

# Public Document Pack



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Wednesday 26 February 2025

## 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 6 March 2025**.

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

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

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

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

**Samantha Lawton**

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

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

## **The Strategic Planning Committee members are:-**

### **Member**

Councillor James Homewood (Chair)  
Councillor 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

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of the Previous Meeting**

1 - 4

To approve the minutes of the meeting of the Committee held on 30<sup>th</sup> January 2025.

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**3: Declaration of Interests and Lobbying**

5 - 6

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

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**4: Admission of the Public**

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

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**5: Public Question Time**

To receive any public questions.

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

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

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## **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.

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## **7: Planning Applications**

7 - 8

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

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) on Monday 3<sup>rd</sup> March 2025.

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

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## **8: Site Visit - Planning Application 2023/91280**

Planning Application 2023/91280 relating to quarrying operations for the extraction of clay, shale and incidental coal and subsequent restoration by means of importation of inert wastes at Bromley Farm Quarry, Barnsley Road, Upper Cumberworth, Huddersfield.

Ward affected: Denby Dale

Contact: Farzana Tabasum, Planning Services

Estimated time of arrival on site: 09:55 a.m.

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**9: Site Visit - Planning Application 2023/92966**

Planning Application 2023/92966 for the demolition of existing dwelling and erection of 97 dwellings including formation of a new access from Cliffe Lane, landscaping, public open space and all associated infrastructure and engineering works on land to the rear of 271 Cliffe Lane, Gomersal, Cleckheaton.

Ward affected: Liversedge and Gomersal

Contact: Nick Hirst, Planning Services

Estimated time of arrival on site: 10:50 a.m.

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**10: Planning Application - Application 2024/92394**

9 - 30

Planning Application 2024/92394 for the development of an attenuation basin and associated access relating to planning permission 2021/92801 on land at Merchant Fields Farm, off Hunsworth Lane, Cleckheaton.

Ward affected: Cleckheaton

Contact: Victor Grayson, Planning Services

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**11: Planning Application - Application No. 2023/91280**

31 - 72

Planning Application 2023/91280 relating to quarrying operations for the extraction of clay, shale and incidental coal and subsequent restoration by means of importation of inert wastes at Bromley Farm Quarry, Barnsley Road, Upper Cumberworth, Huddersfield.

Ward affected: Denby Dale

Contact: Farzana Tabasum, Planning Services

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**12: Planning Application - Application 2023/92966**

73 - 114

Planning Application 2023/92966 for the demolition of existing dwelling and erection of 97 dwellings including formation of a new access from Cliffe Lane, landscaping, public open space and all associated infrastructure and engineering works on land to the rear of 271 Cliffe Lane, Gomersal, Cleckheaton.

Ward affected: Liversedge and Gomersal

Contact: Nick Hirst, Planning Services

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## **Planning Update**

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

Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### STRATEGIC PLANNING COMMITTEE

**Thursday 30th January 2025**

Present: Councillor James Homewood (Chair)  
Councillor Bill Armer  
Councillor Ali Arshad  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal

Apologies: Councillor Jo Lawson  
Councillor Mark Thompson

- 1 Membership of the Committee**  
Councillor Ali Arshad substituted for Councillor Jo Lawson.  
Apologies were received from Councillor Mark Thompson.
- 2 Minutes of the Previous Meeting**  
**RESOLVED-**  
That the minutes of the meeting of the Committee held on 5<sup>th</sup> December 2024 be approved as a correct record.
- 3 Declaration of Interests and Lobbying**  
Councillors Armer, Homewood, Pinnock and Sokhal advised that they had been lobbied in respect of Application 2023/91405.
- 4 Admission of the Public**  
All items were considered in public session.
- 5 Public Question Time**  
No questions were asked.
- 6 Deputations/Petitions**  
No deputations or petitions were received.
- 7 Site Visit - Planning Application 2023/91405**  
Site visit undertaken.
- 8 Planning Application - Application No: 2023/91405**  
The Committee considered Planning Application 2023/91405 in respect of the erection of a foodstore (class E) with associated access, parking, servicing area and landscaping on part of former St Luke's Hospital site, Blackmoorfoot Road, Crosland Moor, Huddersfield.

## Strategic Planning Committee - 30 January 2025

Under the provisions of Council Procedure Rule 37, the Committee received a representation from Jack Charlton (on behalf of the applicant).

The Head of Development and Planning also reported on a representation from an objector, which had been received after the publication of the planning update.

### 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 and the update, 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. Limit on floorspace (sales and other), convenience and comparison good ratio, and no subdivision of the unit.
    4. Details of Alternative Low or Zero Carbon (LZC) technologies to be submitted, approved and implemented.
    5. Landscaping to be done in accordance with plans, with management strategy to be approved.
    6. Facing materials to be in accordance with plans, with samples to be provided and approved.
    7. Full details, including typical elevations, of all boundary treatment to be submitted, approved and implemented.
    8. Full details, including typical elevations, of all retaining wall materials to be submitted, approved and implemented.
    9. Existing points of access onto Blackmoorfoot Road to be closed and made good.
    10. Proposal to operate in accordance with the submitted ventilation details.
    11. Lighting strategy to be submitted, approved and implemented.
    12. Construction Environmental Management Plan (CEMP) to be submitted, approved and implemented.
    13. Delivery Management Plan to be submitted, approved and implemented.
    14. Plant noise levels not to exceed given level.
    15. Updates noise impact assessment to be submitted, approved and implemented.
    16. Customer bicycle storage to be provided.
    17. Staff bicycle storage details to be submitted, approved and implemented.
    18. Details of improvements to Blackmoorfoot Road and Turnstone Way junction to be submitted, approved and implemented.
    19. Details of point of access from Turnstone Way to be submitted, approved and implemented.
    20. Car parking to be provided in accordance with plans.

## Strategic Planning Committee - 30 January 2025

21. Full drainage strategy to be submitted, approved and implemented (with note regarding discharge rate), including management and maintenance details.
22. Flood routing strategy to be submitted, approved and implemented.
23. Temporary construction drainage strategy to be submitted, approved and implemented.
24. No clearance in bird breeding season to take place, without survey.
25. Lighting strategy for ecology to be submitted, approved and implemented.
26. Trees to be felled in accordance with ecological recommendations.
27. Air Quality Impact Assessment Condition.  
(Authority delegated to the Head of Planning and Development to determine wording, pending receipt of Environmental Health's comments in respect of the addendum provided by the applicant. If the addendum is accepted, the condition shall be worded 'Development to be implemented in accordance with the approved Air Quality Impact Assessment'. Should the addendum not be accepted, the condition be retained as 'Updated Air Quality Impact Assessment to be submitted, approved and implemented'.)
28. Updated Electric Vehicle Charging Points (EVCP) to be submitted, approved and implemented.
29. Contaminated land investigations, remediation, and validation to be submitted, approved and implemented.
30. Crime mitigation measures to be submitted, approved and implemented.
31. Hours of operation limited to:  
Monday to Saturday: 0800 to 2200  
Sunday: 1000 to 1800.

- (b) secure a Section 106 agreement to cover the following matter:  
Biodiversity Net Gain (to secure 10% net gain off-site): £37,030 towards off-site ecological habitat enhancement.

- (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 Armer, Arshad, Homewood, Pinnock and Sokhal (5 votes)

Against: No votes

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

**LOBBYING**

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

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

## **NOTES**

### **Disclosable Pecuniary Interests**

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

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

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

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

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

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

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

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

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

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

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

### **Lobbying**

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

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

## **PLANNING POLICY**

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

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

### **National Policy/ Guidelines**

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

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

## **REPRESENTATIONS**

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

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

## **EQUALITY ISSUES**

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

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

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

## **HUMAN RIGHTS**

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

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

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

## **PLANNING CONDITIONS AND OBLIGATIONS**

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

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

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

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

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

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

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 06-Mar-2025

**Subject: Planning Application 2024/92394 Development of an attenuation basin and associated access relating to planning permission 2021/92801 Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton**

#### APPLICANT

Harron Homes

#### DATE VALID

28-Nov-2024

#### TARGET DATE

27-Feb-2025

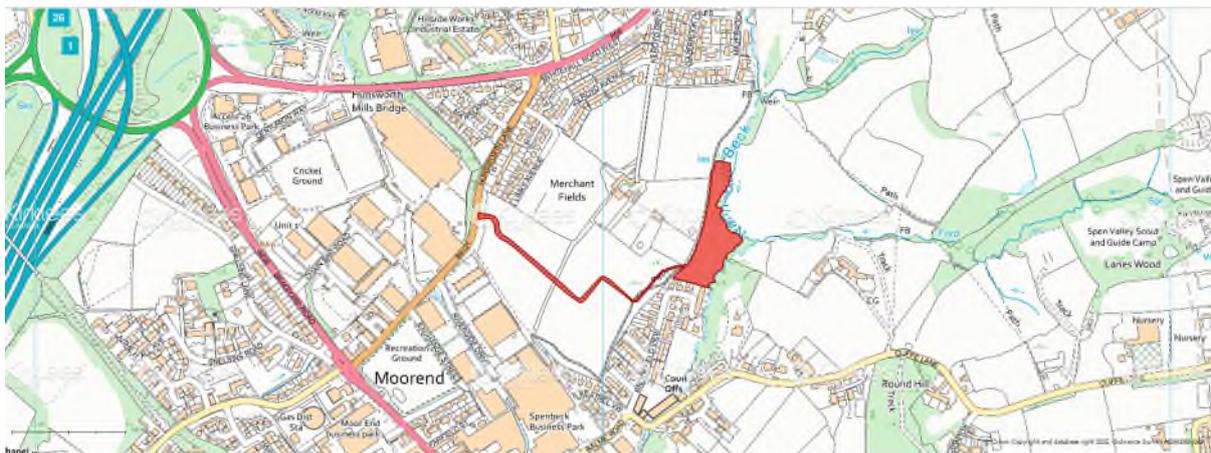
#### EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

#### LOCATION PLAN



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

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**Electoral wards affected:** Cleckheaton

**Ward Councillors consulted:** Yes

**Public or private:** Public

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**RECOMMENDATION:**

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

**1.0 INTRODUCTION:**

1.1 This is an application for full planning permission for the development of an attenuation basin, and the provision of an associated access. The basin would be associated with the 291-dwelling residential development previously approved to the west of the current application site.

1.2 This application is brought to the Strategic Planning Committee for determination under the terms of the Delegation Agreement following a request from Ward Councillor Kath Pinnock. Cllr Kath Pinnock's grounds for requesting a committee decision are as follows:

*Given that permission was given for an attenuation tank and that there are issues of public safety that should be aired in a public forum, I am asking for this application to be decided at committee, please.*

1.3 Cllr Kath Pinnock's request has been accepted by the Chair of the Strategic Planning Committee.

**2.0 SITE AND SURROUNDINGS:**

2.1 The main part of the application site is approximately 1 hectare in size. It comprises grassed land that has been in agricultural use, and the west bank of Nann Hall Beck, as well as a short section of that watercourse.

2.2 The application site red line boundary also includes the route of an access between the proposed basin location and Hunsworth Lane.

2.3 The main part of the application site is bounded by trees, hedgerows and other shrubs, as well as post and wire fencing. The site is relatively flat, with a slight downhill slope eastwards.

2.4 The rear gardens of 79, 81, 83, 85, 87 and 89 Brookfield View meet the southern edge of the main part of the application site, as does the side garden of 77 Brookfield View.

2.5 To the west of the main part of the application site is site HS96, which is allocated for residential development in the Local Plan. Also to the west is an area of mostly Green Belt land that is not allocated for development, and includes a group of buildings at Merchant Fields Farm. The main part of the application site itself is within the Green Belt, as is land to the east.

- 2.6 Public footpath SPE/44/30 runs north-south along the western edge of the main part of the main part of the application site.
- 2.7 The application site is not within a conservation area, and does not form part of the setting of a listed building.
- 2.8 The application site is not located within an Air Quality Management Area.
- 2.9 The majority of the application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. Parts of the site (namely, the banks of Nann Hall Beck) are within Flood Zones 2 and 3.
- 2.10 In relation to minerals, the application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by the Coal Authority (now the Mining Remediation Authority).

### **3.0 PROPOSAL:**

- 3.1 The application is for the development of an attenuation basin, and the provision of an associated access. This would involve the excavation of the site to form the basin, and the creation of sloped edges which would typically have a gradient of 1:3. A track (surfaced with Grasscrete) would be formed around the edge of the basin, to provide access for maintenance. Levels would be raised along the east side of the basin, and the track would run along the top of this new raised bank.
- 3.2 Water would enter the basin via a pipe connected to the surface water drainage system of the residential development to the west. Water would leave the basin at an attenuated rate via a pipe at the northeast edge of the basin. This water would discharge into Nann Hall Beck.
- 3.3 Tree, hedgerow and shrub planting is proposed around the basin.
- 3.4 Vehicular access to the basin would be provided via a new section of track between an estate road of the approved residential development to the west and the southwest corner of the basin.

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

#### *Application site (main part)*

- 4.1 None relevant.

#### *Adjacent site allocation (HS96)*

- 4.2 2019/93303 – Planning permission refused 21/05/2021 for the erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroy Drive. The reason for refusal was as follows:

*The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom detached dwellings. Furthermore, the double hedgerow within the site, which is classed as 'important' under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.*

4.3 2021/92801 – Planning permission granted 14/06/2022 for the erection of 291 dwellings with associated works and access from Hunsworth Lane and Kilroy Drive.

4.4 2022/92151 – Permission refused 23/09/2022 for variation of condition 2 of permission ref: 2021/92801. The reason for refusal was as follows:

*The proposed amendments would result in a development that is materially and substantially different to the one which has been approved, that would not deliver an appropriate mix of housing suitable for a range of household types, and that would provide inadequate amenity for existing and future residents. Furthermore, it has not been demonstrated that sufficient off-street parking would be provided. The proposal is therefore contrary to Policies LP11, LP22 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.*

4.5 2022/92229 – Permission refused 29/09/2022 for variation of condition 4 of permission ref: 2021/92801. The reason for refusal was as follows:

*The proposal would result in prolonged and unacceptable impacts during the construction phase in relation to residential amenity, highway safety and the movement of traffic. Sufficient justification for the proposal has not been provided. The proposal is therefore contrary to Policies LP21, LP24 and LP52 of the Kirklees Local Plan and the National Planning Policy Framework.*

4.6 2022/93305 – Application for variation of condition 2 of permission ref: 2021/92801 withdrawn.

4.7 2024/91260 – Variation of conditions 2 (plans and specifications) and 35 (removal of permitted development rights) of previous permission 2021/92801 – revisions to house types, unit size mix and layout. Approved 11/11/2024.

4.8 2022/92560 – Discharge of Conditions application currently under consideration.

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

*Pre-application stage*

- 5.1 On 17/05/2024, in email exchanges regarding application 2024/91260, the case officer queried an unexplained, unannotated shape that had appeared outside the application site on some drawings. Some of the applicant's drawings also showed a new lane off Brookfield View, passing through the proposed residential development's community orchard, with an annotation stating "potential access to attenuation basin". In a meeting held on 14/06/2024, the applicant team explained that they were exploring the possibility of providing an attenuation basin to the north of Brookfield View. This would replace the attenuation tank approved in the northeast part of the residential development site. The case officer advised that this proposal could potentially be considered favourably (subject to relevant planning considerations being addressed), but that the proposal would need to be deleted from the drawings being considered under application 2024/91260, and would need to be the subject of a separate application. The applicant amended the drawings (of application 2024/91260) accordingly.

*Application stage*

- 5.2 During the life of the current application, the applicant submitted drawings and documents in response to consultee comments regarding site contamination matters. Information was also provided to address Member concerns.
- 5.3 The submissions made during the life of the current application did not necessitate public reconsultation.

**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 main part of the application site is within the Green Belt. The application site red line boundary also includes the route of an access between the proposed basin location and Hunsworth Lane – most of this route is within site HS96, which is allocated for residential development.
- 6.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP23 – Core walking and cycling network
- LP24 – Design
- LP27 – Flood risk
- LP28 – Drainage

- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.4 Relevant guidance and documents:

- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Public Rights of Way Improvement Plan (2010)
- Biodiversity Net Gain Technical Advice Note (2021)
- Kirklees Climate Change Action Plan (2022)
- Planning Applications Climate Change Guidance (2021)
- Highway Design Guide SPD (2019)

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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document. In December 2022 the council launched the Kirklees Climate Change Action Plan.

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (December 2024, corrected February 2025) 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 proposal. Relevant chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 13 – Protecting Green Belt land
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 17 – Facilitating the sustainable use of minerals

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

6.9 Relevant national guidance:

- Green Infrastructure Planning and Design Guide (2023)

6.10 Since 12/02/2024, the provision of a Biodiversity Net Gain (BNG) of 10% has been a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development and as development which affects a public right of way (public footpath SPE/44/30). Three site notices were posted on 10/12/2024, a press notice was published on 12/12/2024, and notification letters were sent to neighbouring properties. This was in line with the council's then-applicable Statement of Community Involvement. The end date for publicity was 06/01/2025.

7.2 Nine representations were received in response to the council's consultation.

7.3 Cllr Kath Pinnock (ward Member for Cleckheaton) – *I have no concerns in principle with the change. However, there is nothing I can see that particularly addresses safety. There is a track that leads to the pond and the pond is 1.65m deep in places. Children are inevitably drawn to water. What safety features are designed to address this? The other concern I have is in relation to maintenance. Although there will be occasions when water is pumped into the beck, generally, the water there will not flow. In these circumstances water weeds can quickly take over and clog the pond. Unused canals suffered from this sometimes spectacularly so. Will the developers be required to produce a maintenance plan?*

7.4 Other comments included in representations are summarised as follows:

### *Principle of development*

- Site is not allocated in Local Plan.
- Site is agricultural Green Belt, most recently used for sheep and horse grazing.
- Recent application to change from agricultural Green Belt was refused.
- Site is not Grey Belt.

## *Drainage and flood risk*

- No justification for removal of second approved attenuation basin.
- Removal of second attenuation would increase flood risk.
- Unclear if basin would replace one of the approved attenuation tanks.
- No explanation for basin provided, when three tanks previously approved. Query if this means previous proposals were incorrect.
- Calculations needed for basin, to demonstrate suitability and adequate size.
- Unclear how basin would function.
- Nann Hall Beck is too narrow to carry volume of water that falls during heavy rain.
- Nann Hall Beck drops significantly along its course. Downward force is considerable.
- Basin would be inundated by water from Nann Hall Beck. Basin would fail to achieve its stated aim of attenuation of surface water run-off from the proposed development as it would be overwhelmed by a flooding problem that exists now.
- If basin is already inundated with water from river, water entering it would contribute to an existing major flooding problem.
- Lead Local Flood Authority have requested an assessment of exceedance events. Assessment of 1 in 100 year storm event (with climate change allowance) has been requested, but given eight major weather events since 2007 there is currently a 1 in 2 year situation.
- Two previous applications at this site have been refused on flooding grounds.
- Previously-approved tanks would not have been sufficient, as explained by Lead Local Flood Authority objection to Discharge of Conditions application 2022/92560. Current proposal is no better.
- Inflow (into basin) would exceed outflow (into Nann Hall Beck).
- No evidence that Yorkshire Water would adopt basin.
- Query what consideration given to aquifer flooding of basin, given nearby mine entries.
- Large area of impermeable surfaces proposed, preventing water from being absorbed into the ground.
- Run-off will overwhelm local drainage system.
- Increased flood risk, including to nearby properties and the proposed dwellings.
- Fields currently serve as a natural flood plain, reducing risk downstream.
- Proposed drainage solutions need to be adequate.
- Increased flood risk will prevent homeowners from obtaining affordable insurance, will prevent remortgaging, and will devalue area. Unclear how 200+ homes are exempt from flood protection in relation to mortgaging.
- Flooding has occurred at Brookfield View.
- Watercourse cannot cope at Balme Road bridge. This infrastructure needs upgrading.

