relating a to larger Housing Allocation (HS22), Mineral Extraction areas (MES1 – MES5), and a Waste Safeguarded site (WS2) in the Local Plan. 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
LP36 – Proposals for mineral extraction
LP37 – Site restoration and aftercare
LP51 – Protection and improvement of air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP65 – Housing allocations
LP69 – Minerals extraction sites

Supplementary Planning Guidance / Documents:

- 6.3 National Planning Policy for Waste 2014

National Planning Policy and Guidance:

- 6.4 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 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

Climate change:

- 6.5 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.

6.6 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:

7.1 The current application was initially advertised by the council as a major development affecting public rights of way (footpaths HUD/220/30, HUD/220/20 and HUD/220/10) and also as affecting the setting of a listed building.

7.2 The application was advertised by the council via site notices (posted on 28/03/2024), a press notice (published on 02/08/2024, after clarification was received from the applicant) and letters (sent on 14/03/2024) delivered to addresses close to the application site, in line with the council's adopted Statement of Community Involvement. The end date of that initial publicity period was 23/08/2024.

7.3 As a result of the initial public consultation, three representations are received. The points raised are summarised below:

- Noise and dust from quarry already substantial and will be increased the nearer it gets to residential properties.
- Removal of condition 15 and 13 of permission 2013/90793 will have a serious negative impact on area.
- Natural landscape will be impacted and loss of trees, detrimental impact on conservation of area.
- Increased HGV movement will pose risk to highway safety to people in area with additional noise pollution, impact on air quality, additional noise and dust pollution.
- Loss of existing woodland, established oak tree and wildlife.
- Loss of existing well-used PROWs.

7.4 More recently, the council has had to readvertise the application, for two reasons. Firstly, as the proposals represent a departure from the development plan, they must be advertised as such. Secondly, as set out under paragraph 5.10 above, on 30/10/2024 the applicant requested a further extension of time to that initially proposed, now to 31/12/2027, to allow additional time for the restoration scheme to be delivered at the site. Consequently, further consultation letters were sent to residents on 12/11/2024, site notices were published on 20/11/2024, and a press notice is due to be published on 29/11/2024. The end date of this second publicity period will be 20/12/2024.

7.5 Any further representations received in response to the ongoing public consultation will be reported to Members in the committee update or on the day of the committee meeting.

7.6 Officers consider it acceptable for the Strategic Planning Committee to consider the application prior to the expiry of the second publicity period, given the public consultation that has already been carried out. The interests of local residents are not expected to be prejudiced. However, as noted in the officer recommendation, should the remaining public consultation raise issues that would result in substantive changes to the officer recommendation, it is recommended that the application be discussed with the Chair and/or considered again by the Strategic Planning Committee.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C. Lead Local Flood Authority – Supports the proposals.

Environment Agency – No comments received

8.2 Non-statutory:

K.C. Environmental Health – No objections

K.C. Ecology – Support subject to conditions

K.C. Highways Development Management – Support the variation of condition 1 and the removal of condition 10 of previous permission. All other changes are not expected to have impacts on the operation or efficiency of the local highway network.

K.C. Public Rights of Way (PROW) – The temporary bridleway should be retained at all times.

K.C. Planning Policy – It is understood that the applicant has submitted information to confirm that the restoration of the site in order to deliver the full allocation capacity is unviable. This would be a material consideration for the planning officer to consider when applying the planning balance.

The council are currently unable to demonstrate a five-year housing land supply and although the proposal would reduce the amount of housing on the site as originally anticipated, it is accepted that the proposal would still provide a significant number of homes on the site, which would be of benefit to the council's current housing land supply position.

9.0 MAIN ISSUES

- Background, current position and the principle of development:
- Scope of this application
- Environmental issues (ecology/biodiversity)
- Local amenity issues (noise, dust and air quality)
- Drainage/flood risk and private water/watercourses pollution issues
- Highway/ PROW issues
- Representations
- Other matters (conditions)
- Planning obligations
- Conclusion

10.0 APPRAISAL

Background, current position and the principle of development:

- 10.1 Planning application 2013/90793 approved the extraction of minerals at Thewlis Lane Quarry. The permission included several conditions which sought to govern the phasing of the mineral extraction and the restoration of the site back to an agricultural/nature conservation use, with details such as timeframes and methods of the backfill to an engineered standard (to allow future residential development).
- 10.2 Subsequently a number of discharge of condition applications were received and determined, one of which included Thewlis Lane Quarry extraction taking place at the same time as extraction at the nearby Airfield Quarry. Shale extracted from Airfield Quarry would be used to backfill Thewlis Lane Quarry to an engineered standard.
- 10.3 On the understanding that the site would be restored to an engineered standard that would enable future development, the Thewlis Lane Quarry and adjacent land was allocated for housing within the Local Plan. As noted above, allocation reference HS22 has an indicative capacity of 500 units. This is broken down into 243 units within the plan's 15-year lifetime and 257 post-plan, giving due regard to the timeframe of restoration.
- 10.4 As noted the applicant is now advising that the engineered backfilling of the site and housebuilding on all of the allocated site would not be viable. The applicant therefore seeks to vary and remove a number of conditions of the 2013/90793 permission.
- 10.5 Also of note is that 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%). 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 throughout the borough, although this must be balanced against any adverse impacts of granting permissions for such proposals. This consideration is particularly relevant to proposals for housing development, however it must also be taken into account when non-residential development is proposed at sites that the council has allocated for housing, and where a proposal would result in a lower level of housing delivery than was originally anticipated.
- 10.6 Further to the outcome of the pre application enquiry, the supporting statement submitted with this application states:

"Due to viability issues, notably the significant increased costs of an engineered backfill, coupled with a lack of return on the worked site (due to a significant fault), the applicant is no longer able to comply with the restoration details previously approved"

- 10.7 The application is accompanied by an 'Engineered Backfill Report' which sets out a number of scenarios, including details of how and why the original backfill proposals have not come to fruition. This is set out under scenario 1. Scenario 2 relates to the site being reinstated to original ground level but not to an engineered standard (and, therefore, unsuitable for housing development). Scenario 3 relates to a low level restoration, resulting in minor regrading utilising existing materials within the site and respreading of the existing soil bunds. Scenario 4 set outs the timeline, phasing and potential environmental impacts of the carrying out of the engineered backfill (post extraction).
- 10.8 The following sets out an overview provided in the submission documents:

Scenario 1 – Why the original backfill proposals have not come to fruition:

- 1. An initial working area had to be created to extract mineral, in this instance mineral was removed but insufficient working area was available to start an engineered backfill.*
- 2. Area initially identified for mineral storage in the Airfield was insufficient in size and thus had to be tipped on top of shale. This sterilised significant volumes of mineral that would no longer be available for the return journey of vehicles.*
- 3. During the extraction process in Thewlis Lane, a significant mineral fault was experienced in the southeast corner running through the middle of the entire site. This resulted in 'short shifting' mineral in the extraction process to access good quality block suitable for masonry and paving.*

Scenario 2 – Site reinstated to original ground level but not to an engineered standard, therefore unsuitable for housing development:

In this scenario the starting point is that Thewlis Lane is already partially filled with mineral which has not left the extraction area. Mineral removed from the extraction face has been placed immediately behind the working area. Once extraction of mineral is completed from Thewlis Lane, balance of mineral required can be moved from Airfield.

Benefits:

- 1. Area restored to original levels.*
- 2. Creates a generous green open space for the future.*
- 3. Significantly less carbon emitted compared with Scenario 1*

Disadvantages:

- 1. Area not suitable for housing development.*
- 2. Does not deliver housing stock in line with Local Plan.*
- 3. Approximately 1.5 million tonnes of mineral will require transporting from Airfield to Thewlis Lane.*
- 4. It will take 350 working days to complete once work commences.*
- 5. Approximately 809 tonnes of carbon will be emitted during this process.*
- 6. Cost to complete exercise estimated at circa £2.53m.*

Scenario 3 – Site completed with a low level restoration:

In this scenario a low-level restoration will comprise of mineral that is left from the original extraction with no imported mineral outside of the Thewlis Lane operating area.

Benefits:

- 1. Creative green space that provides versatile urban areas usable across the local community.*
- 2. Improving biodiversity within the area allocated for development in the Local Plan.*

3. No delays to the development of surrounding land.
4. Minimal work required with heavy machinery to landscape the area, estimated at below 20 tonnes of carbon.
5. Delivers housing stock

Disadvantages:

1. Low level restoration area will not be suitable for development.

Scenario 4 – Engineered backfill (post extraction):

Two working areas have been identified to complete the project, they are Thewlis Lane and Airfield. Site referred to as ‘Airfield’ is located approximately 1 mile West of Thewlis Lane and is accessible using internal haul roads owned by Johnsons Wellfield. There are multiple stages in completing an engineered backfill at Thewlis Lane, the relatively small working area determines the speed of which this project can be completed. Based on the working areas available, the scheme is split into four phases:

Phase 1 - Movement of material from Thewlis Lane to Airfield, this is scheduled to take 34 weeks and will involve the removal of all over and inter burden.