### *Biodiversity, trees and landscaping*

- Adverse impact on, and displacement of, barn owls, tawny owls, red kites, kestrels, deer, rabbits, hares, foxes, bats, herons, badgers and other species.
- Harm to habitats. Loss of feeding, nesting and breeding grounds.
- Loss of biodiversity.
- Construction process would be harmful to wildlife.
- Wildlife protections needed.
- Loss of trees and bushes.
- Increased carbon dioxide due to loss of vegetation.
- All hedges and trees were cut down and burnt in 2019.
- Planting more trees would not help local health and wellbeing.

### *Amenity*

- Disruption, inconvenience, noise and stress during construction.
- Diminished quality of life and peace of mind.
- Older generations live next to site.

### *Safety*

- 1.65m water depth is a safety hazard. Risk to children.

### *Associated residential development*

- Objection to principle of residential development. Development should not be going ahead.
- Inadequate local infrastructure to support development. Schools are over-subscribed. Insufficient doctor surgeries.
- Increased congestion, journey times and safety hazards.
- Increased traffic.
- No traffic assessments submitted.
- No assessment of queueing on Kilroyd Drive.
- Cost of increased traffic to resource-lacking council.
- Site is on an old mine. Potential structural instability.
- Risk of dwellings not meeting standard for sustainable and high-quality housing.
- Light pollution would scare off wildlife.
- Many houses already built in local area in recent years.
- Unclear how long development will take to complete.

### *Other matters*

- Back door attempt to increase approved development by 15%.
- Phase I Environmental Assessment refers to Merchant Paddocks and 42 dwellings. These additional homes have not been proposed under any application to date. Misleading. Needs to be corrected.
- Reference to 42 dwellings indicates what can be expected next.
- 42 additional dwellings would increase flood risk, and larger basin would be needed.
- Unclear why document (mentioning 42 dwellings) is superseded.

- Proposal for 46 dwellings hidden within application for an attenuation tank. Misleading. Proposals should be fully disclosed.
- Objection to 46 dwellings in Green Belt.
- Precedent for further Green Belt encroachment.
- Lack of infrastructure to support 46 homes.
- Lack of need for 46 homes. 200 homes already approved should sufficiently address local demand.
- Proposal involves transporting excavated material through residential area and dumping it in landfill.
- Attenuation basin in Green Belt is cheaper than building and maintaining buried attenuation tanks.
- Applicant has continually attempted to change and water down proposals.
- Applicant should organise meeting with local residents.
- Application should be considered at committee.

## **8.0 CONSULTATION RESPONSES:**

- 8.1 KC Lead Local Flood Authority – No objection. Condition recommended regarding detailed design of basin, and a maintenance management regime. Section 106 agreement required to establish management company responsible for maintenance and management of basin until adopted by Yorkshire Water or New Appointments and Variations company. Advice provided regarding design of basin.
- 8.2 Environment Agency – No objection or comments. Site includes small area of Flood Zone 2/3, however EA are satisfied that the attenuation basin and associated access are in Flood Zone 1 and therefore have no objection or comments. Sustainable Drainage Systems (SuDs) should always be carefully considered in discussions with the Lead Local Flood Authority, however, any drainage system must not pose a risk to groundwater quality and must not be constructed in ground affected by contamination.
- 8.3 Mining Remediation Authority (formerly the Coal Authority) – Objection. Proposals do not address risks relating to mine shafts 418426-008, 419426-001, 419426-002 and 419426-005, and the access track that would lead to the proposed basin.
- 8.4 KC Ecology – Further information required. Application site red line boundary in location plan differs to that of the submitted Biodiversity Impact Assessment, Preliminary Ecological Appraisal Report and report regarding a protected species, therefore parts of site have not been factored into Biodiversity Net Gain calculations or ecological appraisal. Concern regarding proposed layout significantly overlapping with native hedgerow on western boundary, resulting in loss of large parts of hedgerow or significant damage to roots. Hedgerows are a Habitat of Principal Importance and a Conservation Priority for Kirklees, and this impact has not been accounted for fully in the submission. The design should be amended to safeguard this hedgerow.
- 8.5 KC Environmental Health – Conditions recommended. Submission does not account for former landfill and inorganic contaminants associated with made ground at adjacent site. Submission does not consider possible agricultural supplies storage or machinery, and no site walkover has been undertaken. No detailed information regarding end use of soils. Conceptual site model and

conclusion include contradictory information (all risk has been identified as very low, yet further intrusive investigation, including taking soil samples, is proposed). No detail provided regarding specific testing. Phase 1 report not accepted, and five contamination conditions recommended.

8.6 KC Highways Development Management – No objection subject to amendment. Alignment and design of proposed access track is acceptable and considered appropriate for the anticipated size and volume of vehicular use. Proposed access uses a section of the private drive serving plots 139 and 140 (of the approved residential development). Future maintenance of this section of private drive would be the responsibility of residents, yet maintenance access over it could cause excessive wear and damage by vehicles not expected to regularly use a private drive, increasing the residents' maintenance liability. Adopted highway should therefore be extended so that plots 139 and 140 and the attenuation basin can be independently accessed from the adopted highway.

8.7 Yorkshire Water – No comment.

## 9.0 MAIN ISSUES

- Land use and principle of development
- Amenity impacts
- Visual amenity, landscape impacts, trees and landscaping
- Biodiversity
- Highway and transportation issues
- Flood risk and drainage issues
- Site contamination and stability
- Safety
- Other matters
- Representations

## 10.0 APPRAISAL

### Land use and principle of 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 main part of the application site has most recently been in agricultural use, and is within the Green Belt.

10.3 The loss of the application site's agricultural use would not be contrary to planning policies. Natural England maintain a publicly-accessible online resource where the Agricultural Land Classification grade of land can be ascertained, and this resource indicates that the application site is grade 3 land. Although this does not clarify if the site is grade 3a or 3b land, given the site's location, climate, past use and likely soil condition, it is not considered to be "best and most versatile" agricultural land. There is considered to be no conflict with paragraphs 187 and 188 of the NPPF (and the related footnote 65), nor with the commentary at page 35 (Strategy and Policies document) of the Kirklees Local Plan.

- 10.4 Paragraph 151 of the NPPF states that, once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access, or to retain and enhance landscapes, visual amenity and biodiversity.
- 10.5 Paragraph 154 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The paragraph specifies what types of development can be considered in this way, and the prescriptive list includes mineral extraction, engineering operations and material changes in the use of land.
- 10.6 Much of the above restrictions on Green Belt development are reiterated in paragraphs 19.2 and 19.7 of the Local Plan.
- 10.7 The proposed basin is a form of drainage infrastructure, and can be regarded as development falling under paragraph 154 of the NPPF. The proposal would not involve new buildings in the Green Belt, and would not have an urbanising effect. The proposed reshaping of the land would not erode the openness of the Green Belt, nor would its use for attenuation (whether the basin is dry or filled with water). Similarly, the proposed access track and its boundary treatments would not erode openness if sensitively designed, landscaped and implemented in accordance with details to be submitted pursuant to a recommended condition. The proposals would not conflict with the purposes of including this land within the Green Belt.
- 10.8 The council has previously accepted drainage infrastructure in the Green Belt where associated with major residential development, including at:
- Bradley Villa Farm (application 2021/92086) – large attenuation basin approved adjacent to the M62.
  - Lingards Road, Slaithwaite (application 2020/93954) – buried attenuation tank (and associated reshaping of hill slope) approved to west of site.
  - Penistone Road, Fenay Bridge (application 2022/93154) – buried attenuation tank approved on opposite side of road.
- 10.9 Of note, the applicant has not argued that the application site could be regarded as Grey Belt land. Furthermore, it is considered that no such argument needs to be made, given that the proposal is regarded as development falling under paragraph 154 of the NPPF.
- 10.10 A resident has stated that a planning application to change “from agricultural Green Belt” at this site has been refused. This is incorrect.
- 10.11 Although the basin now proposed is associated with the approved 291-unit residential development to the west, there is no evidence to suggest that the proposed basin is essential to enable that development to proceed. The approved residential development included adequate on-site attenuation (in the form of two tanks), and that development has not been demonstrated to be financially unviable. Therefore, the now-proposed basin should not be regarded as crucial to the delivery of a major housing development.

- 10.12 Notwithstanding the above, it is noted that the provision of this basin (instead of a buried tank within the residential development site) could free up land within the site allocation, which – subject to relevant planning considerations being addressed under a further application – could potentially be used for more housing. However, for the avoidance of doubt, no such additional housing is currently proposed.
- 10.13 The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. None of the listed criteria apply in this instance, however due to its size and location it is considered unlikely that mineral extraction from this site would prove attractive to any party involved in that sector. It is also noted that extraction would involve deeper excavation (than is currently proposed for the basin) and the removal of material by HGV, and that such extraction could not easily be carried out at this site without causing amenity impacts for the residents of neighbouring properties.

#### Amenity impacts

- 10.14 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers. Policy LP52 states that proposals which have the potential to increase pollution from noise, vibration, light, dust, odour, shadow flicker, chemicals and other forms of pollution or to increase pollution to soil or where environmentally-sensitive development would be subject to significant levels of pollution, must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, so as to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which reduce pollution levels to an acceptable level to protect the quality of life and well-being of people or protect the environment will not be permitted.
- 10.15 The application site's red line boundary meets the curtilages of existing residential properties at Brookfield View.
- 10.16 The proposed development raises no significant concerns in relation to neighbouring residential amenity. The basin, its raised banks and its access track would not be accessible to the public, and the foot of the southernmost slope would begin approximately 15m away from the rear fences of properties on Brookfield View. The proposed raised banks would typically rise less than 1m above the existing ground level. There are therefore no concerns regarding the proposal's impact upon neighbouring residential properties in relation to privacy, outlook and natural light.
- 10.17 Given the nature, scale, location and details of the proposal, there are no concerns regarding odour, noise or artificial lighting. The number of maintenance vehicle movements likely to be associated with the proposed development is not considered to be significant enough to harm residential amenity.

- 10.18 Construction-phase works have the potential to cause harm to neighbouring residential amenity. A condition securing the submission and implementation of a Construction Environmental Management Plan is recommended. This would secure measures to limit hours of works, noise, artificial lighting, dust and other matters during the construction phase.

Visual amenity, landscape impacts, trees and landscaping

- 10.19 Local Plan policies LP2, LP24, LP32 and LP33 are of relevance to this application, as are chapters 12, 13 and 15 of the NPPF.
- 10.20 The existing landscape surrounding the application site undulates, and there is evidence of human interventions that have reshaped the local topography. In this context, a human-made basin (with a raised bank to its east edge) would not appear alien. Furthermore, it is again noted that the openness of the Green Belt would not be harmed by the proposal.
- 10.21 The visual impact of the proposed access track would be limited. It would be surfaced with Grasscrete, and this would be effective in softening its visual impact – the track would appear predominantly grassed, rather than predominantly hard surfaced. The stretch of track further to the southwest would be short in length, and would read as an extension to the residential development's already-approved estate road network.
- 10.22 The application site is not within a conservation area, and does not form part of the setting of a listed building. No adverse impacts would occur in relation to any above-ground heritage assets as a result of the proposed development.
- 10.23 Archaeology was a consideration relevant to the adjacent allocated site to the west, however no archaeological designations apply to the current application site. Of note, at the adjacent site, a predetermination archaeological evaluation was carried out in 2019. The results of that work established that the site had very low archaeological potential and, in particular, the line of a Roman road was not located by archaeological trial trenching. In light of those findings, the West Yorkshire Archaeology Advisory Service did not consider that any further archaeological work was necessary at that site.
- 10.24 Regarding trees, Local Plan policy LP33 is relevant. There are no Tree Preservation Order applicable to trees within or close to the application site.
- 10.25 A loss of trees and shrubs would occur as part of the proposed development. This has triggered an objection from KC Ecology, who have identified this vegetation (along the western boundary of the main part of the application site) as a native hedgerow, which is a Habitat of Principal Importance and a Conservation Priority for Kirklees. This loss is indeed unfortunate, however given that this vegetation is not subject to protection (via a Tree Preservation Order or conservation area designation) and is not classed as "important" under the Hedgerow Regulations 1997 (unlike a double hedgerow to the southwest of Merchant Fields Farm, within the adjacent residential development site), and given that adequate replacement planting is proposed around the basin, it is not recommended that planning permission be refused on these grounds.

- 10.26 A section of the above-mentioned “important” hedgerow within the adjacent residential development site is, as part of that development, to be translocated to a new location along that site’s boundary, edging the approved community orchard. There is space between this translocated hedgerow (and its root protection area) and the curtilage of 89 Brookfield View for the proposed access track to pass through, however it is recommended that full details of this part of the site be considered pursuant to a relevant condition.
- 10.27 The soft landscaping proposed around the basin is considered acceptable. It includes native trees, and species that would introduce visual interest and would be attractive to pollinators and birds. Marsh-loving native species are proposed within the basin. A condition securing full details of a landscaping scheme (including maintenance commitments) is recommended.
- 10.28 No boundary treatment details were included in the applicant’s drawings, nor were details of a gate that would be needed at the site’s southwestern corner. Officers have advised the applicant that – in order to preserve the openness of the Green Belt – nothing more substantial than a 1.1m high post and rail timber fence would be appropriate at this site. A condition regarding boundary treatments is recommended.

#### Biodiversity

- 10.29 Local Plan policy LP30, the council’s Biodiversity Net Gain Technical Advice Note, and chapter 15 of the NPPF are relevant. Parts of the application site are within a Biodiversity Opportunity Zone (Pennine Foothills for the majority of the site, Flood Plains for the eastern edge of the site). Bats are known to be present in the area. The Nann Hall Beck corridor forms part of the Kirklees Wildlife Habitat Network.
- 10.30 The provision of a Biodiversity Net Gain (BNG) of 10% is now a mandatory requirement for developments in England under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). This is subject to limited exceptions. Unless exempt, every planning permission granted pursuant to an application submitted after 12/02/2024 is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted to and approved by the local planning authority prior to commencement of the development. The applicant has not put forward a case that the development is exempt from the mandatory BNG requirement, nor do officers consider exemption applicable in this case.
- 10.31 A biodiversity metric calculation has been undertaken by the applicant. The headline results of this calculation are appended to the submitted Biodiversity Impact Assessment. The application site’s existing (baseline, or pre-development) and proposed (post-development) biodiversity values are set out as follows:

	Existing (baseline)	Proposed (post-development)	Change
Habitat units	4.15	5.68	+36.72%
Hedgerow units	2.97	1.50	-49.30%
Watercourse units	0.00	0.00	0%

- 10.32 The applicant's Biodiversity Impact Assessment states that no works are proposed within 10m of Nann Hall Beck, and therefore watercourse units do not need to be assessed. Although the foot of the basin's raised bank and a pipe that would discharge water northeastwards are within 10m of the beck, the applicant's approach is accepted, given the scale and nature of these works.
- 10.33 KC Ecology have noted that the application site red line boundary in the submitted location plan differs to that of the submitted Biodiversity Impact Assessment, Preliminary Ecological Appraisal Report and a report regarding a protected species. There is therefore a concern that parts of the application site have not been factored into BNG calculations or ecological appraisal. This discrepancy is noted, however the part of the application site red line boundary that includes the route of an access between the proposed basin location and Hunsworth Lane also falls within the red line boundary of application 2021/92801, and ecological surveys and a BNG assessment were previously carried out for that land under that application.
- 10.34 The proposed achievement of over 10% BNG (in respect of habitat units) is welcomed. The reduction in hedgerow units is unfortunate, however the applicant has stated that, due to the limited space within the application site, the lost hedgerow cannot be replaced in the same location. The applicant therefore proposes to compensate for this loss (and achieve the required 10% net gain) through the planting of an additional hedgerow to the north, within the adjacent residential development site. This would, according to the applicant, deliver 2.32 hedgerow units, resulting in a net gain of 28.87%. When considering these proposals at conditions stage (details will need to be submitted pursuant to the Biodiversity Gain Plan general planning condition imposed by legislation), the applicant will need to demonstrate that these 2.32 units are genuinely additional to those that were to be provided in any case within the residential development site.
- 10.35 The features that would achieve the required BNG would need to be maintained and monitored for a period of at least 30 years. The post-development biodiversity value of the site and adjacent land (as proposed by the applicant) would total close to 10 units across two unit types. Other criteria that can make on-site BNG fall within the definition of "significant" may also be applicable in this instance. It is therefore concluded that – for this application – there is a need to secure maintenance, management and monitoring measures in relation to the BNG required of the proposed development. Government guidance states that this can be secured either via a Section 106 agreement or a condition, and in this instance a condition is accordingly recommended.
- 10.36 The submitted Biodiversity Impact Assessment refers to the proposal as a "dry basin" seeded with a grass meadow mixture for wetlands. The submitted planting plan includes two areas where a "marginals mix" is proposed – these would include native species such as marsh marigold, water mint, purple loosestrife and common rush suitable for wet conditions. The proposal would diversify the species and habitats that currently exist at the application site.
- 10.37 The submitted Preliminary Ecological Appraisal Report details the findings of an ecological survey carried out on 27/06/2024. A desktop study was also undertaken. No protected species were observed on site, however the report author noted that parts of the application site offer suitable habitat for bats, great crested newts and other species. The author further noted that – where these parts of the site would be developed – appropriate replacement habitat would be provided as part of the proposal.

- 10.38 A separate report relating to a specific protected species was submitted, and it is noted that a relevant license from Natural England would be required in relation to that species.

#### Highway and transportation issues

- 10.39 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.40 Paragraph 115 of the NPPF states that, in assessing applications for development, it should be ensured that 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 through a vision-led approach. Paragraph 116 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, following mitigation, would be severe.
- 10.41 Following construction of the basin, visits by maintenance crews are likely to be infrequent. Crews would visit the site using motorised vehicles, however the impact of these movements on the local highway network would be negligible.
- 10.42 The route of an access between the proposed basin location and Hunsworth Lane is shown on the submitted drawings. This route corresponds with the estate road layout approved under application 2021/92801. For the current application, it has been included to illustrate how access would be taken to/from the basin, however there are no proposals (such as a detailed road design) for that route under this current application. Vehicular access to the basin site would only be delivered as part of the residential development, therefore there is no need to consider this route further at this stage.
- 10.43 The access track around the basin would be connected to the residential development's estate road network via a short section of additional track and via the private drive serving plots 139 and 140. Future maintenance of this section of private drive would have been the responsibility of residents, yet maintenance access over it could cause excessive wear and damage by vehicles not expected to regularly use a private drive. This could increase the residents' maintenance liability. It is therefore necessary to extend the adopted (or adoptable) highway of the residential development so that plots 139 and 140 and the attenuation basin can be independently accessed from the adopted highway. This has been put to the applicant, however an appropriate condition is recommended in any case.

#### Flood risk and drainage issues

- 10.44 Local Plan policies LP24, LP27, LP28 and LP34 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.

- 10.45 The majority of the application site is located within Flood Zone 1 and is therefore generally at low risk of flooding. Parts of the site (namely, the banks of Nann Hall Beck) are within Flood Zones 2 and 3.
- 10.46 In the approved residential development to the west, drainage attenuation tanks were proposed beneath the open spaces close to the southwestern edge and northeast corner of that site. From these, surface water was to discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane.
- 10.47 The attenuation basin now proposed would replace one of those tanks (the tank close to the northeast corner of that site, which was to discharge to Nann Hall Beck). The proposed basin would move that attenuation southwards, and would move the discharge point downstream. Water would enter the basin via a pipe connected to the surface water drainage system of the residential development to the west, and water would leave the basin at an attenuated rate via a pipe at the northeast edge of the basin.
- 10.48 Condition 16 of permission 2021/92801 restricted discharge from the previously-approved tank to Nann Hall Beck to a rate of 17.5 litres per second. The same discharge rate is now proposed for the basin. The discharge rate would be restricted through the use of a hydrobrake.
- 10.49 The previously-approved tank was to have a capacity of 1,123 cubic metres. The basin now proposed would have a capacity of 2,949 cubic metres.
- 10.50 The Lead Local Flood Authority (LLFA) raised no specific flood risk concerns in relation to the proposed development, nor did the Environment Agency or Yorkshire Water.
- 10.51 Concerns expressed by a resident regarding the risk of the basin being inundated by water from a flooded Nann Hall Beck are not shared by officers. The raised bank and surrounding higher land would serve as a barrier to water entering the basin from the watercourse.
- 10.52 A resident has raised concerns regarding potential aquifer flooding of the basin, however the proposed basin's clay lining would prevent water from entering in this way.
- 10.53 Cllr Kath Pinnock raised concerns regarding the maintenance of the basin, including regarding weed growth (given that water would not normally flow through the basin). The LLFA advised that maintenance and management arrangements for the basin needed to be secured via a Section 106 agreement, however, given that there would be a single party responsible for the application site, and given that no other Section 106 obligations need to be secured, it is considered appropriate in this instance to secure management and maintenance arrangements via a condition. The submission made pursuant to that condition could take the form of an undertaking to extend the responsibilities of the management company of the adjacent residential development to the current application site. Ultimately, the basin could be adopted by Yorkshire Water or a New Appointments and Variations company. The condition-stage submission would also need to include:

- Maintenance schedules;
- Details of the frequency of all actions and routine maintenance activities, the timing of all inspections (including annual inspections) and the timing of management works arising from inspections;
- A detailed schedule and methodology for litter and debris removal, landscape and grass cutting, weeding and sediment removal;
- Clarity regarding which persons would be responsible for maintenance duties; and
- Details of to whom problems would be reportable.

10.54 Given the earthworks involved in the creation of the proposed basin, a condition relating to temporary (construction phase) drainage is recommended.

10.55 Foul water disposal arrangements (for the residential development to the west) would be unaffected. Foul water would still discharge to existing sewers beneath that site and Hunsworth Lane.

#### Site contamination and stability

10.56 In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by the Mining Remediation Authority (MRA, formerly the Coal Authority). The MRA have objected to the proposal, stating that the applicant's submission does not address risks relating to mine shafts 418426-008, 419426-001, 419426-002 and 419426-005, and the access track that would lead to the proposed basin. However, officers note that these risks were previously considered under application 2021/92801, and – specifically – in the applicant's Geoenvironmental Appraisal submitted with that application, the Coal Authority's comments of 15/10/2021 (in which no objection was raised, subject to conditions being imposed), and condition 23 of that permission (which required appropriate remedial treatment works to be carried out). Although condition 23 of permission 2021/92801 will need to be complied with in any case as part of the adjacent residential development, for the avoidance of doubt it is recommended that the same condition also be imposed in relation to the basin now proposed.

10.57 Regarding site contamination, council records suggest there is potentially contaminated land to the east, and the applicant has submitted a Phase 1 Environmental Assessment. This desktop study recommends further intrusive investigation at the application site.

10.58 KC Environmental Health have reviewed the applicant's submission, and noted that it does not account for former landfill and inorganic contaminants associated with made ground at the adjacent site, and does not consider possible contamination associated with agricultural supplies storage or machinery. No site walkover has been undertaken. No detailed information has been submitted regarding the end use of soils. The applicant's conceptual site model and conclusion include contradictory information (all risk has been identified as very low, yet further intrusive investigation, including taking soil samples, is proposed). No detail has been provided regarding specific testing.

10.59 Given the shortcomings of the applicant's submission, five contamination conditions have been recommended by KC Environmental Health.

## Safety

- 10.60 Cllr Kath Pinnock raised concerns regarding safety, noting that water depths within the basin could reach 1.65m, and that children are often drawn to water.
- 10.61 There are indeed risks associated with water. The National Water Safety Forum reported that, in 2023, there were 236 accidental drownings in the UK, with more dying at inland waters than at the coast. Several bodies (including Kirklees Council) conduct or participate in water safety and drowning prevention campaigns, often with an emphasis on warm summer months and school holidays.
- 10.62 The proposed basin would not introduce an especially high risk of drowning to a residential location. The applicant has confirmed that the basin, its raised banks and its access track would not be accessible to the public. The basin would not be full of water at all times – it is intended to temporarily store water and to attenuate flows into Nann Hall Beck, and is not intended to be a water feature. The banks of the basin would typically have slopes of 1:3, which would assist people wishing to exit the water should they accidentally fall in.
- 10.63 Local planning authorities are required by the Government to be consistent in their decision making in relation to planning applications, and it is noted that a previous application for a residential development that included an attenuation basin (in Linthwaite, under application 2021/91571) was not required to include water safety measures. However, for the application currently under consideration, it would not be unreasonable to require the installation of warning signage (similar to the “danger / deep water / no entry / no swimming” signs displayed at reservoirs) along the public footpath that runs along the west side of the main part of the application site, to deter unauthorised access to the basin and to make it clear that the public should not enter. Such signage, together with the fencing that would be needed between the public footpath and the basin, and the aspects of the basin described above, would sufficiently mitigate risks to the public.

## Other matters

- 10.64 An earlier, since-superseded version of the applicant’s Phase 1 Environmental Assessment referred to a site named “Merchant Paddocks”, illustrated land to the west of the current application site, and described a residential development of 42 dwellings. This has triggered suspicion that the current application is a backdoor attempt to secure planning permission for dwellings in addition to the 291 already granted planning permission under application 2021/92801. However, for the avoidance of doubt, no additional dwellings are proposed under the current application.
- 10.65 The adjacent public right of way (public footpath SPE/44/30) would not be adversely affected by the proposed development. Users of the footpath are currently able to look eastwards towards open, farmed countryside which includes several trees, hedgerows and other shrubs. This view would partly be replaced with the new basin and its access track and banks, and existing vegetation would be removed. However, the basin and its banks would be soft landscaped, attractive native species would be introduced, and at times the basin would contain water. These elements are likely to diversify and improve the visual interest of the site and the setting of the public footpath, to the benefit of its users.

- 10.66 A condition requiring details of the point where the proposed access track crosses the public footpath is recommended.
- 10.67 There would not be concern in relation to planning if both the previously-approved attenuation tank and the now-proposed basin were provided. However, the applicant has confirmed that the basin would replace the tank. Drawings submitted with the current application do not show the tank in the northeast part of the residential development site (and instead show additional hedging around that land), however an associated amending application should be submitted for such changes at that site.

### Representations

- 10.68 Most comments made in representations have been addressed in this report. Some of the other comments relate to the associated residential development which has previously been granted planning permission and which is not to be reconsidered under the current application.
- 10.69 A resident has stated that two previous applications at this site have been refused on flooding grounds. This is incorrect.
- 10.70 A resident has stated that the proposal involves transporting excavated material through a residential area and disposing of it as landfill. However, no such proposals have been described by the applicant, and the submitted sections indicate that material excavated from the site would be re-used on-site to create the basin's raised banks.
- 10.71 A resident has stated that the creation of an attenuation basin in the Green Belt is cheaper than building and maintaining buried attenuation tanks. This is understood to be correct, however it is not a reason for withholding planning permission.
- 10.72 The impact of the proposed development on property values is not a material planning consideration.

## **11.0 CONCLUSION**

- 11.1 The main part of the application site is within the Green Belt, where restrictions on development apply. However, the proposed development would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
- 11.2 Other planning considerations have been satisfactorily addressed by the proposals, or would be addressed through further submissions pursuant to the recommended conditions.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposal 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)**

- Three years to commence development.
- Development to be carried out in accordance with the approved plans and specifications.
- Submission of a Construction (Environmental) Management Plan, including details of engagement with local residents.
- Submission of temporary drainage scheme.
- Submission of maintenance, management and monitoring arrangements (including in relation to drainage infrastructure, Biodiversity Net Gain and public footpath crossing).
- Submission of a Phase I Report.
- Submission of an Intrusive Site Investigation Report (Phase II Report).
- Submission of Remediation Strategy.
- Implementation of Remediation Strategy.
- Submission of Validation Report.
- Implementation of mine shaft remediation (as per condition 23 of permission 2021/92801).
- Submission of a full landscaping scheme.
- Submission of details of access track (including adoptable connection to residential development's estate road network, materials, boundary treatments, gates, and public footpath crossing).
- Submission of boundary treatment details (including warning signage).

An informative, advising the applicant that the statutory pre-commencement condition (requiring a Biodiversity Gain Plan to be submitted to and approved by the local planning authority) is also recommended.

### **Background Papers**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024%2f92394>

Certificate of Ownership – Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 06-Mar-2025

**Subject: Planning Application 2023/91280 Quarrying operations for the extraction of clay, shale and incidental coal and subsequent restoration by means of importation of inert wastes**

**Bromley Farm Quarry, Barnsley Road, Upper Cumberworth, Huddersfield, HD8 8PD**

#### APPLICANT

Phillip Shenton, Wavin  
UK Ltd

#### DATE VALID

06-Jun-2023

#### TARGET DATE

05-Sep-2023

#### EXTENSION EXPIRY DATE

28-Feb-2025

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected:** Denby Dale

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

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

### **1.0 INTRODUCTION:**

- 1.1 This is a full planning application to carry out quarrying operations for the extraction of mineral (clay and shale with some incidental coal) of approximately 760,000 tonnes over an area of 8.4 hectares and restoration by means of importing inert waste/materials over a period of 25 years, to 31/03/2050.
- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination, in accordance with the delegation agreement, as a significant number of representations contrary to the case officer's recommendation for approval have been received.

### **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is owned by Wavin Ltd, a leading supplier of water management, plumbing and drainage systems for the building, construction and utilities markets. The site is situated within broadly undulating topography forming and surrounded by agricultural land bounded by dry stone walls with some substantial woodland blocks.
- 2.2 The site is adjacent to two former quarries, south east and south west where mineral extraction (dating back to 1960's) was ceased some years ago, with the sites being fully restored by 2022. A small Household Waste Recycling Centre (HWRC) is situated approximately 150 metres to the south west. Both the former quarries were served by tracks branching off the access road, which continues to serves the HWRC, from Barnsley Road, which lies south of the application site.
- 2.3 The nearest residential areas to the site are Upper Cumberworth, which is situated to the west, and Lower Cumberworth, which is approximately 650m to the east. The larger settlement of Denby Dale is over 1km to the south-east. Residential properties are located along Cumberworth Lane, with the closest property Lane Side Farm, approximately 60 metres to the north west, on Cumberworth Lane.

2.4 Public Right of Way (PROW) DEN/84/10, situated to the south cuts across the existing access road which serves the HWRC and would be adjacent to the proposed track which will serve the proposed quarry.

### 3.0 PROPOSAL:

3.1 The proposals would include:

- creation of a new access track branching off the existing access road serving the HWRC. (This is similar to the implemented permission 2012/93497, which included a new access).
- additional tree planting adjacent to Cumberworth Lane and PROW
- widening of the existing access road to 6m, along its full length as shown on drawing No 22007/519, Rev B, 28/01/2025
- provision of wheel washing facilities and porta cabin/site office as shown on drawing No 22007/513, Rev B
- Stripping of soils and creation of screening bunds with an overall height of no more than 5m.
- the extraction of fireclay and shales (approximately 760,000 tonnes) which would be transported approximately 5km to the Wavin Hazelhead Works factory, south east of the site to Crow Edge in Barnsley, for storage and the subsequent use in the manufacturing of clay pipes.
- extraction of incidental coal (approximately 10,000 tonnes)
- extraction to be an approximate average of 30,000 tonnes per annum, but would fluctuate subject to market demand. The mineral would be extracted on a campaign basis, typically between March to September.
- The extraction would be split into five phases (referred to as 'cuts').
- the site would be worked to a depth of 16 metres.
- 120 HGV movements per day (60 in and 60 out)
- Restoration / backfill to commence when extraction reaches cut 3 of the workings.
- use of a 360 hydraulic excavator to lift the clay and shale and a dozer to reinstate the topsoil for restoration
- backfill of the quarry void would be via inferior quality mineral, shale overburden, and approximately 380,000 cubic metres of imported inert waste/materials to enable the site to be this restored back to original ground levels to agricultural grassland with areas of species rich grassland, shrub and tree planting.

3.2 Following the stripping of top and sub soils, the site is proposed to be worked from west to east in five approximately 30m wide cuts. It is not proposed to have any fixed plant operational in the quarry as all extractive products would be taken from the working area to the processing works at Crow Edge for clay pipe manufacture. Inert waste/materials importation would be required to restore the site back to original ground levels to enable restoration back to agricultural use with additional biodiversity enhancements. As noted above, the 25 years would include infill by inert waste for restoration, which is stated, could commence when extraction reaches cut 3 of the workings.

3.3 Operating hours are proposed to be:

- Monday to Friday: 0730 and 1800
- Saturday: 0700 and 1300
- no operations/working on Sundays and Bank Holidays

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

4.1 There is no specific planning history related to the application site. The applications listed below relate to the former quarries which lay south east and south west of the site. Although the two former quarries are now restored, the list below gives an indication of how long quarry operations existed in the area, previously.

IDO/421/PR1 - First periodic review for proposed opencast clay mining – approved of a scheme of conditions - 21/05/2010

DD/1686 – work clay by open cast methods - approved 17/02/60

DD/4440 – Extraction of Clay, Shale and Clay - approved 26/07/71

DD/5346 – Extraction of Shale, Fireclay and Coal - approved 25/03/74

2012/62/93497 - Importation of inert materials to stabilise the quarry faces and amend the restoration profile, also for the formation of a secondary site access- approved 10/07/2013

2014/70/93888/E - Variation of condition 3 (waste) on previous permission no. 2012/93497 Application for the importation of inert materials to stabilise the quarry faces and amend the restoration profile, also for the formation of a secondary site access – approved 20/03/2015

2019/91960 - Variation of condition 3 (time) on previous permission 2014/93888 for variation of condition 3 (waste) on previous permission 2012/93497 for importation of inert materials to stabilise quarry faces and amend restoration profile, also for formation of secondary site access- approved 14/0/2019

2020/93664 - Variation of condition 2 (time limit to allow importation of inert waste and site restoration) on previous permission 2019/91960 for variation of condition 3 (waste) on previous permission 2014/93888 for variation of condition 3 (waste) on previous permission 2012/93497 for importation of inert materials to stabilise quarry faces and amend restoration profile, also for formation of secondary site access – approved 17/02/2021

2021/93200 - Variation conditions 13, 18, 21, 22, 23 on previous permission 2020/93664 for variation condition 2 (time limit for importation of inert waste and site restoration) on previous permission 2019/91960 for variation of condition 3 (waste) on previous permission 2014/93888 for variation of condition 3 (waste) on previous permission 2012/93497 for importation of inert materials to stabilise quarry faces and amend restoration profile, also for formation of secondary site access – refused 22/05/2022

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

5.1 Lengthy discussions have taken place between the applicant and officers during the course of the application. These principally resulted in an amendment to the description of the proposals (to omit extension) and receiving revised details, in relation to highway, air quality, noise, landscape and contamination issues, amongst other matters. Whist most of the matters

are addressed through the receipt of additional and revised details/plans, conditions, some of which may be pre-commencement conditions, are still required to ensure certain details are submitted and approved for completeness and compliance with relevant Local Plan Policies and NPPF guidance.

## **6.0 PLANNING POLICY:**

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

6.2 The site lies within a wider area of Green Belt land identified in the Kirklees Development Plan and forms part of a larger area of an accepted Minerals Extraction Site (MES12).

6.3 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP21 – Highways and access
- LP23 – Core walking and cycling network
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity and Geodiversity
- LP31 - Strategic Green Infrastructure Network
- LP32 – Landscape
- LP33 - Trees
- LP34 – Conserving and enhancing water environment
- LP35 - Historic environment
- LP36 – Proposals for mineral extraction
- LP37 – Site restoration and aftercare
- LP43 – Waste management hierarchy
- LP44 – New waste management sites
- LP45 – Safeguarding waste management facilities
- LP46 – Waste disposal
- LP51 – Protection and improvement of air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

### Supplementary Planning Guidance / Documents

6.4 National Planning Policy for Waste 2014

### National Planning Policy and Guidance

6.5 The National Planning Policy Framework (2024) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposals.

6.6 Relevant paragraphs/chapters are:

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

6.7 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.

6.8 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 advertised by the council as affecting a public right of way (DEN/84/10) and as a Major development.

7.2 The application was advertised by the council by site notices, a press notice and letters delivered to addresses close to the application site, in line with the council’s adopted Statement of Community Involvement. The end date for the publicity was 29/11/2023.