Phase 2 -This phase runs for the entirety of the project and is focused solely on the crushing of material to a specification suitable to complete an engineered backfill and would run for an estimated 104 weeks, with no allowance for slippage or unforeseen operational issues during this period.

Phase 2a - Will consist of crushing material being transported from Thewlis Lane and will run concurrently with Phase 1. As noted in Phase 1, this will run from week 1 to week 34 of the project. Phase 2b will consist of crushing material transported within the Airfield site. This will commence after Phase 1 has been completed due to vehicle movements on site and the available working area. This phase will run 70 weeks, from week 35 to week 104 of the project.

Phase 3 - Transporting crushed material from Airfield to Thewlis Lane and placing as an engineered backfill to required specification. This phase would also run concurrently with Phase 2, for the final 34 weeks of the project. It will commence on week 70 and run through to completion on week 104.

Third party contractor has quoted a price of £8.25m for the works excluding engineering and fuel, these two items will add an estimated £1.8m. Total cost for works at £10.0m”.

- 10.9 Whilst both scenarios 2 and 3 could enable the quarry area (void) to be used as a public open space in connection with a future residential development, Scenario 3 is viewed to be more environmentally friendly as it would not result in the level of trips and carbon emissions that would be associated with Scenario 2 to infill the quarry void to bring it to previous ground levels.
- 10.10 Scenario 3 is the proposed low level restoration scheme submitted for consideration. This would result in minimal regrading and respreading of the existing soil bunds into the site. Furthermore, whilst it is recognised that the proposal would reduce the amount of housing on the site (from the quantum originally anticipated), it is accepted that the proposal could still provide a significant number of homes on the remainder of the housing allocation, which would be of benefit to the council's current housing land supply position, subject to the necessary planning consents in due course.

Planning balance and principle of development

10.11 The following consideration takes into account the planning balance in respect of the submitted low level restoration proposals, and taking into account the outcome of the viability assessment, which was verified by an appropriate assessor on behalf of the council (see paragraphs 5.1 to 5.10 above), concluding that the previously-approved engineered backfill restoration proposals were unviable.

10.12 Housing delivery is imperative and attracts great weight when considering proposals for this housing allocation. The applicant has set out the following additional factors to consider:

“The priority of the business is to safeguard its longevity to support local jobs within the immediate division of Johnsons Wellfield but also its vertical integration with Myers Building Supplies (Builders Merchants).

Johnsons Wellfield supplies Dimension Stone products as well as Aggregates to Myers Building Supplies, the two companies are part of an integrated supply chain.

Due to mineral issues that have been experienced in 2018, late 2020 and running through to date. Johnsons Wellfield is not currently fulfilling orders secured, based on supplying a ‘Classic’ Crosland Hill Sandstone for which it is renowned for.

During the past 14 months, mineral extracted from Thewlis Lane is not representative of extensive core holes that were carried out in 2018 to assess remaining mineral. This current situation is not sustainable, resulting in lower output and restricting commercial opportunities due to mineral type.

Therefore, mineral extraction will move to Moor End South to obtain sufficient ‘Classic’ Crosland Hill Block Stone. This has become a number one priority for the business. Primary operational focus will be to extract mineral from Moor End South to recover the current position by creating suitable stock of Block Stone. This is envisaged to take circa 20-24 months. Following a period where sufficient Block Stone Stock has been created, the business can reconvene extraction at Thewlis Lane. On this basis, half of the operational focus will remain at Moor End South with the other half at Thewlis Lane”.

10.13 It is acknowledged that the business is focusing on meeting their demands by extracting mineral from Moor End South to recover the current position by creating suitable stock of block stone. Taking account of the unviable position regarding the approved engineered backfill, it is considered that the factors set out above weigh in favour (in the planning balance) of the low level restoration scheme put forward. Furthermore, it has been demonstrated that the proposed low level restoration scheme would not prevent the development of the remainder of the housing allocation, and a significant number (327) of dwellings could still be delivered here. Given this assessment, it is considered that the principle of implementing a reduced level of restoration at this site can be accepted.