7.3 As a result of the public consultation, 248 representations have been received, along with a petition from the community of Cumberworth including the Cumberworth Quarry Action Group with 152 signatures. Four additional comments with evidence in the form of surveys carried out by local residents. One letter in support. A summary of the responses and the main issues raised within them is set out below:

***Impact on Green Belt/open space and PROW:***

- The widening of the road will further cut into green space and the existing public footpaths.
- 5m high mounds will detract from the characteristics of the area
- Loss of green belt land

***Impact on environment & residential amenity:***

- Loss of wildlife/animal habitat, protected species, feeding and foraging area for wildlife
- Existing trees and hedges (to be removed) are an important part of the characteristics of the area
- Air quality concerns from associated HGV trips. The increase in HGV traffic will have a negative impact on carbon emissions and climate change.
- Dust/noise concerns during mineral extraction works for a period of 25 years and adverse impact on health of local residents/area from operations
- Proposed hours of operations are excessively early and late in the day when noise pollution is more evident and disturbing.
- Landfill/ mine gas potential hazards as stated in submitted reports
- Has diesel soot from proposed HGV's been considered into impact on emissions?
- Mud/slurry would be carried onto Barnsley Road from traffic associated with proposals
- Light pollution from headlights of vehicles in winter months
- Adding additional silt and debris would impact on nearby streams and rivers and impacts villages further down the valley.
- Massive impact on surrounding residential areas (including Bluehills Lane) from air pollution, noise, dust, and traffic
- Proposals will affect the amenities of nearby residential properties (noise and dust pollution)
- Adverse noise and air pollution on nearby play Eunice Lane play area
- Proposals will cause significant deterioration to the living conditions and quality of life for many local residents
- The noise impact assessment fails to identify the large impact on all those who use the nearby footpaths.
- Landscape and visual assessment amended yet no assessment of value of trees or protection of woodland from contamination
- No update to dust management plan/Phase 2
- Clarity on HGV movements needed
- Re- review of noise is requested due to incorrect/base line dataset which is likely to undermine true noise impact

***Impact on highways and safety concerns:***

- Existing access road off Barnsley Road is already a hazard, too narrow and could not accommodate additional HGV's/vehicles to serve the proposals
- Proposals will exacerbate highway safety issues at the Sovereign crossroads and Carr Hill Road as well as surrounding highway infrastructure and existing access road from Barnsley Road
- Substantial impact on highway safety from the proposed 120 HGV movements per day over a period of 25 years
- The HGVs will continue to travel along narrow, winding country roads to Crows Edge, a route frequented by horses and cyclists.
- PROW crosses the existing access road

- The proposed access road to the quarry is a great concern, shared with traffic to the recycling centre
- If approved both the recycle centre and proposed development will probably come to a standstill as access road serving both sites is not wide enough to allow cars in both directions to pass stationary waggons
- incoming waggons reaching the junction by the Star Pub, would interfere with children/parents for the first school who have permission to park in the Star car park
- Carr hill Road is a traffic rat run with a 30 mph speed limit not enforced and 3.5 tonne limit (coming down) that is violated. 3.5 tonne limit should be imposed in both directions, unsuitable for
- The current road speed on the A635 (40mph) is too fast for large vehicles to turn into and out of HWRC and possibly Carr Hill road.
- Extra HGV movements will be a massive increase and create possibility of vibration damage
- increase in HGVs using this road to and from the quarry will impact negatively on residents, horse riders, cyclists and hikers using this area,
- The road network between Bromley Farm and Crow Edge is generally narrow, winding, country roads, often used by pedestrians, horse riders, and cyclists. Increased HGV quarry traffic on this type of road is unsafe for these users.
- dangerous 'Sovereign Junction'. What studies or research has been done regarding the impact 120 HGVs using this junction per day will have
- Any increase in the volume of traffic, especially by heavily-laden wagons transporting quarried materials, would considerably increase the dangers and hazards in the village.
- The Transport Statement does not take into account the routes the HGV's will take to and from the access road nor the impact there will be on residential areas.
- The route to Crow Edge has not been addressed. This will highly likely be Carr Hill Road which is already accessed as a short cut by HGV's and other traffic. It is a busy residential road with no pavement apart from the bottom of the road and is used by cyclists, walkers, children and horse riders. Increasing the number of HGV's will cause pollution, noise and disruption to surrounding areas
- What safety measures, alternative routes or traffic calming measures or actions are being considered, and what liaison is taking place with Barnsley planning department as the roads we live on and use fall between Kirklees and Barnsley.
- The consideration of highway access to the site in the "Traffic Statement" only goes as far as the junction between the existing access road and the A635. As the submission doesn't consider traffic beyond the junction on the basis that the A635 is a major road it fails to recognise the reality that the proposed traffic will only be on this road for around 500m.
- traffic should be regulated away from residential areas and various other small developments which are served by Carr Hill Road
- No HGV routing plan
- Transport statement takes no consideration to the impact on the road network beyond the immediate vicinity of the site.
- There is little doubt that all of these extra HGV's would use this route, placing horse's cyclist's and pedestrians at a much increased risk on surrounding highway networks .
- There are no pavements up Carr Hill Road, where are local cyclists, Horse riders & dog walkers supposed to get out of the way of these vehicles whilst negotiating parked cars?

- The declared transport route requires a left turn at the Sovereign cross roads which must be one of the most dangerous cross roads in Kirklees and then a subsequent and difficult right turn for such a large articulated bulk carrier into the completely inadequate Cumberworth Lane.

***Other concerns:***

- Proposals would be an eye sore, despite the bund screening
- There is no employment benefit from the proposals
- the development will safeguard employment in South Yorkshire, none in Kirklees.
- Out of keeping with the wider rural area
- Publicity period not long enough
- Proposals not compatible with Kirklees vision for a Net Zero and Climate Ready Kirklees by 2038 and conflict with the West Yorkshire Low Emissions Strategy
- further land excavation could lead to land subsidence and damage nearby house
- Will every load coming onto the site be checked to ensure there are no toxic substances, dangerous chemicals or fire hazards hidden in the "inert"
- Has impact of proposals taken into account potential problems/dangers relating to flooding, for the residents of Lower Cumberworth
- Submission documents refer to proposals in Grantham not Kirklees
- The noise pollution, environmental pollution and threat to wildlife also need considering for the route beyond Cumberworth.
- Blocked culvert under highway which has collapsed due to the already heavy HGV traffic which travels across the junction to the Plevin/Wavin Site amongst others.
- The Air quality report submitted is for a site in Grantham not Upper Cumberworth
- Misleading and inaccurate information submitted
- Proposals do not take into account the cumulative impact of the other planned and approved developments including operational quarries in the area
- Revised information does not address previous highlighted local concerns

***Concerns noted:***

- This will be a new quarry not an extension to an existing quarry. The Old Bromley Quarry, was first given permission to start quarrying in 1974 stopped working in either 2014 or 2015
- speeding and driving too close to pedestrians is a known problem for residents prompting numerous police meetings
- close proximity to Cumberworth school as such the proposed quarry is an unsuitable site and will adversely impact on children's health and those living in the nearby conservation area as well as wildlife
- stipulation should be to use the larger main roads down to New Mill and then on up to Crow Edge.
- the applicant should set up a trust/annual fund that residents and organisations in the two villages (Upper and Lower Cumberworth) affected can draw on, from on going disruption over the whole period of the proposals and should be index linked to inflation.
- Some consultee responses are brief in detail.
- Council should consider providing traffic lights at the "Sovereign crossroads"
- Quarry operations will impact agricultural activity
- Areas within the site should commence restoration, once worked and not wait until the end of all excavations.

- Often lorries do not use existing A roads but take the shortest route possible be that B roads or smaller, this is already an issue and in part contributed to the council altering the usage of Carr Hill Lane.
- No pre application community consultation carried out
- Contrary to Local Plan Policies including LP21 and LP36
- If new traffic lights or islands prove to be needed, it is grossly unfair this cost should fall to council tax payers.
- an enforceable restriction should be put in place that HGV's stick to agreed designated route

***None planning related concerns:***

- *Reduction in house prices*
- Council have failed to respond to a Freedom of Information request

7.4 New and revised plans/details received early January 2025 in relation to addressing highway matters, resulted in the carrying out of another round of publicity. Neighbour letters were sent out to all interested parties who had previously made comment and those initially notified of the proposals on receipt of the application. The end date for the final publicity was 18/02/2025. To date, forty-two further representations are received. The mains issues and concerns raised are summarised below:

***Highway matters/concerns***

- The new/revised HGV route may be fine to get the application passed. Drivers will use the short cut up to Carr hill Road, which has no pavements and already used daily by 8 wheel trucks, both ways
- Grass verges over time expanded along Barnsley Road, footpath needs widening to ensure safety of users of it
- Restrictions should be imposed to restrict HGV on Barnsley Road during school pick up and drop off as well as lunch times
- New details indicate articulated trucks using the route. Vehicle type and weight limit should be restricted.
- Who is going to monitor the HGV movements to ensure the proposed routing is used?
- The revised Paragon Highways assessment is contradictory in the information and conclusion does not take account of people/pedestrians using the junction by the post office & the star (Cumberworth Lane / Barnsley Road).
- Still not clear what type/size of vehicle is to be used.
- HGV movements to/from the household waste recycling centre not been taken into account, nor match operating times of this facility
- The Sovereign crossroads is notoriously dangerous and will become more so with the addition of a further high volume of HGVs
- Traffic lights should be considered at the sovereign junction crossing and redesign of the New Mill junction to prevent bottleneck
- According to 4.7 the junction operates within theoretical capacity but over normal requirements with Holmfirth, Barnsley and Penistone arms 'struggling with existing volumes' There is no risk assessment evident in the modelling and I cannot believe Highways can accept this.?
- there is no 'reasonably safe' route from Bromley Farm to the Wavin plant.
- Does the Council not have a duty to consider the 'cumulative' effect of adding these proposed additional movement to existing quarry/HGV movement and projected traffic from the very large number of houses being built?

- There are no additional cross-drainage channels indicated on the sloping access road, so that water coming from the vehicles is channelled away into a soakaway and not directly onto the highway
- No consideration to the residents of Upper Cumberworth, who will have 120 extra HGVs going past their properties
- Proposed hours of operation completely unreasonable
- compensation to be provided to residents who will be negatively affected by the increased disruption, noise and pollution.
- The proposed HGV movement on the surrounding highway infrastructure will increase highway safety concerns and risks of accidents for all users
- Cumberworth Lane has seen a huge increase in HGV wagons. The road is extremely hazardous between the Post Office, local Infant School and the Church, especially between 3pm -6pm. The school has got no staff parking and the proposed site has also got an entrance on this road
- Object to the amount of heavy vehicle traffic that will come down Penistone Road and into New Mill Village centre
- Highway infrastructure cannot support this additional traffic
- No accident data has been included? Have West Yorkshire Police been consulted? Where is your impact analysis of the new route? Risk assessments
- Access road should be 8.92m wide not 6m
- Adding regular HGV lorry traffic to the already dangerous junction will result in even more accidents.
- Roads are already substandard in surface, visibility splays, lighting, footpaths and require maintaining. Additional HGV traffic will make them far worse
- Carr Hill Lane will become more of a Rat Run for all the cars that do not want to wait behind a HGV trying to cross at the Sovereign junction.
- The proposed transport route does not consider statutory HGV laws and the potential use of unsuitable roads by HGVs. This oversight could lead to increased traffic and safety risks in the community
- The traffic survey data used is outdated and inaccurate. A detailed survey conducted by the Cumberworth Community in February 2024 provides a more accurate representation of traffic conditions, indicating a significant increase in HGV movements. This data should be considered over the Department for Transport's 2019 data.

### ***Environmental Health & other concerns:***

- The Supreme Court judgement in *Finch v Surrey CC* conveys a requirement for planning authorities to consider the carbon footprint resulting from extraction/conversion/use/disposal not only for new applications but those in progress but as yet undecided. This may well fall into scope but there is no such assessment in this application.
- Increase environmental health impacts on residents of surrounding area from air, noise, odour and dirt/dust pollution, poor drainage
- loss of wildlife
- Does Kirklees know what the current pollution levels are in the village, the volume of traffic that passes through the village and the speed the traffic is going?
- Concern for the amount of particulate matter (PM10) that will be released into the immediate area exceeds the max concentration recommended by the WHO, which exceeds recommended a maximum level of 5 µg/m for long term exposure in order to protect health, the figures in the report exceed this.
- Soakaways for surface water will not be adequate for this site (as clay is impervious to water)
- Insufficient time allowed by the council to respond to revised/new details

- No new ecology reports. Biodiversity/protected species matters still not addressed
- There is no mention of where the HGV's carrying coal and the landfill will be coming from and going to on a daily basis.
- EIA has not considered downstream environmental impact assessment
- There has been no information put up in the village with regards to the amendments.
- the applicant has treated residents and indeed Kirklees Council with contempt with the stream of ambiguous and incomplete data

**Parish Council comments:**

- 7.5 Objections: *due to concerns over the proximity to the school, increased traffic onto a narrow highway, and considerable disturbance and environmental impact.* Further comments received state *“there is still an issue around increased traffic around pick up/drop off times for the school. There is also the issue of the very narrow footpath around this area”.*

**Ward Members comments**

- 7.6 Ward Members were advised of the proposal by email. The following responses are received:

**Cllr Tim Bamforth states:**

*“There has been no reasonable consultation undertaken with residents prior to the application being put forward. There has been no proper or reasonable consultation by Wavin or the council Just 26 houses, when the impact of traffic movement is far reaching. Residents also feel that they were denied access to information requested on the developer communication, their complaint has been upheld by the information commissioner. Requested September came on 21st December, when the website continued to say comments closed on the 20th.*

*Proximity of the excavation to Cumberworth Lane may lead to subsidence. Needs more work on this as highlighted by the Bridges and Structures Manager.*

*There is potential to flood railway tunnel that runs behind the development.*

*There is risk of landfill gas migration into workings and subsequent release.*

*The air quality and dust assessment refer to Grantham on the cover page and again on page 3 and 7.*

*The application has no Ecology report, the site has some protected species within it.*

*The reports submitted are poor quality and, in some cases, contradictory.*

*The new Dust Management Plan needed to reflect operations associated with a new quarry, not an extension.*

*The height of the proposed screening bunds (5m) is detrimental to the visual amenity and are not necessary for the excavation of the mineral which would*

*constitute inappropriate development in the green belt as there is no justification given by the developer for bunds of this height. This cannot be considered temporary over a period of 25 years and would cause harm to the green belt that must be justified by very special reasons that must outweigh the harm.*

*There is a possibility of contaminating the water table with pollution from the old domestic waste site adjacent to proposed workings.*

*Clarity needed on number of HGV movements as figures differ between reports.*

*It is noted that traffic from Henperch quarry in Denby Dale has a weekly limit of 150 loads and that this supplies 40% of the material mix. The load count from Bromley is double this, is this necessary?*

*Clarification of HGV route to Wavin works at Hazelhead from site, the possibility of HGV's using Carr Hill Road should be negated by stating an approved route from site to Hazelhead that avoids Carr Hill Road, and this should be reinforced by introducing a 7.5T weight limit in both directions on this road.*

*Consideration should be given to moving the site road away from the PROW and lower into the site to lower impact of dust and noise for residents.*

*Given the cumulative impact of traffic from this site and many developments in Skelmanthorpe, Denby Dale, and Scissett including HGV's transporting construction materials to and from these sites, passing through Cumberworth, I consider the speed limit at the pedestrian crossing by the Star pub, on the junction with Carr Hill Road, to be too high, given that the crossing in this location is heavily used, particularly at school times. Poor weather and large numbers of heavy vehicles will add to the danger for pedestrians at this location.*

*The residents of Upper Cumberworth are suffering from the noticeable increase in traffic resulting from the large amount of development that has arisen in the Denby Dale and Kirkburton Wards since this quarry was last worked, this proposal will add to it.*

*This proposal provides negligible benefit to the local economy while lowering the quality of life for all its residents. "*

**Response to Cllr Tim Bamforth's comments:**

- 7.7 The assessment below sets out in detail the background to this site and the very special circumstances put forward by the applicant and officers' assessment of it, particularly in relation to the 5m high bunds. It also addresses a number of points raised by Cllr Bamforth.
- 7.8 Consultations have been carried out with DM Highways, Structures, LLFA, Ecology, Environmental Health, and site visits have been carried out on separate occasions to assess the impact of the proposals on the surroundings. Consultees, including Network Rail and the Mining Authority have concluded the proposals can be carried out and accommodated on the site, subject to conditions, without the need to introduce weight restrictions on the surrounding highway network, particularly that proposed to be used for the HGV routing.

7.9 With respect to public consultation the proposals have been advertised in accordance with the Councils standard procedures.

**Cllr Hannah McKerchar comments:**

7.10 A number of queries and questions have also been received from Cllr Hannah McKerchar during the course of the application. These have been answered on receipt and generally relate to seeking further details/clarity of the proposals and submitted details and the planning process.

**8.0 CONSULTATION RESPONSES:**

**Statutory:**

K.C. Lead Local Flood Authority – Support subject to condition and advisory note.

The Mining Remediation Authority – No objection subject to the development being carried out in accordance with the measures detailed in section 7.4 of the Coal Mining Risk Assessment (dated December 2022, prepared by Silkstone Environmental Ltd)

The Environment Agency – Support subject to conditions and advisory notes to be included on decision notice in the event of approval, to bring attention to the applicant that proposals are likely to require Environmental Permit/s

**8.2 Non-statutory:**

Barnsley Council – no comments received to date

K.C Conservation and Design – potential impact to Grade II listed building (Lane Side House), is to be mitigated by additional hedge/soft Planting or screen mounds.

K.C. Environmental Health – accept the findings of submitted Phase 1 and 2 reports. Revised/additional information relating to Air Quality, Dust mitigation and contaminated land issues is sufficient. Support subject to conditions.

KC Ecology – support subject to recommended conditions which include pre commencement conditions.

K.C. Highways Development Management – Support subject to conditions

K.C. Highway Structures comments – *“Further to the X-sectional detail, as shown on drawing No 22007/511, I can confirm that the proposed screen mound and the quarry excavation are sufficiently far away from Cumberworth Lane to impact its stability and as such a structures condition will not be required”.*

K.C Landscape – Sufficient details received; support subject to conditions. See detailed assessment below.

K.C Public Rights of Way (PROW) – no comments received.

K.C. Planning Policy – support, provided VSC can be demonstrated for the proposed 5m high bunds along Cumberworth Lane.

K.C. Trees – Support the proposals, with no conditions recommended.

K.C. Waste Strategy – Standard advice (link to advice to be provided on decision notice).

Network Rail – Cumberworth railway tunnel lies north east of the site. No objection in principle to the development, subject to advisory notes and condition.

Active Travel England – support the proposals, no conditions necessary

West Yorkshire Archaeological Advice Service – Recommend that a geophysical survey (sub surface archaeological investigations) is carried out to establish potential archaeological interest should be undertaken.

## 9.0 MAIN ISSUES

- Background (need for mineral) and principle of development.
- Proposed scheme of works and impact on Green Belt/landscape issues
- Site restoration/use of imported inert waste
- Environmental issues (ecology/biodiversity), Landscape and PROW issues
- Local amenity issues (noise, dust, air quality and contaminated land)
- Drainage/flood risk & water/watercourses pollution issues
- Highway/ PROW issues
- Representations
- Other matters
- Planning Obligations
- Conclusion

## 10.0 APPRAISAL

### **Background (need for mineral) and principle of development**

*Background (need for mineral):*

- 10.1 The planning application site covers an area of 8.4 hectare, which lies easterly to the former Bromley Farm Quarry where restoration was completed in 2022. As noted above the proposals are to carry out quarrying operations to extract predominantly fireclay and shale for the manufacture of vitrified clay pipes. The details submitted indicate that reserves at the site have been calculated at approximately 760,000 tonnes, which is stated to equate to approximately 25 years supply at approximately 30,000 tonnes per annum. Incidental coal will also be extracted from the site.
- 10.2 A large volume of clay was extracted by Wavin Ltd during the final year at former Bromley Farm quarry and was stockpiled at the Hazelhead Works factory in Crow Edge as part of the blend for the manufacture of clayware products. It is noted that the stockpile is estimated to be sufficient for up to three to four years provision for the factory. Information provided with the application states that:

*“It is estimated that approximately 95 jobs are directly associated with the manufacturing plant at Hazelhead Works in Crow Edge. Approval of Bromley Farm will ensure Wavin maintains stable levels of employment and is in the best possible position to achieve growth in the improving demand for its products for at least another 25 years.*

*The provision of a long term fireclay provision from Bromley Farm will help safeguard a significant number of jobs within Wavin. The proposal will reinforce locally and regionally important facility.”*

- 10.3 From this information, it is acknowledged that the single most important influence on the capacity to meet demand and job security is the guarantee for a supply of fireclay to the established factory. The proposals would, as a minimum, enable the guarantee of supply for this period from this allocated mineral extraction site.
- 10.4 The NPPF encourages planning authorities to look positively at development that provides sustainable economic growth. The mineral supplied from this allocated mineral extraction area would have a positive impact upon the long-term economic stability of the company and at Hazelhead Works in particular, therefore meeting the Government’s national policy objectives for economic growth.