Scope of this application:

- 10.14 Section 73 of the Town and Country Planning Act 1990 concerns the “Determination of applications to develop land without compliance with conditions previously attached”, colloquially known as “varying” or “amending” conditions. Section 73 applications must also involve consideration of the conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of permission and the decision notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.
- 10.15 It is important to note that when assessing Section 73 applications the previously-granted planning permission is a significant material consideration, which impacts heavily on the assessment of the proposal. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original approved scheme if they wish.
- 10.16 The site is an operational quarry where mineral extraction is being carried out under a previous approval. Therefore, the principle of mineral extraction and restoration of the site has long been established. However, alterations to planning policy and other material considerations that may have emerged since the original grant of planning permission are relevant and need to be considered.

Landscape and environmental issues (ecology/biodiversity):

- 10.17 Mandatory Biodiversity Net Gain (BNG) is to be applied to planning permissions granted in respect to relevant planning applications made on or after 12/02/2024. However, Government guidance sets out the BNG does not apply to:
- Retrospective planning permissions made under section 73A; and
 - Section 73 permissions where the original permission which the section 73 relates to was either granted before 12/02/2024 or the application for the original permission was made before 12/02/2024
- 10.18 This application falls under the second bullet above. However, the proposals will need to be considered under Local Plan Policy LP30 which promotes the protection and enhancing of biodiversity and geodiversity of Kirklees. The criteria of most relevance under this policy state that development proposals are required to:
- (i) result in no significant loss or harm to biodiversity...; and
 - (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.
- 10.19 Also of relevance is Local Plan Policy LP32 which requires proposals to be designed to take into account and seek to enhance the landscape character of the area. In this instance as the proposals relate to an operational quarry, the proposals will also be considered against Local Plan Policy LP37, which requires restorations to be sympathetic to the character and setting of the wider area and capable of sustaining an appropriate after-use.

- 10.20 The application site red line boundary relates to two parcels of land, with the larger part on the eastern side of Thewlis Lane, where extractive operations are being carried out in the quarry void. The second (smaller) area lies to the western side of Thewlis Lane which is being used in association with the stone processing/storage operations of the wider business. The larger of the two areas would have seen the site landscaped with grass, areas of woodland along the northern boundary and a heathland strip adjacent to Thewlis Lane under the previously-approved soft landscaping details. The smaller area west of Thewlis Lane was approved to provide heathland scrub.
- 10.21 The submitted proposal, as shown on drawing TL1181-D7v5 rev B, indicates minimal regrading within the quarry void and the respreading of all soil bunds back into the site, except the bund along Thewlis Lane. This bund has self-seeded and established over time, providing important ecological habitat areas, and integrates well with soft landscaping on the opposite side of the road. The bund would serve a dual purpose, providing a soft landscaping feature which contributes to ecological interest in the area, and serving a role as a safety measure, deterring access into the existing operational quarry/void beyond what would be a sheer drop adjacent to Thewlis Lane. The applicant proposes to seed all areas with a grass seed.
- 10.22 It is proposed to continue using the smaller area (west of Thewlis Lane) for stone processing as part of the wider operation of the business. The continued use of this area for stone processing and storage is acknowledged to be an integral part of the wider operations of the business and not solely connected to Thewlis Lane. As such the proposals for its continued use to aid the operations of the wider business are accepted. The final restoration of this area is linked to the restoration of the Waterholes/Wellfield Quarry Restoration planning permission (2003/91691) which is shown within the area edged brown on Plan C (and referred to as "the Brown Area") in the Section 106 agreement dated 09/06/2006. This matter will require a Deed of Variation to the original Section 106 agreement (discussed below).
- 10.23 To offset the loss of any biodiversity net gain that would have been achieved under the previously-approved scheme, at the request of officers the plans have been revised to include additional planting in the form of a native species hedge along the road frontage of the larger part of the site, adjacent to the bund which is to be retained, to accord with Local Plan Policy LP30. The proposed minimal regrading works would leave the site steeply sloping with an exposed quarry face. Other than the difference in land levels, the soft landscaping proposals would not deviate significantly from those previously approved. In summary, the revised soft landscaping proposals would achieve an appropriate level of biodiversity net gain through the retention of the bund along Thewlis Lane and additional enhancement measures, in accordance with Local Plan Policies LP32 and LP37. This matter is to be addressed by appropriately-worded conditions in the event Members support the proposals, along with an additional condition also required to secure the proposed fence at the base of the quarry face.

Local amenity issues (noise, dust and air quality):

- 10.24 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 are Local Plan Policies LP36 and LP52, which refer 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
- 10.25 As noted above, there are residential properties to the north, east and south, the nearest being approximately 100 metres from the quarry void. There are a number of conditions on the previous permission which require works to be carried out in compliance with the details previously agreed, in relation to noise, dust and air quality matters. Should Members support the low level restoration proposals, the new permission would repeat the necessary conditions as imposed on the 2019/90949 permission, which were required to protect the amenities of nearby sensitive receptors and to accord with Local Plan Policies LP36 and LP52.