*Principle of development:*

- 10.5 Turning to the principle of development, section 17 of the NPPF (Facilitating the sustainable use of minerals) indicates that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and the goods that the country needs. It also indicates that as minerals are a finite natural resource and can only be worked where they are found it is important to make the best use of them to secure their long-term conservation.
- 10.6 Paragraph 15.9 of the Kirklees Local Plan states that extensive economically important reserves of clay and shale are located in the Coal Measures strata on the eastern side of the district, and they provide raw materials for two of the country’s leading manufacturers of clay pipes, which are located in the adjacent Barnsley local authority area. Several clay and shale quarries are located in the southeast of the district. A feature of clay pipe production is that the different types of clay are blended together and therefore it is necessary for a single operator to have several sources of the raw material at any one time. By providing a source of material at the application site, the proposed development is considered beneficial in this respect.
- 10.7 With paragraph 224 of the NPPF stating that great weight should be to the economic benefits of mineral extraction, it is considered that the proposed extraction would help to maintain a supply of raw materials for a nearby clay products manufacturer in Barnsley and would therefore help to support the Leeds City Region economy.
- 10.8 As part of the evidence to support minerals policies in the Local Plan, a paper entitled ‘Identifying future minerals sites - development of a methodology’ was prepared regarding future minerals needs in Kirklees. Table 4 in this paper identified enough supply of clay and shale to last 17.9 years (not including the resource at the current application site) whilst paragraph 3.13 of the same report stated the following regarding clay and shale landbanks:

*“The NPPF identifies the need to maintain a supply of clay for the cement industry of at least 15 years and for brickclay at least 25 years. In terms of the need for pipeclay, it is considered more in line with the needs of the brick manufacturing industry and as such a 25 year requirement would need to be provided for. The current reserves of pipeclay based on the production rates provide for almost 18 years supply, therefore in order to meet the 25 years supply additional sites will need to be allocated in the plan period”.*

- 10.9 This 25-year landbank requirement is also set out in paragraph 5.34 of the Minerals Technical Paper. Taking into account this requirement for a 25-year landbank, it is considered that there is a need for further clay and shale extraction in Kirklees and this proposal would make a positive contribution towards the district’s landbank of clay and shale.
- 10.10 The policy goes on to state that applicants should provide sufficient information to demonstrate the presence of and need for the mineral. This is outlined above (paragraphs 10.1-10.4).
- 10.11 The proposals would not only provide a vital component in the blend mix for a long-established business, but also the continuation of supply is essential to maintain current levels of employment at the factory. This is stated to be approximately 95 jobs in total. Furthermore, the clays to be extracted are important industrial minerals, and great weight should be afforded to the benefits of minerals extraction. Given the above assessment, it is considered that the development of the site for mineral extraction on this accepted mineral allocation site is acceptable in principle, subject to there being no unacceptable impacts on the local environment.

#### **Proposed scheme of works and impact on Green Belt / landscape issues**

- 10.12 Development in the Green Belt is inappropriate unless one of the exceptions listed in paragraph 154 or 155 of the NPPF apply. Paragraph 154 includes various forms of development, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include:
- h) i. mineral extraction;
  - h) ii. engineering operations, and
  - h) v. material changes in the use of land.
- All three of the above criteria would in this instance facilitate the quarry operations at the site and this assessment shall be considered on that basis.
- 10.13 As mineral extraction may not be inappropriate provided openness is preserved and there is no conflict with the purposes of including land in the Green Belt, it must follow that the operations necessary for the extraction of the mineral, including despoiling of the site, noise, disturbance, machinery and other necessary paraphernalia must also be not inappropriate. It is not therefore proposed to comment on the operation necessary to extract mineral from the site. This includes associated plant and equipment and the combined site office and mess facility (portacabin). The same applies to any new operation deemed to comprise mineral extraction and other activity including reclamation and restoration across the whole of the application site. These comments are therefore confined to those aspects which it is necessary to consider in the overall balance of the proposal in terms of impact on openness and any conflict with the purposes of including land in the Green Belt.

- 10.14 With regard to the change of use of the agricultural land, the application site comprises agricultural grassland with very thin soil cover above the underlying economic mineral. The site is generally classified as agricultural Grade 3b/4 land, which is not Best and Most Versatile agricultural land. The application site is located on high ground; therefore, the landscape is very open, and long views are afforded from all directions. The fields would ultimately be restored to agricultural use and therefore the impact is also temporary, albeit for 25 years in total. The site is also adjacent to a household waste recycling centre (HWRC) and so would not be a new isolated feature in the landscape, and the wider area contains other modest scale operations.
- 10.15 The impact on the openness of the Green Belt is also to be considered in the context of the existing surroundings. There are a number of operational quarries in the vicinity of the application site. Sovereign and Appleton quarries lie approximately 1.60km to the west, Henperch quarry lies to the east approximately 2km away, and Peace Wood quarry to the north is approximately 2km away. The existing HWRC already impacts on the openness of the Green Belt. The proposed quarry area is considered relatively modest in scale, when compared to other local quarries. Nonetheless, if Members support the proposals, this site would become operational and continue for a period of 25 years, up until to 2050. Consequently, the creation of a further quarry void would result in a cumulative impact which would contribute to affecting the character of the surrounding landscape. However, it must be acknowledged that quarrying operations are temporary in nature, whereby the impacts would be for a limited period and suitable restoration of sites would result in them being returned to an appropriate agricultural, wood, or other appropriate use in the Green Belt. The cumulative impact would be reduced and partly mitigated due to the progressive restoration at the aforementioned quarries. This would be further reduced as restoration commences at the application site following the extraction of mineral, progressively from after cut 3. It is not considered that the impact of a new quarry, of the size proposed, cumulative with the other active operations in the area, would be contrary to guidance in the NPPF. This is because the disturbed footprint would progressively start to be reduced as restoration works commence on all the aforementioned quarries and at the application site.
- 10.16 Also included in the proposal is the temporary storage of soils (which will be required for the restoration) in the form of bunds located around the northern and eastern boundaries to act as a visual and acoustic barrier. These bunds are to be formed of soils, between heights of 3m and 5m. They would remain in-situ until required for restoration of the site. In addition, above ground overburden storage would be required. These storage areas would be located in the southeastern corner of the site and would be 5m in height and remain in-situ until it can be replaced into the void. The proposed new access road constitutes an engineering operation in the Green Belt. However, this access road in its entirety was approved as part of application 2012/93497, which has been implemented in part.
- 10.17 Harm would be caused by the presence of above ground overburden storage and the proposed bunds (5m high). Bunds (and any above ground storage areas) can significantly impact on openness as they are highly visible in the landscape and also foreshorten views. It is likely that extensive views across the site to the opposite hillside will be lost. However, they are an expected part

of normal mineral extraction operations as they are a means of storing extracted material on-site. As existing, the site is most visible from the public footpath which runs along the western site boundary and a number of houses to the west along Cumberworth Lane (Lane Side Farm) which are at a slightly elevated position to the site. The properties on Cumberworth Lane are located within 100m of the proposed bunds and at 5m high these will potentially impact on both residential (during construction) and visual amenity.

- 10.18 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances (VSC) will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Harm to the Green Belt by reason of inappropriateness carries substantial weight. It is therefore necessary to determine whether the degree of harm to the Green Belt is clearly outweighed by other considerations.
- 10.19 The applicant's VSC's are that the bunds would act as a visual and acoustic barrier, and they would be seeded with grass for a natural finish. They would also screen the operations from view and lessen noise which is particularly important given the proximity of residential property and mitigate detrimental impacts, particularly residential and visual amenity. This is important as the quarry would be within very close proximity (within 100m) to the dwelling(s) at Lane Side Farm. Without the bunds it is likely that there would be material harm caused to the amenity of the occupiers of these dwellings. Any impacts on openness would also be temporary as they will be removed through site restoration.
- 10.20 NPPF paragraph 222 states that it is essential that there is a sufficient supply of minerals to meet needs and that minerals can only be worked where they are found. Paragraph 224 states that when determining planning applications great weight should be given to the benefits of minerals extraction, including the economy. In support of the scheme the applicants have stated that the mineral extracted from Bromley Farm Quarry is used for the blending and subsequent production of clay pipes at the Hazelhead Works site and is of high importance for use in adjusting the balance for material produced. The Bromley Farm clay composition makes the mineral a valuable component of the production blend. This is a further contributing factor to the applicant's VSC in that the mineral extracted from this site will ensure Wavin maintains stable levels of employment and will be in the best possible position to achieve growth in the improving demand for its products for at least another 25 years. The proposal will reinforce a locally and regionally important facility.
- 10.21 In summary, the recognised modest harm from the proposed five-meter-high bunds is considered to be clearly outweighed by the VSC put forward by the applicant.
- 10.22 Turning to the impact on the landscape, the submission documents include a Landscape and Visual Impact Appraisal (LVIA) with the main objectives of the assessment being:
- To identify the landscape character of the application site and its surroundings and also any notable landscape features within the application site boundary.

- To determine the sensitivity of the landscape to the type of development proposed, through assessment of the value of the landscape and its susceptibility to harm as a result of the proposed development type;
  - To identify potential visual receptors (i.e. People who would be able to see the development) and evaluate their sensitivity to the type of change proposed;
  - To describe measures proposed to avoid, reduce or mitigate the potential adverse effects;
  - To identify and describe any impacts of the development in so far as they affect the landscape and/or views of it; and
  - To assess the relative level of impacts in terms of the magnitude of change, duration and reversibility of the effects.
- 10.23 The significance of the proposals on the landscape within the LVIA are assessed as minor adverse when the site would be operational due to the site being in agricultural use with few ecological habitats.
- 10.24 The magnitude of change as a result of the temporary quarry is considered medium resulting in a moderate visual effect for a long term period of 25 years due to the fact the site is only visible from close viewpoints to the north, east and west, a small number of residential properties and users of the PROW network but effective screening would mitigate this as much as is possible. The LVIA summarises the visual impact of the proposals is assessed as *“low magnitude of change in such that any change in the view is not prominent but could be visible to some visual receptors. The duration of effect is long term at 25 years with the type of effect assesses as neutral”*
- 10.25 The conclusion of the LVIA is that the overall level of effect of landscape and visual impact has been assessed as moderate/minor.
- 10.26 The proposed development’s impact on spatial openness is considered moderate/minor as the proposals would consist of (in summary, in relation to physical changes) the provision of an access track from the main road and a quarry behind screening bunds. Nevertheless, all visual effects would be temporary in nature, and once the landscape is restored, would provide potential visual benefits to local receptors in the long term with improvements and additional biodiversity included in the submitted scheme.
- 10.27 In summary, whilst mineral extraction usually occurs over a timeframe of decades, the operations are considered to be temporary in nature and the development is therefore regarded as reversible. The quarry as proposed would have an additional impact on the openness of the Green Belt in this location, however this impact would be mitigated by the formation of screen mounds, and the proposal would be temporary and reversible once mineral extraction has ceased and the whole of the site is restored. It is therefore considered that this proposal would not have a significant long-term impact on the openness of the Green Belt in this area.
- 10.28 To conclude the application site is proposed to be restored back to an agricultural use (by using waste material) by 31/03/2050, it is considered that, subject to there being no significant conflict with other Kirklees Local Plan policies or the NPPF, the principle of quarry operations as proposed are acceptable in terms of the impact on the openness of the Green Belt.

### **Site restoration/use of imported inert wastes**

- 10.29 The final restoration of the site to agricultural use with additional biodiversity enhancements would require the import of inert waste, in addition to initially using waste and reject stone generated from the quarry itself. The total volume of waste required for restoration back to original ground levels is stated to be approximately 380,000 cubic metres due to the bulkage factor when replacing virgin material.
- 10.30 As the volume of quarry waste extracted on site would be insufficient to bring the site back to its original level, the final restoration of the site to a viable agricultural use would require the import of waste that is expected to be strictly controlled by an environmental permit or equivalent. Appendix A of the National Planning Policy for Waste contains a waste hierarchy and although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy.
- 10.31 In this instance the imported waste would be used in the final restoration of the site rather than simply being disposed of elsewhere (in a location where it serves no useful purpose). It is therefore considered that this proposal would see the re-use of a significant amount of inert waste material which is consistent with current national planning guidance and Kirklees Local Plan Policy LP43.
- 10.32 Section 3 of the supporting statement indicates a schematic overview of the methods and sequence of works that would be employed to bring about restoration of the site, upon extraction operations ceasing. A soft landscaping restoration plan is also submitted which includes the proposed topographical levels upon completion of infilling, as well as areas indicated for tree/shrub planting along the north and southern boundaries, an area of species rich grassland and the central part of the site to be restored back to agricultural grassland. This would include provision of a biodiversity net gain (discussed below). In principle, the restoration proposals are considered acceptable and appropriate to the surroundings.
- 10.33 Finer details of the restoration are recommended to be secured via condition, which would include the complete removal of the haul road. Of most importance is the proposed finish land levels within the site which are shown on drawing 22007/510. The proposed levels would see the site brought back to near its original levels (when compared to the existing levels as shown on the submitted topographical survey), integrating it back to reflect the characteristics of the site and its immediate setting. A further condition is also recommended for the proposed levels to be achieved prior to any soft hard landscaping features being incorporated within the site, to accord with Policies LP32, LP36 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

### **Environmental issues (ecology/biodiversity), Landscape and PROW issues**

- 10.34 Local Plan Policy LP30 requires that planning decisions protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains.

10.35 The application is accompanied by a preliminary ecological appraisal (PEA) report. This recognises that the site is not covered by any statutory or non-statutory nature conservation designations. It also acknowledges that European Designations within 10km include the South Pennine Moors, special areas of Conservation (SAC) and the Peak District Moors (South Pennine Moors Phase 1) Special Protection Areas (SPA) are located approximately 8.5km west of the Site. The PEA concludes that the habitats within the site are not suitable for use by feeding golden plover (*Pluvialis apricaria*) for which the SPA's have been designated and comprises areas of arable agricultural land and small enclosed areas of neutral grassland and ruderal vegetation.

10.36 The council's ecology officer states that, notwithstanding the issues of a protected species (discussed below), given the overall low ecological value of the site, the PEA provides adequate information to assess the ecological impacts of the scheme and agrees with the findings, advising that:

*"The habitats within the site have no intrinsic botanical value and the loss of the area of improved agricultural grassland would have negligible ecological effects. The PEA makes recommendations for mitigative measures to avoid ecological impacts, and it is concluded that with these in place significant ecological impacts are not anticipated"*

The mitigation measures are recommended to be conditioned.

10.37 A separate report relating to a specific protected species was submitted, and it is noted that a relevant license from Natural England would be required in relation to that species, along with a (pre-commencement) condition for additional survey and mitigation works.

10.38 The above considers the proposal's direct impacts on local habitat and species. Policy also requires development to result in a measurable net gain to local ecology, utilising the DEFRA Metric.

10.39 The ecology officer advises that the submitted PEA includes a Biodiversity Net Gain calculation, prepared using the BNG Metric version 4.0. The calculation indicates that the proposed habitat improvements would deliver an overall habitat net gain of 11.47 habitat units (64.49%) and net gain in hedgerow units of 0.3 (17.73% net gain), both of which are in excess of the 10% expected. In this respect the development is in accordance with Local Plan Policy LP30.

10.40 The PEA recognises that whilst the site is not located in an area identified in Kirklees Wildlife Habitat Network (KWHN), the area of broadleaved woodland is adjacent to the sites south east boundary. The woodland habitat is anticipated to be of high value for wildlife within the local area. Following a site visit, the tree officer confirms that with the inclusion of appropriate measures, fencing around the root protection areas (RPA's) together with appropriate proposed treatment of run off/contamination, the RPAs and canopies of the trees are unlikely to be significantly impacted and where there is minor impact there is scope for the compensatory tree planting. The new planting will complement and enhance the value of the woodland areas to the south of the site that are included in the Kirklees Wildlife Habitat Network and strengthen existing ecological links. A condition would be necessary for tree protection fencing to be provided to these areas in accordance with KC Trees' recommendation and in order to comply with Local Plan Policies LP24, LP30 and LP33 as well as guidance in the NPPF

- 10.41 Overall, the scheme is expected to result in a significant net gain for biodiversity at the site. It is considered necessary and appropriate to condition that the recommendations and mitigations set out in the PEA be adhered to, as well as management and maintenance arrangements for the net gain, and preparatory works through pre commencement conditions, to prevent any impact on protected species in the interests of ecology, to accord with relevant Kirklees Local Plan Policies.

*Landscape and PROW issues:*

- 10.42 Several Local Plan Policies require proposals to be designed to take into account and seek to enhance the landscape character of the area. The matter of landscape is touched on above, under the previous Green Belt and site restoration/use of imported inert wastes sections. Additional drawing nos. 22007/510, 22007/515 received 21/11/2023, and details received 07/11/2023 sets out how and when the bunds would be formed, and when additional tree planting would be planted along the proposed access road. The submission documents also include a Restoration and Aftercare report, dated January 2023. On assessment of these details the council's landscape team provides the following advice:

*“There is context to the site, which has a history of mineral extraction and there is a proposed restoration plan for the site. Previous extraction site had recently been restored. Much of the existing mitigation is mitigation implemented for the previous extraction site. Whilst the extraction of mineral will largely be screened from the proposals by the existing screening remaining from previous quarry site and tree planting along Cumberworth Lane, the proposals particularly the traffic associated with the quarrying operations will be visible from the adjacent PROW and occupiers of the properties south west of the proposed access.*

*It is acknowledged, the case officer discussed this matter with the applicant during a recent site visit and applicant is willing to provide bunds/tree planting along this stretch to tie in with the existing bund and trees to the north west near Cumberworth Lane. This should be conditioned to be provided after top and sub soil stripping commences and before any mineral extraction takes place.*

*The restoration planting scheme is a sympathetic proposal and suitable for the setting. Boundary of the proposal comes up against identified habitat network. It is not indicated as being removed and the proposed restoration plan will further enhance this existing habitat. Proposals include native species, light woodland tree planting, shrub planting, species rich grassland and replacement of the agricultural grassland. Aftercare report has included details on how the topsoil's will be stripped, managed and re-laid to avoid over compaction. The quantities of topsoil stripped will be measured and recorded. Depths will then be managed when reinstated ensuring even distribution. A five year maintenance plan has been included in the report and covers replacement of losses in the first three years, this is satisfactory.”*

- 10.43 As requested by officers, additional details have been provided for the establishment of bunds and tree planting adjacent to the PROW, as shown on drawing 22007/515 and details received 07/11/2023. However, further soft landscaping details are required for additional tree or hedge row planting where currently there are gaps between existing trees along Cumberworth Lane. This matter is recommended to be conditioned. Overall, the landscaping scheme is appropriate and would result in a natural setting once established. It would also screen, to a certain extent, the use of the proposed access road from users of the adjacent PROW and the properties that lie south west of the proposed site access.
- 10.44 Subject to the works being carried out in accordance with appropriately worded conditions, seeking additional planting along Cumberworth Lane and to ensure the aftercare requirements relate to all the landscape details as shown on the above forementioned drawings, the proposals would accord with Local Plan Policies LP24, LP23, LP30, LP31, LP33 and LP37 and guidance in the NPPF.

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

- 10.45 The National Planning Practice Guidance sets out clearly the principal issues that mineral planning authorities should address. As well, it 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 refers to the impacts on the environment, including human health, local ecology/biodiversity (addressed above), and any cumulative effects arising from individual sites and or a number of sites in a locality (see paragraph 10.15).
- 10.46 Concerns regarding local environment impacts and the impact this may have on nearby dwellings / residents have been raised through the representation period. Operations in association with quarrying and mineral extraction would undoubtedly cause a disturbance to the surrounding locality, as such it is necessary to assess these proposals in relation to noise and dust as well as air quality impacts on nearby properties and the surrounding area. These matters are addressed in turn below:
- Noise:*
- 10.47 The nearest noise sensitive property, known as Lane Side, lies to the north, on the opposite side of Cumberworth Lane. There are also properties adjacent to the site's access point. More dense settlements exist further to the west, in Upper Cumberworth, and to the north east, in Lower Cumberworth. The application was accompanied by a Noise Assessment by Silkstone Environmental Ltd (dated: January 2023) which details the typical operations which may lead to noise impacting upon the nearest noise sensitive receptors (NSRs).
- 10.48 KC Environmental Health (Pollution & Noise Control) team reviewed this information and sought clarity on a number of matters. A revised Noise Assessment by Silkstone Environmental Ltd, dated January 2023 (Revised August 2023), was received which provided further clarity of the anticipated HGV movements to be generated during the operations. It also confirmation that a mobile crushing/screening plant would not be required on site.

10.49 On review of the noise impact assessment, Environmental Health advises that:

*“A background noise survey was conducted on the 14th of April 2022 and it is noted that there was no activity on the former Bromley Farm Quarry as the site was fully restored. Three NSRs were identified in the surrounding area of the proposed quarry (as shown on plan no 21007/200 in Appendix A) as follows -*

- *62 Cumberworth Lane*
- *Lane Side Farm*
- *43 Cumberworth Lane*

*A summary of the findings at each NSR is shown in table 3 and modelling was conducted based on these findings using data from BS 5228-1:2009+A1:2014 for the plant and machinery to be used on site. The model was based on operational details provided by the applicant for the type, number, and location of plant, operational periods, and HGV movements.*

*Four scenarios were modelled showing soil stripping and mineral extraction as follows –*

- 1) Plans 1 and 2 – Soil Stripping and bund construction*
- 2) Plans 3 and 4 – Overburden mound construction*
- 3) Plans 5 and 6 – Mineral extraction in Cut 1*
- 4) Plans 7 and 8 – Mineral extraction in Cut 3*
- 5) Plans 9 and 10 – Mineral extraction in Cut 5*
- 6) Plans 11 and 12 – Restoration by waste importation*

*Based upon assumptions and worst-case scenarios as stated in para 8.2, the predicted noise levels are shown in tables 5.1 through to 5.6. Reference is made to the Minerals Planning Practice Guidance to the NPPF which states “Mineral planning authorities should aim to establish a noise limit, through a planning condition, at the noise-sensitive property that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900)”. All of the tables show the noise levels will meet with this limit and are therefore acceptable to all of the nearest NSRs.*

10.50 In light of the above, to mitigate against potential detrimental impact from noise nuisance on the amenities of nearby properties identified as NSR's and to control the level of noise, appropriately worded conditions can be imposed, to ensure that the development accords with guidance in the NPPF and Kirklees Local Plan Policies LP36, Part 2(c) and LP52.

*Dust & Air Quality:*

10.51 All of the operations and activities in relation to quarrying have the potential to generate dust, including the breaking of materials, handling of previously broken materials, and by the movement of mobile plant and vehicle movements in and out of the site. The main sources of dust generation are likely to result from carrying out these operations during dry conditions. The initial Dust Management Plan submitted with the application set out a summary of operations at the 'extension site' and sets out the measures to

control, mitigate, and measure dust emissions throughout the lifetime of the operations to prevent loss of amenity to nearby sensitive receptors. Whilst the Environmental Health team accepted the measures to control dust emissions, a new Dust Management Plan was requested which reflects all operations associated with a new quarry instead of an 'extension site'.

- 10.52 The revised Air Quality and Dust Assessment by Miller Goodall (Dated: 3rd October 2023) (ref: 102882-2), assesses the potential impacts associated with dust generating operations during the working of the new quarry, and the impact this will have on existing sensitive receptors. The assessment also considers changes in air quality caused by vehicle emissions namely HDVs (Heavy Duty Vehicles) travelling to and from the quarry.
- 10.53 The Environmental Health team has reviewed the revised details, and offered the following comments:

#### Disamenity Dust

*Dust from quarrying operations has the potential to impact local communities due to visible dust plumes and dust soiling of property. This courser visible dust is referred to by the Institute of Air Quality Management (IAQM) as disamenity dust. An assessment of disamenity dust has been completed for each of the five operational phases including restoration of the quarry. This has been undertaken in accordance with the source- pathway- receptor methodology as recommended in the IAQM Guidance on the Assessment of Mineral Dust Impacts for Planning. The assessment includes the potential impact on five sensitive receptor locations which have been identified as being within 250m down-wind of potential dust generating operations. Pathway effectiveness calculations have been undertaken based on meteorological data and dry day wind direction, these are worse case exposure calculations as many factors will reduce the potential for dust generation during the day to day working of the proposed quarry. The report concludes there will be a "negligible dust effect" at each sensitive receptor and that dust emissions can be controlled through the implementation of a Dust Mitigation Plan.*

#### Road Traffic Assessment

*It is estimated that the proposed quarry operations could result in up to a maximum of 60 loads per day equating to 120 heavy – duty (HDV) two-way traffic movements to and from the quarry to Crow Edge. The proposed development is not within an Air Quality Management Area (Air Quality Management Area). However, according to the Institute of Air Quality Management/ Environmental Protection UK (IAQM/EPUK) guidance "Planning for Air Quality", where there is a change of 100 AADT (Annual Average Daily Traffic) movements outside an AQMA an Air Quality Impact Assessment is required.*

*An air quality assessment was undertaken in accordance with national guidance to assess the potential changes in air quality arising from vehicle emissions because of the proposed quarry, and the impact this will have on existing sensitive receptors. Four existing sensitive receptor locations were identified due to their proximity to the road links affected by the HDV movements. Modelling using ADMS-Roads dispersion*

*model was used to predict changes in concentrations of Nitrogen Dioxide (NO<sub>2</sub>) and Particulates (PM<sub>10</sub> and PM<sub>2.5</sub>) using traffic data taken from the Department for Transport. A Tempro growth factor was applied to uplift the traffic from 2019 to 2024 to account for future expected increases in traffic generation due to other committed developments. The model assessment was based on the following 3 scenarios:*

*Scenario 1: 2019 - base year*

*Scenario 2: 2024 - opening year 'without development and*

*Scenario 3: 2024 - opening year 'with development*

*The assessment concludes that the annual mean concentrations for NO<sub>2</sub>, PM<sub>10</sub> and PM 2.5 are predicted to be below the respective air quality objectives at all existing sensitive receptor locations within the study area for both the "with" and "without" the development scenarios."*

10.54 With respect to the Dust Management Plan (within Appendix E of the revised Air Quality and Dust Assessment), it provides a summary of operations at the site and sets out the measures to control, mitigate and measure dust emissions throughout the lifetime of the operations to prevent loss of amenity to nearby sensitive receptors. A permanent wheel bath/wash fixture is also proposed, which has not been referenced in the Dust Management Plan and shown on drawing no. 22007/513 Rev. B, titled 'site office & wheel bath location'. The applicant acknowledges this would need to be serve vehicle types associated to the quarry operations, offering a powered wash to include the underside and wheels of the lorry, with the inclusion of entry and exit rumble strips. It is proposed that a large water storage tank will be situated on site with water recycling to minimise the need for top up and a routine schedule of maintenance and inspection by both internal staff and external parties in line with the maintenance requirements submitted from the supplier.

10.55 Environmental Health officers are satisfied that the mitigation measures to control fugitive dust emissions during the operational phase of the development can be controlled. Should Members be minded to approve the application, appropriately worded conditions is recommended to be imposed on the decision notice along with full details of the wheel bath/wash to be submitted and approved, to comply with Local Plan Policies LP36, LP51 and LP52 as well guidance within the NPPF.

*Contaminated Land:*

10.56 On review of the Phase 1 Preliminary Geo- Environmental Risk Assessment prepared by Silkstone Environmental Ltd dated 23rd January 2023 (ref: 22007/P1/0), the Environmental Health team requested additional contaminated land information before the application could be determined. Subsequently, an updated Phase 2 Geo-Environmental Investigation Report authored by Silkstone Environmental Ltd, dated February 2024 (ref: 22007/P2/1) was received.

10.57 The updated Phase 2 report has included additional historic ground gas monitoring data and confirms the site is to be classified as CS2. Additional commentary has also been included in relation to the ground gas pathways. As no buildings are proposed and workers would be working outdoors, the level of risk has been assessed to be very low. In terms of the risks to off-site receptors, the report adds that the void created by the proposed quarry extension would offer a path of least resistance for migrating gases within the surrounding area, which will then be able to vent to atmosphere.

- 10.58 The revised report also offers additional commentary in relation to the segregation and stockpiling of soils. The total volume of contaminated soils is estimated as 2,700m<sup>3</sup>. The contaminated materials would be stored as part of the screening mound, separated by a visqueen membrane. A layer of site sourced clay would also be placed at the base of this stockpile area as a precautionary measure to prevent leaching of contaminants. The plan states that this area would be cordoned off with post and wire fencing and clearly signed.
- 10.59 Regarding the re-use of these materials, the report explains that soils from the segregated stockpile may be suitable for restoration providing that they are subjected to a programme of soil testing in accordance with guidance that will be applicable at the time for the laying of clean cover soils. The revised details address the concerns initially raised by the Environmental Health team and their concerns in a later response dated 22/01/2024.
- 10.60 Based on the information presented in the Phase 1- 2 Geo-Environmental Desk Study Reports, Environmental Health accept the findings of the report and are satisfied that subject to the inclusion of their suggested conditions together with the an additional condition to ensure the segregation and stockpiling of soils is carried out in accordance with the additional commentary received in relation to addressing any ground gas pathways, the carrying out of the proposed works, can be dealt with appropriately to accord with Local Plan Policies LP36 and LP53 and guidance within the NPPF.

#### **Drainage/flood risk & private water/watercourses pollution issues**

- 10.61 Policy LP27 of the Local Pan relates to flood risk. It advises, amongst other matters, that proposals must be supported by an appropriate site-specific Flood Risk Assessment in line with national planning policy. Also of relevance is Policy LP28 which requires surface water issues need to be addressed in terms of existing surface water and potential increases to run-off resulting from the development. This is consistent with guidance at Section 14 of the NPPF.
- 10.62 The application is accompanied with the following:
- Document Ref: 033/56/bfqext/1222 Hydrogeological Impact Assessment, dated December 2022
  - Document Ref: 033/56/bfqext/fra/1222 Flood Risk Assessment (FRA), dated December 2022
- 10.63 The proposed development would be drained by pumping to a water treatment area with off-site outfall to the existing field drainage tributary of East Hill Beck. Once completed and restored, surface water runoff from restored surfaces would drain naturally towards the south for discharge to the same field drainage system. Surface water drainage to East Hill Beck would therefore continue throughout the operational life of the development and after site restoration.
- 10.64 On assessment of this information, the LLFA officer has stated:
- “All surface water runoff within the excavation boundary would drain naturally to the lowest point in the excavation from where it would be collected in a small sump and pumped to a water treatment area located at surface. Screening and overburden mounds would be equipped with peripheral ditch drains, as required, to direct runoff to the water treatment area”.*

- 10.65 Regarding the concerns that the proposed development would result in increased flooding or environmental issues up and down stream, the LLFA officer has offered the following advice:

*“There is no increase in drained area, therefore the risk of flooding downstream will not increase and there is no need to provide storage - this is considered acceptable to the LLFA. Also, the developer has stated that the surface water run-off will pass through a surface water treatment lagoon (where hydrocarbons will be retained and sediments will settle out), therefore risk of pollution of the downstream watercourse (East Hill Beck, a tributary of the river Dearne) is low and is also considered acceptable to the LLFA. Finally, as the quarry is at the head of the watercourse, there is no effect on any watercourses upstream of the proposed development.”*

- 10.66 Subject to the proposals being carried out in accordance with the submitted FRA and the Hydrogeological Impact Assessment (recommended to be conditioned) along with the suggested condition/advisory note by the LLFA, it is considered that the development could be appropriately drained and not increase flood risk elsewhere or raise environmental concerns. The proposal would therefore accord with the requirements of Policies LP27 and LP28 of Local Plan and guidance within the NPPF.
- 10.67 It is also important to note that the site operator has a duty of carrying out safe working procedures as required by the Quarries Regulations 1999.

### **Highway issues**

- 10.68 All new developments can potentially impact on the highway network; it is important that the extent of these impacts is fully understood and considered when determining planning applications. New development will normally be permitted where safe and suitable access to the site can be achieved for all people and where the residual cumulative impacts of development are not severe. Kirklees Local Plan policy LP21 is of relevance in this instance, which sets out proposals should demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.
- 10.69 Highway safety issues have been raised in many of the representation, which, where relevant, have been considered throughout the negotiation and assessment process. Further to Highway Development Management (HDM) comments dated 12/09/2024, additional and revised details/plans have been received to address HDM initial concerns and queries. On review of these details HDM have advised the following:
- 10.70 The site is situated in a mineral extraction area, forming part of Local Plan Minerals Extraction Site MES12. Minerals extraction is to be expected in this area and the site is adjacent to two former quarries now restored, the operation of which dated back to the 1960's. Restoration of the former quarries was completed in 2022.

- 10.71 The site would be accessed from Barnsley Road (A635), via the existing access road, which in addition to serving previous quarrying operations also provides access to the Bromley Farm Household Waste Recycling Centre (HWRC) situated approximately 150 metres to the southwest on the site. The section of Barnsley Road (A635) where the access is located, is a 40mph two-way single carriageway of approximately 9m width with a footway on the north side and street lighting present.

#### *Access*

- 10.72 The site access is in the form of a priority junction with ghost island right turn lane. The access provides good visibility in both directions. The access road, which is private, is approximately 7.4 metres wide at its junction with Barnsley Road, sufficient to accommodate vehicle turning movements and for two vehicles to pass at the junction. Beyond the junction the access road narrows, with an average width of around 5.3m with passing places, positioned to assist vehicle movement. The access road has a posted 20mph speed limit.
- 10.73 The proposals include the widening of the access road to 6m from its junction with Barnsley Road to the quarry entrance. This would allow a car and HGV to pass comfortably and for two HGVs to pass with care, negating the need for passing places. The access road is asphalt surfaced to a good standard and is considered suitable to serve the HWRC plus the additional traffic generated by the proposed quarrying operations.
- 10.74 A review of personal injury collisions (PICs) in the vicinity of the Barnsley Road junction shows that there have been no recorded PICs in the most recent previous 5- year period (2019 to 2023). This suggests that the access appears to operate safely with no inherent road safety problems that warrant further investigation or mitigation.
- 10.75 Access to the quarry itself would be taken from the existing access road currently serving the HWRC. The quarry access would be located approximately 275m from Barnsley Road. The access takes the form of a simple priority junction, 10m wide, with a reinforced concrete surface for the initial 50m, the access would incorporate wheel washing facilities to prevent mud and other quarry debris being deposited on the HWRC access road. When the quarry is not in use, the access would be gated, with the gates set back to enable a vehicle to stand clear of the HWRC access road. It has been demonstrated using vehicle swept paths that the largest vehicles expected to access the quarry on a regular basis can do so safely. It is considered that the access road and quarry access are acceptable and suitable to serve the proposed quarrying operations.

#### *Traffic Generation:*

- 10.76 The application indicates that the proposals will generate a maximum 120 HGV movements per day (60 in and 60 out), including incidental coal extraction and the import of inert fill. Based on the operating hours and that vehicle movements are likely to be spaced roughly evenly across the working day, this equates to an average of one HGV movement along the access road and local highway network every 6 minutes.

- 10.77 It should be noted that previous permissions for adjacent quarries, served by the current access road, conditioned HGV movements as follows:

Application No. IDO/421/PR1 - Approved 21/05/2010

First Periodic Review for Proposed Opencast Clay Mining at Bromley Farm Quarry, Denby Dale

*Condition 8; Unless otherwise agreed in writing by the Mineral Planning Authority the maximum number of heavy goods vehicle trips to and from the site shall not exceed:*

*Mon to Fri - 70 inward 70 outward*

*Sat - 40 inward 40 outward*

**Reason:** *In the interests of highway safety.*

Application No. 2012/62/93497/E - Approved 10/07/2013

Application for the Importation of Inert Materials to Stabilise the Quarry Faces and amend the Restoration Profile, also for the Formation of a Secondary Site Access

*Condition 8; No more than an average of 20 loads of waste per day in each working week (Monday – Saturday) shall be imported to the site.*

**Reason:** *In the interests of the free and safe use of the highway and to accord with Unitary Development Plan Policy T10*

- 10.78 Both aforementioned quarries were operational concurrently and potentially could have generated a maximum of 180 HGV movements per day (90 in and 90 out) Monday to Friday.

*Traffic Impact*

- 10.79 The proposed quarry would be operated by Wavin Ltd., with clay extracted from the quarry being transported to their Hazelhead Works at Crow Edge, Barnsley to be used in the manufacture of clay drainage products. Concerns were expressed regarding the routing of traffic between the quarry and the Crow Edge works, with vehicles using unclassified rural roads, considered unsuitable for intensified and prolonged HGV use. It has been agreed that vehicles will be routed using Classified 'A' roads - A635, A629 and A616, these are principal 'A' class roads more suitable for HGV traffic.
- 10.80 The agreed routing takes vehicles through the A635 Barnsley Road/A629 Penistone Road/A635 Holmfirth Road Junction (Sovereign Cross Road's) and A635 Penistone Road/A616 Huddersfield Road/A616 Sheffield Road Junction (New Mill). Capacity assessments using the industry standard PICADY computer programme have been undertaken at these junctions, in both the AM and PM peak periods, to determine the impact of development traffic on the operation of these junctions.
- 10.81 The assessment undertaken shows that during peak periods the Holmfirth Road and Barnsley Road arms of the Sovereign junction and Penistone Road and Huddersfield Road arms of the New Mill junction currently operate close to or slightly exceed theoretical capacity. However, the assessment demonstrates that the addition of the development's traffic would not have a

significant impact on junction performance in terms of RFC (ratio of flow to capacity) or queue lengths. During inter-peak hours the junctions operate within practical capacity. It is considered that the introduction of development traffic would not have a severe impact on the operation of the Sovereign or New Mill junctions or operation of the highway network on the proposed vehicle routing.