Drainage/flood risk and private water/watercourses pollution issues:

- 10.26 The submission includes an updated Flood Risk Assessment (FRA) which takes account of the proposed low level restoration scheme. On assessment of this the Local Lead Flood Authority (LLFA) has advised:

“The proposed method of disposal of surface water on the site following restoration works and infiltration will be aided by the use of swales. The LLFA concludes that the proposed works will still not cause flood risk and therefore has no objections to the scheme”.

- 10.27 As a result of the revised FRA, existing condition 24 of the previous permission would need to be amended to refer to this revised FRA, in the event the proposals are supported by Members.

Highway / PROW issues:

- 10.28 All new developments can potentially impact on the highway network, and it is important that the extents 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, and sets out that proposals should demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.29 Also of relevance is Local Plan Policy LP36 which requires proposals for mineral extraction to be considered having regard to, amongst other things, the impact on the environment and highway safety. Part 2 of Policy LP36 (where relevant to highways) clearly sets out that proposals to extract minerals, including from former waste deposits, will be permitted provided that they will not:

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;

f. cause materially significant permanent change to local rights of way networks;

10.30 As noted above (paragraph 8.2) KC Highways Development Management, on review of the proposals, have confirmed that the variation of condition 1 and the removal of condition 10 of previous permission 2019/90949 are supported from a highways perspective. All other changes are not expected to have impacts on the operation or efficiency of the local highway network.

10.31 With respect to the impact potential impact on local public rights of way, the revised restoration proposals would not adversely impact on the users of the nearby definitive public right of way which runs parallel to the southern boundary of the site.

10.32 In summary, the proposals, subject to the imposition of all relevant highway conditions from the 2019/90949 permission, would ensure the continuation and completion of works can be carried out without causing material highway safety impacts to any/all users of the wider highway network, in accordance with guidance in the NPPF and Kirklees Local Plan Policies LP21 and LP36 (points c, d and f).

Representations:

10.33 Concerns received relate to the expansion of operations and increasing the footprint of the quarry. Whilst the variations proposed include extending the time to complete mineral extraction and restoration by a further two years to 31/12/2027, the proposals do not seek to extend the footprint of the quarry. Inevitably, the increase in time would prolong operations and restoration works, however these would continue to be carried out in accordance with a number of conditions which are recommended to protect the amenities of the area and environmental conditions.

Other matters (conditions):

10.34 Planning permission 2019/90949 was granted subject to 53 conditions. The current proposals seek to remove conditions 10, 12, 13, 14, 20, 33, 38, 39 and 40 and to vary conditions 1, 19, 24, 29, 34, 36 and 37 for the reasons set out in paragraphs 3.1 and 3.2 above. The following sets out the conditions the applicant has sought to be removed followed by officers' explanation as to whether it is appropriate to remove or reword each condition.

Condition 10

10) The development shall be carried out in accordance with details approved under Discharge of Conditions application 2014/90920 with regard to all associated temporary and permanent highway retaining structures.

Explanation: The relevant discharge condition application acknowledged there were no temporary highway retaining structures. As such this condition is not considered necessary and can be removed.

Condition 12

12) The temporary screen mounds approved under Discharge of Conditions application 2014/90396 shall be retained and maintained fit for purpose for the lifetime of the development in accordance with the details approved.

Explanation: Other than the screen mound adjacent to Thewlis Lane, on the housing allocation which is to be retained, all other screening mounds are proposed to be respread back into the site under the current proposals. Therefore, this condition can be reworded to ensure the temporary screen mounds are respread as proposed.

Condition 13

13) The screen mounds constructed in accordance with approved plan 10093/456 'Method of Working Phase 2' and to the specification approved under Discharge of conditions application 2014/90396 shall be seeded to grass and maintained in a tidy and weed-free condition for the life of the site. They shall be removed upon completion of backfilling of Phase 7 and the soils used in the restoration of the site.

Explanation: The proposals under consideration would require the mounds to be respread back into the site as such this condition is no longer considered necessary and can be removed.

Condition 14

14) The site shall be worked in 8 phases in accordance with approved plan series 10093/455, 10093/456, 10093/457 Rev. C, 10093/458, 10093/459 Rev. C, 10093/460, 10093/4461 and 10093/462.