- 10.82 In conclusion, it is considered that proposed access arrangements are appropriate and provide an acceptable and safe form of access to serve the proposed development. That traffic generated by the proposals will not have a severe impact on the operation and safety of the highway network and junctions on the vehicle routing proposed. The proposals subject to conditions would comply with Local Plan Policies LP21, and LP36 as well as guidance in the NPPF.

### **Representations**

- 10.83 Consideration and responses to the objections not addressed in the preceding paragraphs are set out below.

#### ***Impact on environment & residential amenity***

- Light pollution from headlights of vehicles in winter months
- Adverse noise and air pollution on nearby play Eunice Lane play area
- No update to dust management plan/Phase 2
- Re- review of noise is requested due to incorrect/base line dataset which is likely to undermine true noise impact

**Response:** Headlight concerns are not considered significant as this will be no different to current situation. Subject to mitigation measures being conditioned, no adverse impact is considered from noise and air pollution on properties/gardens closer to the proposed site, than Eunice Lane play area, therefore the impact on this play area is considered would also be mitigated against. The dust management has been revised during the course of the application and a Phase 2 report/details submitted, which have been assessed by relevant consultees. The Environmental Health has assessed the submitted information and does not question the dataset or its methodology and provided their response which forms part of the assessment above.

#### ***Impact on highways and safety concerns:***

- Proposals will exacerbate highway safety issues at the Sovereign crossroads and Carr Hill Road as well as surrounding highway infrastructure and existing access road from Barnsley Road
- incoming waggons reaching the junction by the Star Pub, would interfere with children/parents for the first school who have permission to park in the Star car park
- Carr hill Road is a traffic rat run with a 30 mph speed limit not enforced and 3.5 tonne limit (coming down) that is violated. 3.5 tonne limit should be imposed in both directions
- Extra HGV movements will be a massive increase and create possibility of vibration damage
- dangerous 'Sovereign Junction'. What studies or research has been done regarding the impact 120 HGVs using this junction per day will have

**Response:** DM Highway officers have considered the highway safety and impact of all users on the proposed HGV routing and advise based on the information provided, subject to their suggested conditions, that the proposals can be accommodated without serious concerns to highway safety of all users.

- The route to Crow Edge has not been addressed. This will highly likely be Carr Hill Road which is already accessed as a short cut by HGV's and other traffic. It is a busy residential road with no pavement apart from the bottom of the road and is used by cyclists, walkers, children and horse riders. Increasing the number of HGV's will cause pollution, noise and disruption to surrounding areas

**Response:** the proposed HGV routing plan will be conditioned. The onus will be on the HGV drivers associated to the quarry to use the HGV routing. The developer should inform all HGV drivers of this restriction and not to take short cuts.

- What safety measures, alternative routes or traffic calming measures or actions are being considered, and what liaison is taking place with Barnsley planning department as the roads we live on and use fall between Kirklees and Barnsley.

**Response:** safety measures in the form of widening the access road, revised routing plan, along with wheel wash facilities are considered sufficient in this case as recommended by the DM Highways team. Barnsley Council have been consulted, once at the outset of the application being received and then again on receipt of revised details/information.

- The consideration of highway access to the site in the "Traffic Statement" only goes as far as the junction between the existing access road and the A635. As the submission doesn't consider traffic beyond the junction on the basis that the A635 is a major road it fails to recognise the reality that the proposed traffic will only be on this road for around 500m.
- Transport statement takes no consideration to the impact on the road network beyond the immediate vicinity of the site.
- The declared transport route requires a left turn at the Sovereign cross roads which must be one of the most dangerous cross roads in Kirklees and then a subsequent and difficult right turn for such a large articulated bulk carrier into the completely inadequate Cumberworth Lane.

**Response:** DM Highways have considered the impact on highway safety of all users on the wider highway network that will be utilised to serve the proposals.

#### ***Other concerns***

- the development will safeguard employment in South Yorkshire, none in Kirklees.

**Response:** Noted. The proposals would safeguarding employment/jobs in association to a long established business, achieve growth in the demand for its products for at least another 25 years, along with reinforcing a locally and regionally important facility.

- Publicity period not long enough

**Response:** Publicity carried out in accordance with Council procedure/process.

- further land excavation could lead to land subsidence and damage nearby house

**Response:** Residential properties are situated sufficient distance from the proposed site/access road. No concerns have been raised by any consultee in relation to vibrations or excavation and potential impact on nearby properties.

- Will every load coming onto the site be checked to ensure there are no toxic substances, dangerous chemicals or fire hazards hidden in the "inert"

**Response:** The proposals are to include the importation of inert waste only, which will be conditioned. Anything other inert waste to be deposited at the site would require a licence from other regulatory bodies and unlikely to be granted if the planning permission refers to only inert waste.

- Submission documents refer to proposals in Grantham not Kirklees

**Response:** Documents amended to refer to Kirklees.

- The noise pollution, environmental pollution and threat to wildlife also need considering for the route beyond Cumberworth.

**Response:** The impact of the proposals is considered adequately on the surroundings.

- Blocked culvert under highway which has collapsed due to the already heavy HGV traffic which travels across the junction to the Plevin/Wavin Site amongst others.

**Response:** Noted. any maintenance works required on the 'A' roads is generally to be carried out by the appropriate service in the council.

- Proposals do not take into account the cumulative impact of the other planned and approved developments including operational in the area

**Response:** each application is considered on its own merits and where relevant any planned and approved developments will be taken into account. In this instance Environmental Services and Highways have not requested further details, taking into account the impact on air quality or highway impacts. The cumulative impact on the characteristics of the area and from other quarry operations in the locality have been considered in this case in the assessment above.

**Concerns noted:**

- This will be a new quarry not an extension to an existing quarry. The Old Bromley Quarry, was first given permission to start quarrying in 1974 stopped being working in either 2014 or 2015

**Response:** The assessment above is in view of a new quarry.

- speeding and driving too close to pedestrians is a known problem for residents prompting numerous police meetings.

**Response:** noted but not relevant to this application.

- the applicant should set up a trust/annual fund that residents and organisations in the two villages (Upper and Lower Cumberworth) affected can draw on, from on going disruption over the whole period of the proposals and should be index linked to inflation.
- Council should consider providing traffic lights at the "Sovereign crossroads

**Response:** These are not considered necessary to make the proposals acceptable in planning terms

***None planning related concerns***

- *Reduction in house prices*
- Council have failed to respond to a Freedom of Information request

**Response:** The above matters do not form material planning considerations to the assessment of this application.

The following are further concerns in relation to the revised details / plans.

***Highway matters/concerns***

- New details indicate articulated trucks using the route. Vehicle type and weight limit should be restricted.

**Response:** Further detail on this matter will be provided in the committee update.

- Still not clear what type/size of vehicle is to be used.

**Response:** Further detail on this matter will be provided in the committee update.

- HGV movements to/from the household waste recycling centre not been taken into account, nor match operating times of this facility

**Response:** Further detail on this matter will be provided in the committee update.

- There are no additional cross-drainage channels indicated on the sloping access road, so that water coming from the vehicles is channelled away into a soakaway and not directly onto the highway

**Response:** this matter is recommended to be addressed by condition.

- Roads are already substandard in surface, visibility splays, lighting, footpaths and require maintaining. Additional HGV traffic will make them far worse.

**Response:** this matter is considered by DM Highways in considering their response to the proposals.

- the traffic survey data used is outdated and inaccurate. A detailed survey conducted by the Cumberworth Community in February 2024 provides a more accurate representation of traffic conditions, indicating a significant increase in HGV movements. This data should be considered over the Department for Transport's 2019 data.

**Response:** The above concerns were responded to by DM Highways during the course of the application.

### ***Environmental Health & other concerns***

- The Supreme Court judgement in *Finch v Surrey CC* conveys a requirement for planning authorities to consider the carbon footprint resulting from extraction/conversion/use/disposal not only for new applications but those in progress but as yet undecided. This may well fall into scope but there is no such assessment in this application.

**Response:** Officers are reviewing this and will provide a response in the committee update.

- Does Kirklees know what the current pollution levels are in the village, the volume of traffic that passes through the village and the speed the traffic is going?

**Response:** The site is not in a declared air quality management area and the air quality impact of these proposals has been assessed in the assessment above. Similarly, traffic implications have been considered elsewhere in the assessment.

- There is no mention of where the HGV's carrying coal and the landfill will be coming from and going to on a daily basis.

**Response:** The above does not form a material planning consideration provided the material to be imported is inert waste, which forms a recommended condition.

### **Other Matters**

*Archaeology:*

- 10.84 The application is accompanied by an archaeological desktop assessment, carried out by the West Yorkshire Archaeological Services (WYAS)

Information was retrieved from a number of sources including the Archaeological archives and databases, English Heritage's National Heritage List for England Database and a walkover survey was undertaken in September 2022 in order to identify any archaeological features visible on the ground and to determine the potential for any future archaeological investigations.

- 10.85 WYAS advises that there are no direct impacts to consider as there are no recorded heritage assets within the proposed development area (PDA) or its immediate vicinity, as any works associated with the proposed quarry extension would take place below current ground level and would be relatively short-lived. Therefore, they should not have a major adverse impact on the visual setting of Lane Side (1135296), Cumberworth Conservation Area and the listed buildings within the wider study area. It is also noted that the topsoil and subsoil stripped from the quarry area would form a screening mound adjacent to Cumberworth Lane. The proposed track would be screened from Cumberworth Lane and Lane Side by a stand of mature trees. Short-term minor impacts may result from the creation of soil bunds, soil heaps or mounds and mineral stockpiles.
- 10.86 Notwithstanding the above, WYAS does advise that there have been no sub surface archaeological investigations within the PDA and as such there is potential for unknown heritage assets, which may include evidence of early mining, quarrying and farming activities. These may be of some archaeological interest and may have some local significance. The desk-based assessment shows that the PDA has remained undeveloped (agricultural fields) from the middle of the 19th century until the present day. This could facilitate the survival of earlier (prehistoric, Roman or medieval) archaeological remains. Consequently, WYAS have recommend in the first instance, a geophysical survey is carried out to accord with Local Plan Policy LP35 and guidance in the NPPF. This matter is to be secured through a recommended condition.

*Heritage issues:*

- 10.87 Section 66 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 holds. Also of relevance is Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework.
- 10.88 The site is located to the north east of Upper Cumberworth and the south west of Lower Cumberworth. Upper Cumberworth includes the Upper Cumberworth Conservation Area. The Conservation Area covers the historic core of Upper Cumberworth, which focuses around the Grade II listed Church of St Nicholas. There are several other listed buildings within the Conservation Area. There are several listed buildings within the settlement of Lower Cumberworth. To the immediate north, north west of the proposed site is the Grade II Lane Side House. The listed building is formed of a terraced pair of houses, now one dwelling and dated to the early 19th century. The listed building can be experienced from along Cumberworth Lane, the public right of way which leads south off Cumberworth Lane and also off the lane leading to the HWRC. It can therefore be experienced from several key site lines.

- 10.89 The council's conservation team have considered the proposals and advised the following:

*"The submitted detail has taken into consideration the impacts on the designated heritage as set out in the WYAS Archaeological Desk-based assessment. We would agree with the finding of the report, that there will be no impact to the Upper Cumberworth Conservation Area of designated assets. There will equally be no impact on the assets within Lower Cumberworth. The report highlights that there will be a medium impact on the Grade II Lane Side House. We consider that there would be a medium impact as the proposals will impact the immediate and wider setting of the asset.*

*there is some mitigation for the proposals with the row of existing planting along the northern boundary. This is however not continuous and does not run the length of the northern boundary. The proposals will also include a stated 5m screening mound. While this will provide some form of visual mitigation, it will create an obtrusive feature. There will also be the introduction of a more formalised access track, which will run to the immediate south of Lane End House and will be entirely visible as there is a break in the mature hedge/ planting. We consider that additional planting of hedging is required to provide further migration. The current proposals will only provide modest mitigation"*

- 10.90 The suggestions of additional hedging along the northern boundary with Cumberworth Lane is recommended to be conditioned as set out in paragraph 10.44, and would further mitigate the potential medium impact on the setting of Lane Side House. With respect to the formalised access track, this is not too dissimilar to the 2012/62/93497 implemented permission which included the formation of a secondary site access. Furthermore, this seems to be the most plausible access to the allocated mineral site, as such the proposals are considered would cause less than substantial harm to Land Side House.

- 10.91 Paragraph 215 of the NPPF states *"that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including....."*. Officers are satisfied that the public benefits, which include securing employment/jobs within a long-established business, secure its products for at least another 25 years, along with reinforcing a locally and regionally important facility on an accepted mineral extraction site within the Local Plan, would outweigh the identified (temporary) harm to the identified heritage assets. Therefore, the proposal is deemed to comply with the aims and objectives of LP35.

*Coal:*

- 10.92 A larger part of the site falls within the 'high coal risk zone'. As such the application is supported by a Coal Mining Risk Assessment which has been reviewed by the Mining Remediation Authority.

- 10.93 The Mining Remediation Authority advise that the:

*"the information submitted in support of this planning application is broadly sufficient for the purposes of the planning system and meets the requirements of the planning system in demonstrating that the application site is, or can be made, safe and stable for the proposed development."*

10.94 The content of the report confirms that mine workings would be removed as part of the operational process and that any mine entries would also be excavated. The Mining Remediation Authority considers this reasonable and proportionate and raises no objections, subject to the development to be carried out in accordance with the measures detailed in section 7.4 of the Coal Mining Risk Assessment (December 2022, prepared by Silkstone Environmental Ltd). This matter is recommended to be addressed by condition.

### **Planning Obligations**

10.95 Paragraph 58 of the NPPF confirms that planning obligations must only be sought where they meet all the following:

- (i) necessary to make the development acceptable in planning terms,
- (ii) directly related to the development and
- (iii) fairly and reasonably related in scale and kind to the development.

10.96 In this instance, no obligations are considered necessary as the proposals are considered acceptable in planning terms.

## **11.0 CONCLUSION**

11.1 The proposals would result in the extraction of mineral from an allocated mineral extraction site on the Local Plan. The benefits of the proposals would include safeguarding employment/jobs in association to a long established business, achieve growth in the demand for its products for at least another 25 years, along with reinforcing a locally and regionally important facility. Furthermore, the proposals are accompanied by sufficient information to demonstrate how the impacts of the development could be satisfactorily controlled through appropriate mitigation measures/conditions.

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

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions

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

### **1. Time limits/restrictions**

- Mineral extraction to cease and completion of site restoration by 31/03/2050, in accordance with an approved restoration scheme
- Prior cessation measures to deal with restoration and aftercare in the event that mineral extraction is abandoned/ceases
- Requirement to have all approved documents on site for the duration of operations for inspection
- Pre commencement condition requiring further details/surveys in relation to protected species

- Mitigative measures & recommendations as set out in the PEA to be adhered to, including the implementation and management of net gain on site.
- Finer restoration details to accommodate additional tree/hedge planting along northern boundary and to achieve the BNG as proposed
- Levels to be achieved in accordance with submitted details prior to soft landscaping commencing internally within the site.
- Restrict mineral extraction depths and extent of mineral workings, in accordance with submitted plans/details
- Tree root protection to protect KWHN
- A geophysical survey (sub surface archaeological investigations) is carried out to establish potential archaeological interest- details to be submitted to MPA

## **2. Plans**

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

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

- Widening of shared access road before importation and exportation of any mineral from the site
- Gates to be set back 17m from junction with shared access road
- First 50m of new access road to be hard surfaced, details (to include drainage) to be submitted to and approved before mineral extraction commences
- HGV's site shall not exceed: Mon to Sat - 60 inward 60 outward
- HGV's to follow route as shown on HGV routing plan
- Prior to use of new access road details of wheel/bath to be submitted and approved in writing by MPA. The wheel bath shall be provided in the location approved before bringing into operation the new approved access road and thereafter be maintained in good operational condition and used for wheel cleaning for the lifetime of the permission.
- HGV wheels and chassis to be cleaned before entering highway
- All loaded HGVs leaving the site to be sheeted
- Permanent closure of existing access from Cumberworth Lane, details of which shall need to be approved by MPA and implemented up on bringing into use the new access road
- Plan to be submitted showing parking provision for quarry associated vehicles/traffic within the application red line
- Access Management Plan
- The site operator shall at all times keep a record of all HGV's movement in and out of the site and shall be provided in writing to the Mineral Planning Authority upon request.

## **4. Preparatory/soil stripping works**

- All top soils and subsoil to be stripped and stored separately prior to mineral excavation
- Screen bunds to be constructed using on site material only as per submitted details and as per noise assessment

- Following soil stripping the MPA to be advised in writing of volumes of topsoil and subsoil
- Soils storage mound to be maintained in good condition grassed within 3 months and maintained to control weeds

## **5. Working programme**

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

## **6. Restoration**

- The MPA to be given 7 days' notice prior to the spreading of sub soil or top soil
- Subsoil and top soil to be spread at specific depths and to be worked to provide a satisfactory medium for planting
- Any area of grass seeding which fails, will be re-seeded within the next available Planting Season
- All site infrastructure to be removed and associated land reinstated following final restoration of the site
- Levels to be achieved as shown on submitted plans, prior to soft landscaping commencing

## **7. Amenity**

- Restrict hours of operation of the quarry in accordance submitted details
- Dust mitigation measures to be implemented in accordance with those detailed in the Dust Management Plan
- Noise conditions as suggested by Environmental Health
- No fires or blasting at the site
- Reporting of unexpected contamination
- No mobile crushing/screening plant on site

## **8. Water protection and pollution prevention**

- Only uncontaminated inert waste shall be deposited on the site and there shall be no deposit of any other material capable of producing a polluting leachate.
- Details of a scheme restricting the rate of treated surface water discharge from the site in accordance with the LLFA comments shall be submitted and approved
- Works to be carried out in accordance with the submitted Flood Risk Assessment and Hydrogeological Risk Assessment
- Development to be carried out in accordance with the measures detailed in section 7.4 of the Coal Mining Risk Assessment
- If old workings are intersected by the excavation, Network Rail require any such workings in the sidewall alongside railway property to be sealed with clay to prevent the ingress of water into any old workings beneath railway property. Where any such workings are encountered, Network Rail requires to be notified, prior to the construction of clay seals and backfilling, to enable an inspection to be made.

- Pre commencement condition to submit a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority (Environment agency)
- Remediation of site to be carried out and completed in accordance with the Contaminated Soils Area and Storage Plan by Silkstone Environmental Ltd., dated February 2024 (drawing no. 22007/515) and the updated Phase 2 Geo-Environmental Investigation Report authored by Silkstone Environmental Ltd, dated February 2024 (ref: 22007/P2/1)
- Submission of Verification Report - Condition

## **9. Aftercare**

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

## **Background Papers**

### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planningapplications/detail.aspx?id=2023%2f91280>

### Certificate of Ownership

Certificate B signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 06-Mar-2025

**Subject: Planning Application 2023/92966 Demolition of existing dwelling and erection of 97 dwellings including formation of a new access from Cliffe Lane, landscaping, public open space and all associated infrastructure and engineering works Land to the rear of, 271, Cliffe Lane, Gomersal, Cleckheaton, BD19 4SB**

#### APPLICANT

Jason Clay, Quarters  
Gomersal Ltd

#### DATE VALID

10-Oct-2023

#### TARGET DATE

09-Jan-2024

#### EXTENSION EXPIRY DATE

12-Jun-2024

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

[Public speaking at committee link](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected:** Liversedge and Gomersal

**Ward Councillors consulted:** Yes

**Public or private:** Public

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## **RECOMMENDATION**

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

- a) Affordable Housing: 16 units, comprising 7 Affordable Rent, 5 First Homes and 4 Intermediate (16.5% of total units).
- b) Open space off-site contribution: £112,855
- c) Education: £150,705
- d) Sustainable Travel: £44,500 towards Metro Cards (or similar), £26,000 towards bus-stop improvements, and £10,000 towards travel plan monitoring.
- e) Management and maintenance: on-site Public Open Space, on-site drainage infrastructure, and ecological features (30 year minimum).