Explanation: The majority of the site has now already been worked and the current proposals seek to complete the proposed low level restoration scheme by 31/12/2027. Notwithstanding this, the applicant states that the phasing of the site has changed over recent years as a result of various unforeseeable circumstances, including a significant mineral fault found at the site during the mineral works. This condition is no longer considered necessary and can be removed.

Condition 20

20) A detailed scheme of mineral working and backfill operations shall be submitted to the Mineral Planning Authority 12 months after the date of commencement and every 12 months thereafter until completion of mineral working and backfill. The scheme shall provide for:

(a) a plan indicating the lateral extent, location and direction of mineral extraction to be undertaken over the following 12 months;

(b) typical cross-sections of the extraction to be undertaken during the following 12 months including an indication of the maximum depth of excavation;

(c) a plan indicating the lateral extent, location and direction of backfilling to be undertaken over the following 12 months to achieve proposed backfill contours (Contours indicated on approved Plan no. 10093/468 less 500 mm to allow for proposed soil depth);

(d) a survey plan indicating the location and extent of mineral extraction and location, lateral extent and finished levels of backfill achieved during the previous 12 months;

(e) details of any ancillary operations, e.g. stone splitting, hand dressing, location, duration and equipment.

Every year the developer shall arrange a site meeting to be held within 1 month of the date of submission of the annual working programme to discuss the

programme and to review progress to which the Mineral Planning Authority shall be invited.

Explanation: This condition will not be necessary or relevant in the event Members approve the proposed low level restoration scheme. It can therefore be removed.

Condition 33

33) On receipt of the written approval of the Mineral Planning Authority for the works required by Condition 32 above, topsoil shall be spread over the surface of the areas to be restored to agriculture to the depth specified in Condition 29. The Mineral Planning Authority shall be notified in writing when the works required in this condition have been completed.

Explanation: The site is no longer to be restored in line with the previous restoration plan nor is the site to be restored to agriculture, therefore this condition can be reworded to omit any reference to agriculture and condition 29. It is therefore recommended that this condition be reworded.

Condition 38

38) The aftercare scheme submitted in accordance with Condition 37 above shall be fully implemented and shall provide details of:

- a) the person responsible for implementing the aftercare scheme;*
- b) a plan showing each area subject to aftercare, with demarcation of any areas having different aftercare steps or management proposals;*
- c) the steps to be carried out in each area during the aftercare period and their timing within the overall programme in accordance the requirements identified in National Planning Practice Guidance;*
- d) detailed programme for the first year of aftercare in accordance the requirements identified in para. 44 to 48 of the Technical Guidance to the National Planning Policy Framework.*

Explanation: This condition can be removed, given the details would be secured in reworded condition 37, which would consolidate conditions 37, 38, 39 and 40 of planning permission 2019/90940.

Condition 39

39) Following compliance with Condition 37 above, a detailed annual aftercare programme shall be submitted to the Mineral Planning Authority before 31 August in each year of aftercare of any phase. The programme submitted shall amplify the outline aftercare scheme for works to be carried out in the following 12 months, including any modifications to the original proposals. The approved scheme shall accord with the requirements identified in National Planning Practice Guidance.

Explanation: This condition can be removed, given the details would be secured in reworded condition 37, which would consolidate conditions 37, 38, 39 and 40 of permission 2019/90940.

Condition 40

40) Every year during the aftercare period the developer shall arrange a site meeting to be held every year before 30 November to discuss the report prepared in accordance with Conditions 37 and 39 above to which the following parties shall be invited: a) the Minerals Planning Authority; b) all owners of the land within the site; c) DEFRA.

Explanation: This condition can be removed, given the details would be secured in reworded condition 37, which would consolidate conditions 37, 38, 38, 39 and 40 of permission 2019/90940.

10.35 Turning now to the conditions proposed to be varied, namely conditions 1,19, 24, 29 34, 36 and 37, the following sets out the current and proposed new wording where relevant.

Condition 1

1) The extraction of all minerals, the removal of all buildings, plant and machinery and the restoration of the site for agriculture and nature conservation shall be completed by 31 December 2025.

Proposed new wording:

The extraction of minerals, the removal of all buildings, plant and machinery and the restoration of the site in accordance with drawing TL1181-D7 Rev C shall be completed by 31/12/2027.

Condition 19

19) The quarry void shall be backfilled in accordance with either the details approved under Discharge of Conditions applications 2019/91053 or 2014/90920.

Proposed new wording:

The quarry void shall be backfilled in accordance with details shown on drawing TL1181-D7 Rev C

Condition 24

24) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by S M Foster Associates Ltd, dated June 2012, Ref 033/027/01/fra included as Appendix 8 in the Environmental Impact Assessment and the following mitigation measures detailed within the FRA:

- *Managing the surface water runoff such that surface water will be attenuated within the site.*

The mitigation measures shall be fully implemented in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Mineral Planning Authority.

Proposed new wording:

The development shall be completed in accordance with the submitted Flood Risk Assessment and Surface Water Drainage Strategy Reference: 3531/FRA, dated July 2024.

Condition 29

29) After the completion of mineral extraction in each phase the site shall be progressively restored to agriculture/nature conservation in accordance with the detailed scheme approved under Discharge of Conditions application 2014/90920.

Proposed new wording:

After the completion of mineral extraction, the site shall be backfilled in accordance with land levels and restored to grassland as shown on drawing TL1181-D7 rev C, in the first available growing season.

Condition 34

34) In each phase a grass sward shall be developed in those areas of the site to be restored to grassland, and a grass, heather and wildflower sward on those areas of the site to be restored to nature conservation in the first available growing season.

Proposed new wording:

The proposed new wording for condition 29 would ensure the site is grassed in accordance with the submitted details. As such condition 34 can be removed.

Condition 36

36) Within 2 months of the restoration and seeding of each phase the operator shall submit to the Mineral Planning Authority a plan with contours at sufficient intervals to indicate the final restored form of the site together with a record of the depth and composition of the reinstated soil profiles.

Proposed new wording:

Similar to condition 34, the requirements of this condition (levels/contours) would be achieved through the rewording of condition 29. As such condition 36 can be removed.

Condition 37

37) An outline aftercare scheme detailing the steps which may be necessary over the aftercare period of 5 years to bring each restoration phase to the required standard for use for agriculture or for nature conservation shall be submitted to the Mineral Planning Authority at least 3 months prior to the completion of replacement of all restoration soils on any phase of the permitted development.

Proposed new wording:

An outline aftercare scheme detailing the steps which may be necessary over the aftercare period of five years, to ensure a grass sward is established for the whole of the area edged red east of Thewlis Lane, shall be submitted to and approved in writing by the Mineral Planning Authority at least three months prior to the completion of the site restoration. The approved aftercare scheme shall provide details of:

- a) The person responsible for implementing the aftercare scheme;
- b) A plan showing the area subject to aftercare, with demarcation of any areas having different aftercare steps or management proposals; and
- c) The steps to be carried out in each area during the aftercare period and their timing within the overall programme to ensure grassland is maintained.

Following compliance with above, a detailed annual aftercare programme shall be submitted to and approved in writing by the Mineral Planning Authority before 31 August in each year of aftercare of the site. The programme submitted shall amplify the aftercare scheme for works to be carried out in the following 12 months, including any modifications to the original proposals.

- 10.36 Other conditions not referenced above (but which are also to be reworded) include 9 and 30. All other conditions of the 2019/90949 permission will remain unchanged, with minor errors in the wording corrected.

Planning obligations:

- 10.37 The current operative extant permission includes a small area (approximately 0.8h) of land west of Thewlis Lane within the application site red line boundary, which overlaps an area of land included in the 2003/91619 planning permission and an associated Section 106 agreement. The Section 106 agreement includes obligations related to restoration and aftercare for the wider Johnsons quarry areas. The applicant proposes to omit the small overlapped area from the restoration/aftercare obligations as set out in the legal agreement for the 2003/91619 permission, and proposes to continue using this area for stone

processing and storage purposes, in association with the wider operations of the business. This is supported, as it would facilitate and assist in the continued supply of this valuable resource/material, as is encouraged by the NPPF (chapter 17). Consequently, a Deed of Variation is required to the original Section 106 of the 2003/91619 planning permission, as the proposals would affect the future use of this area of land under the current application.

11.0 CONCLUSION

- 11.1 Through the submission of a viability appraisal, the applicant has demonstrated that the engineered backfilling of the site is unviable for and as such housebuilding on the full housing allocation would not be possible. This effectively means the proposals involve a significant departure from the Local Plan. The applicant's position regarding viability has been verified independently on behalf of the council. The option of the low-level restoration scheme put forward (Scenario 3) would allow minimal regrading with materials on site, as well as the respreading of the soil bunds back into the quarry void and this area being restored to grassland. Whilst it is recognised that the proposal would reduce the number of units delivered (in the future) on the housing allocation, at a time when the council is unable to demonstrate a five year housing land supply, the low level restoration scheme without an engineered backfill is supported. It is considered that the remainder of the housing allocation could still be developed to accommodate a significant number of units (up to 327).
- 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.

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

- 1) Development to be completed by 31/12/2027.
- 2) A copy of approved documents/plans to be retained on site at all times for inspection.
- 3) Development to be carried out in accordance with approved plans/documents.
- 4) Prior cessation measures to deal with restoration and aftercare in the event that mineral extraction is abandoned/ceases.
- 5) Sole means of vehicular access to and egress site via Thewlis Lane.
- 6) No commercial vehicles shall enter public highway from permitted site unless wheels and chassis cleaned.
- 7) The heavy plant crossing point on Thewlis Lane approved under Discharge of Conditions Application 2014/90920 shall be retained.
- 8) The total tonnage of material exported from and imported to the application site shall not exceed 2500 tonnes per day in total.
- 9) The temporary bridleway as shown on drawings TL1181-D7 rev C and 10093/600 rev A, shall be retained.
- 10) Previous condition deleted.

- 11) The development shall be carried out in accordance with details approved under Discharge of Conditions application 2014/90920 with regard to geotechnical stability.
- 12) The temporary screen mounds shall be respread back into the site as per submitted drawing TL1181-D7 rev C.
- 13) Previous condition deleted.
- 14) Previous condition deleted.
- 15) No mineral extraction shall take place below the topographical levels previous approved under planning permissions regulating operations.
- 16) No mineral extraction within the site shall take place below the topographical levels indicated on plan 10093/464 'Cross Sections Through Thewlis Lane Quarry'.
- 17) All mobile crushing and screening operations shall be carried out in accordance with previously approved details.
- 18) All mobile screening and crushing operations shall only use mineral extracted from Thewlis Lane, used for backfilling of Thewlis Lane and not export material from the site.
- 19) The quarry void shall be backfilled in accordance with submitted details and drawing TL1181-D7 rev C.
- 20) Previous condition deleted.
- 21) From the date of this permission the operator shall maintain records of monthly production and mineral extraction.
- 22) There shall be no discharge of foul or contaminated water from the site into either groundwater or any surface waters.
- 23) Any facilities for the storage of oils, fuels, or chemicals shall be sited on impervious bases and surrounded by impervious bund walls.
- 24) The development shall only be carried out in accordance with submitted FRA.
- 25) Previous condition deleted.
- 26) The stripping, movement and replacement of topsoil and subsoil shall only be carried out under sufficiently dry and friable conditions.
- 27) Previous condition deleted.
- 28) Previous condition deleted.
- 29) After the completion of mineral extraction, the site shall be progressively restored to grassland in accordance with the submitted details.
- 30) The final surface of backfilled quarry overburden shall be graded to provide an even surface 500mm lower than the agreed final contours.
- 31) The spreading of subsoil and topsoil shall only be carried out when the material is in a dry and friable condition.
- 32) Soils to be respread using a backacter. All stones and any other object larger than 75mm shall be removed from the surface of the soil.
- 33) Topsoil shall be spread over the surface of the areas to be restored to grassland following completion of works in conditions 30 and 32.
- 34) Previous condition deleted.
- 35) If satisfactory grass growth is not obtained as a result of the initial sowing, such part shall be cultivated and reseeded, after the correction of any nutrient deficiencies in the soil.
- 36) Previous condition deleted.
- 37) Previous aftercare conditions (37-40) combined into one, as per wording in report above.
- 38) Previous aftercare conditions (37-40).
- 39) Previous aftercare conditions (37-40).
- 40) Previous aftercare conditions (37-40).
- 41) Hours for operation of the quarry in accordance with previous approved details.

- 42) Development to be carried out in accordance with previously approved Noise Impact Assessment/restrictions.
- 43) Exceptionally noisy operations shall only be carried out within previously approved details.
- 44) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times.
- 45) All vehicles on site shall operate using broad band reversing alarms only.
- 46) There shall be no blasting.
- 47) The development to be carried out in accordance with the noise monitoring scheme approved under Discharge of Conditions application 2014/90396.
- 48) The clean supply of water currently provided for the suppression of dust shall be maintained.
- 49) The development shall be carried out in accordance with previously approved dust suppression scheme.
- 50) The development shall be carried out in accordance with previously approved dust monitoring scheme.
- 51) There shall be no storage of waste skips or containers or other plant and equipment not directly associated with the operation of the quarry.
- 52) Removal of PD rights – No fixed plant or machinery, buildings, structures and erections, or private ways which would project above natural ground levels.
- 53) Reporting of any artefact or feature of archaeological or geological interest encountered on the site.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f90357>

Certificate of Ownership – Certificate B signed

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