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

## **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the demolition of an existing dwelling and the erection of 97 dwellings, with the works including the formation of a new access from Cliffe Lane, landscaping, public open space and all associated infrastructure and engineering works
- 1.2 The application is presented to the Strategic Planning Committee due to the level of public objection contrary to officer's recommendation and due to the recommendation including a non-policy compliant S106 package following a viability review exercise. This is in accordance with the council's Delegation Agreement.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site is 3.6 hectares in size and is part of a site allocated for housing in the Local Plan (site allocation ref: HS116).

- 2.2 The site is located on the north western edge of Gomersal. To the north is open countryside. Properties that adjoin the site's boundary consist of those associated with either Cliffe Lane to the west and south and Cliffe Mount to the east.
- 2.3 The site consists of detached dwelling, number 271 Cliffe Lane, and several irregular size fields, currently used for grazing. The fields are divided from one another by either timber posts and wire fencing, or trees and unkempt field hedgerows. Field hedgerows, trees and timber fencing is located along the site's boundary with Ferrand Lane/Cliffe Lane, which runs along the site's northern and western boundaries and are rural routes, designated as a public footpath (SPE/56/10). A small pond is located within the west of the site (to the rear of number 271).
- 2.4 Within and around the edge of the site are several tree preservation orders (TPOs). This includes a large and mature specimen in the rough centre of the site, and several individual and group orders around the boundaries.
- 2.5 The site slopes downhill from south east to north west. Its south east corner adjacent to properties associated with Cliffe Mount is approximately 150m Above Ordnance Datum (AOD) and its north western corner near to Spen Valley Scout and Guide Camp is approximately 130m AOD. There are some small variations in levels throughout the site, particularly towards the centre.
- 2.6 Gomersal Conservation Area is to the north east of the site, together with the grade II listed Gomersal Methodist Church. The site has some landscape sensitivity resulting from its location, with wider, open views to and from the north from the surrounding public footpath network.

### **3.0 PROPOSAL**

- 3.1 This planning application seeks full planning permission for the construction of 97 dwellings, with associated works, comprising the following mix:
- 1- and 2-bed: 39 (inc. 15 apartments) / 40%
  - 3-bed: 34 / 35%
  - 4-bed+: 24 / 25%

Dwellings would be a mix of detached, terraced, semi-detached, and two apartment blocks. Heights would vary between two and three storeys, including split level properties.

- 3.2 The existing dwelling no. 271 Cliffe Road would be demolished to facilitate the site access from Cliffe Lane. The new estate road would enter the site and head roughly to the centre, before splitting into branching streets, which themselves split to smaller roads. A mix of standard estate road, shared surface, and private drives would be provided.
- 3.3 Dwellings would be arrayed around the new road in a typical contemporary estate fashion. Each dwelling would have dedicated parking, sited to the side or front of the property, with certain plots having detached or integral garages. The 2-bed and 3-bed dwellinghouses would have two off-road parking spaces per unit, with the 4-bed units have three. The apartment blocks are proposed to have shared private parking facilities, with 1 space per unit. A total of 23 visitor parking spaces would be spread around the new road.

- 3.4 Most dwellings would be faced red-brick with half render (render to the first floor) although certain dwellings would be all red-brick or artificial stone. The roofs for the dwelling houses would be gabled, with the apartment blocks' being hipped. The aesthetic of the dwellings is contemporary vernacular. Design features into pitched door canopies and stone heads / cills to the front, with brick heads / cills to the side and rear.
- 3.5 Re-grading and engineering works are proposed across the site to form development plateaus. No details have been provided on the facing materials for the retaining walls.
- 3.6 The development proposes the removal of six individually surveyed trees, six groups of trees and six hedgerows. The proposal includes a landscaping strategy through low level planting and trees. This includes the planting of 95 standard sized trees (and an additional 57 featured trees (smaller / younger than standard)). New trees are proposed adjacent to the highway throughout the layout (but not within it).
- 3.7 Boundary treatments include a mix of 1.8m high fencing and brick walling, lower fencing and knee rails, and hedgerow planting.
- 3.8 Two parcels of public open space (POS), one of which hosts the TPO tree identified as T34, would be sited roughly centrally within the site, where the abovementioned road splits. A larger parcel of public open space would be sited along the site's northern boundary, separating the site from Ferrand Lane. This parcel of POS would accommodate the proposed surface water attenuation tank, foul water pump station, and play area (Local Equipped Area of Play (LEAP)).
- 3.9 Connections onto PROW SPE/56/10 would be provided at the site's entrance and via the northern POS.

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

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

2019/90902: Outline application for the demolition of one dwelling and erection of 98 dwellings with consideration for access landscaping and layout – Refused (dismissed at appeal (ref APP/Z4718/W/22/3290253))

**Note:** The LPA were originally minded to approve this application, including having it approved at committee. However, the S106 agreement was not completed within a reasonable timeframe. It was originally presented to committee (with a recommendation for approval) in December 2019, and re-presented to committee (with a recommended for refusal) in June 2021, to indicate the period of time in which the S106 was not secured.

Members resolved to support the reason for refusal (failure to provide required planning contributions and obligations) at the second committee, and the application was refused. The appeal was dismissed on the same grounds (absence of S106 agreement).

## 4.2 Surrounding Area

*The Paddock, Ferrand Lane, Gomersal*

2020/93593: Outline application for demolition of outbuilding and erection of detached dwelling and garage with associated works – Granted

2023/90326: Reserved matters application pursuant to outline permission 2020/93593 for demolition of outbuilding and erection of detached dwelling and garage with associated works – Granted

*3, Cliffe Mount, Gomersal*

2021/93174: Erection of extensions with raised patio and exterior alterations – Granted

## 4.3 Enforcement History

None relevant to the proposed development.

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

5.1 The current proposal was not subject to pre-application engagement (although notice should be given to the planning history outlined in section 4.1). This application was submitted in October 2023. Following initial review by officers, consultee feedback, and comments from the public, various issues were raised which prevented officers being able to support the application as submitted.

5.2 The nature of the concerns initially held included, but were not limited to:

- Concerns that the proposal, initially for 87 dwellings, was not an effective or efficient use of the allocation. Likewise, concerns on the housing mix not responding to local needs were held.
- Additional justification was sought for the exclusion of circa 0.25ha of the housing allocation, and consideration on whether this area of the allocation could be built upon subsequently.
- Urban design concerns, including ensuring the development fit into the established character of the area and ensuring an attractive development.
- Technical design concerns relating to highways, drainage, and contaminated land.

During the course of the application each of the above issues has been addressed via negotiations with officers and consultees, leading to a set of amended plans. The proposal as now submitted, which included the number of units being increased to 97, is concluded to address all previously raised concerns (as detailed throughout section 10).

5.3 While the technical planning matters had been addressed, the applicant held concerns over the viability of the proposal and was unable to agree to a policy compliant S106 package. This led to the applicant providing a viability statement, which was independently reviewed on behalf of the LPA. Details of this may be found in paragraphs 10.94 – 10.104, but in summary the LPA consider a reduced viability package reasonable in this case, based on the expert advice received.

## 6.0 PLANNING POLICY

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

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

6.2 The site is allocated for housing in the Local Plan (site allocation ref: HS116).

6.3 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **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
- **LP63** – New open space
- **LP65** – Housing allocations

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

#### *Supplementary Planning Documents*

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

## *Guidance documents*

- Kirklees Interim Housing Position Statement to Boost Supply February 2024
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets Principles for the West Yorkshire Transport Fund

## National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2024 (correction update published Feb 2025) and the Planning Practice Guidance Suite (PPGS), together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

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

6.6 Other relevant national guidance and documents:

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

## Climate change

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

6.8 On 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 which outlines the public engagement the applicant undertook prior to their submission. Means of publicity included sending letters to local residents and businesses, with 163 issued to properties near to the site. The letters directed people to a dedicated public website.

7.2 Ward members were also emailed at this time.

7.3 Six representations were received to the applicant's publicity. These raised the following concerns:

- **Services:** Lack of capacity of nearby schools, Doctors and Dentists to accommodate the residents of the scheme.
- **Highways:** Increased road congestion and traffic. Cliffe Lane (towards Cleckheaton from Fusden Lane and Bawson Court) is unsuitable for additional traffic. Any construction traffic should be banned from the lower section of Cliffe Lane. Junctions at West Lane/Latham Lane and West Lane/Oxford Road are dangerous. There should be a financial contribution to improve local road network, safety measures around the primary school and improved public transport services.
- **Ecology:** Loss of greenfield space and habitat for local wildlife. Loss of trees and hedges.
- **Light and privacy:** Distance between plot 57 and properties on Cliffe Mount and impact on light, view and privacy. Could the landscape buffer between Cliffe Lane properties and the new development be extended to include Cliffe Mount? Is it possible to relocate property 57 so that this is a more suitable distance between the properties. Adjacent bungalows would be overshadowed.
- **Mine Shafts:** Concerns in relation to damage caused to existing properties and foundations as a result of the proposed development.
- **Construction noise and impact:** Construction noise and impact: Concerns in relation to noise and disruption caused by building works. Would like to have details of the proposed timescale involved and working hours of the site.
- **Flood Risk:** Bottom section of the site can become very wet.
- **Drainage:** Is there capacity for the existing drains/sewers to cope?
- **Green Belt:** The site is in the Green Belt and would be contrary to national and local planning policy. Development of the site would be detrimental to the open, rural and undeveloped character of the area. Brownfield sites should be prioritised over greenfield.
- **Footpath links:** Unclear on the plans.
- **Scale of the development:** Will there be three storey dwellings.

- 7.4 The applicant considers and responds to each of the above points in the SCI document. In summary, they are satisfied that the proposal would suitably respond and address the above concerns, being in compliance with the relevant planning policies.

#### *Public representation*

- 7.5 The application has been advertised as a Major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the council's previous Statement of Community Involvement (replaced Feb 2025).
- 7.6 The application was amended during its lifetime and a period of re-consultation, via neighbour letters, was undertaken. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.
- 7.7 The end date for public comments was 14/11/2025. In total 79 public comments were received across the three public representation periods. The following is a summary of the comments made:

#### **Urban Design**

- *The village of Gomersal is losing its identity and rural nature. The site is an attractive green field which contributes to the character and setting of the local area.*
- *Three storey dwellings are out of keeping with the area. This is exacerbated by many neighbouring dwellings being bungalows.*
- *The proposal includes the removal of trees that are under TPOs. TPOs have been served to the detriment of local families, and their removal here to enable development is unfair.*
- *The Crime Prevention Report notes that trees should have their branches 2m above the ground and that public areas should be lit: this will erode local character and harm local species.*
- *The proposal is near to a listed church and conservation area, and will cause harm to their value.*
- *Bawson Cliffe is identified as a Victorian Villa in the submitted heritage document. This is disputed, and is noted to be Georgian by the objector, who contends that the proposal, particularly the three-storey properties included, will harm its setting and heritage value.*
- *While the site is not Green Belt, it is next to the Green Belt and will bring the urban areas to the fringe of the Green Belt.*
- *Three storey properties should not be located on the site's boundary. The applicant has previously stated three-storey properties would not be sited near the boundary.*
- *Expectation for a buffer zone between the site and Ferrand Lane.*

#### **Amenity**

- *The proposal would block the outlook from neighbouring dwellings. This is exacerbated by many neighbouring dwellings being bungalows.*
- *The proposal (which includes three storey dwellings) will cause harmful overbearing and overshadowing.*

- *The proposal will allow new dwellings to overlook private gardens, harming privacy.*
- *The development, including its associated traffic, will result in harmful noise pollution.*
- *There are insufficient amenities, parks and facilities for local children.*

## **Highways**

- *Clarity is required on what will happen to the Public Right of Way on Ferrand Lane.*
- *Traffic should not use Ferrand Lane, which is unmade, muddy, and not suitable for more vehicle movements.*
- *The submitted highway documents under consideration relate to 87 units, not 97.*
- *The Road Safety Audit undertaken relates to the original 87-unit scheme, not the proposed 97 units, nor does it take into account take into account the vehicles that will use the access road into the site from Heathfield which currently use the lane adjacent to the house 271.*
- *The Road Safety Audit notes that large refuse vehicles may cause encroachment onto the onto the opposing traffic lanes of Cliffe Lane*
- *The local roads cannot accommodate additional traffic. It will become busier and more dangerous for drivers and pedestrians.*
- *The local road networks are historic, with narrow junctions with poor sightlines. Putting more vehicles into this area is not safe.*
- *Traffic surveys should be undertaken during school days / hours. Those undertaken were only recorded vehicle movements in the periods of 0700 – 0915 and 1500 – 1845 on one day on Tuesday 28th March, and recorded 2,181 vehicle movements.*
- *To achieve the required visibility splay into the site, the applicants wish to narrow Cliffe Lane which will, if approved, create major problems for all traffic.*
- *The proposal includes pedestrian access onto Ferrand Lane. Ferrand Lane is unadopted and unlit, without a pavement, and is currently only fronted by 5 dwellings. Sightlines on the lane are limited due to its narrowness and hedgerows. The lane is subject to commercial traffic by way of heavy goods vehicles and other traffic generated by the Scout's activity centre. This access proposition poses significant risk to pedestrians.*
- *The proposed access is unsuitable, being not fit for purpose, particularly for larger vehicles.*
- *Request for careful consideration of temporary bin-storage prior to refuse vehicles entering the site, bearing in mind the access is shared with existing dwellings. Likewise, consideration of suitable arrangements is needed for contractor parking and deliveries during construction.*
- *Bus stops near to the site have had their services cut.*
- *Questions over the number of accesses onto Ferrand Lane, with an indicated preference to one and no vehicle access.*

## Ecology

- *The site is a valuable habitat that hosts various wildlife species. It should not be lost.*
- *While some trees / hedgerows are to be retained, new development so close will drive animals out of them.*
- *The submitted reports are inconsistent in regards to the hedge identified as H1. The agricultural report states it is to be retained whereas other plans are indeterminate. Also, uncertainty what is meant by 'hedge line', which is open to misinterpretation.*

## Drainage

- *The site is often waterlogged, indicating an existing drainage problem.*
- *The proposal will lead to increased water runoff and flooding in the area. It will interfere with established groundwater infiltration.*
- *The surface water is proposed to be discharged to a watercourse on third party land. This is disputed to be a watercourse, being called by the objector a 'ditch' and stating they will not allow any discharge.*
- *Concerns over inconsistency of the proposed surface water discharge rate, with different documents stating different numbers. This should be agreed with the land owner.*
- *The attenuation tank is proposed as geocell. This should be concrete instead, as they are more robust and simpler to maintain.*
- *A petrol interceptor should be included prior to surface water entering the attenuation tank, to avoid hydrocarbons entering the wider water catchment, as well as silt traps.*
- *The neighbouring Spen Valley District Scout Council were not approached or contacted during the applicant's pre-application engagement exercise.*
- *If access is needed to the Fanwood Scout Campsite (to facilitate the drainage arrangements), appropriate safeguarding would be needed.*
- *The development's drainage system would need to deal with any surface water runoff from Ferrand Lane, so this water is also captured and directed through the new system, as part of the agreed flow, along with other design considerations they deem necessary. This includes suitable long-term management and maintenance arrangements, and that the surface water outflow system is installed prior to houses being constructed.*

## Other

- *The site is near to Fan Woods Scout Campsite. Residential development near to this will pose a security / safeguarding concern. Also, noise from the development will cause issues for the campsite.*
- *A previous application on the site was refused, and this should be too.*
- *There is no Tesco superstore in Gomersal, as noted within the applicant's viability statement. There is a small Tesco in Birstall.*
- *The site is within the High-Risk Coal Zone, with mineshafts known to be in the area. The submission identifies three within the site. Dwellings should not be built here, and if they are, may cause subsidence. The conditions recommended by the Coal Authority should be actioned before the application can be approved.*

- *Dispute the validity of the pre-application community engagement exercise undertaken by the applicant.*
- *Disagreement with national and local policy on the need for housing construction. Reference to research conduct by the London School of Economics and Political Science which is stated to suggest ‘that there are better solutions than building new dwellings to solve the problems the UK housing market currently suffers.’*
- *There are dangerous gasses under the site, associated with coal mining, which should not be disturbed.*
- *New housing is harmful to the environment, with the objector stating ‘Housing accounts for 17% of the UK's CO2 emissions, and new constructions, even those that are energy-efficient, have high material and embodied carbon costs and do not address the inadequacy and inefficiency of the existing housing stock’.*
- *The proposed development, particularly the three-storey apartment block, would detract from the attractiveness of the PROW on Ferrand Lane through being overbearing.*
- *The site is Green Belt and should not be developed. Brownfield sites should be developed prior to greenfield sites.*
- *Additional vehicles will cause air pollution in the local area, affecting the health of local people, such as increasing asthma. Conversely, keeping the site as a green field will help clean the air and provide health benefits.*
- *The proposal will increase demands on local amenities, such as schools and doctors, which are over subscribed and struggling at present. This must be considered cumulative with various other developments expected or being built in the area.*
- *The proposal will affect land stability and result in foundational / ground damage to nearby dwellings. Insurance should be offered to existing residents.*
- *There is no need for these houses; there are vacant houses for sale nearby that are not selling.*
- *Gomersal has enough family homes. There is a greater need for bungalows and retirement properties, not family homes.*
- *The proposal will lead to an increase in anti-social behaviour on Ferrand Lane and in the wider area.*

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

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

The local members were notified when the application was received and during the November re-consultation period. Cllr David Hall requested to be kept updated of the proposal. The ward councillors were also notified when the committee date was set, and should any further comments be received, these shall be noted within the update.

## 8.0 CONSULTATION RESPONSES

K.C. Conservation and Design: Note that the site is close to several designated heritage assets, with the closest listed building being the Methodist Church and the western boundary of the conservation area running along Ferrand Lane directly on the north-east corner of the site.

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

K.C. Ecology: The applicant has undertaken appropriate investigations and assessment. The proposal would secure 10% net gain on site and not cause harm to local species. Subject to the net gain being secured via condition, and the S106 securing ecological mitigation and enhancement, no objection.

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

K.C. Highways (Development Management): Expressed initial concerns over various aspects of the development. Following engagement between officers and the applicant, all concerns raised have been addressed. Therefore K.C. Highways (Development Management) offer no objection to the proposal, subject to conditions.

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

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

K.C. Landscape: Advice and feedback offered in regards to the landscaping proposed and the types / design of Public Open Space proposed for the site.

K.C. Lead Local Flood Authority: Expressed initial concerns due to insufficient details on how surface water would be managed. This led to proactive negotiations with the applicant and, as a result, an acceptable strategy was provided. No objection subject to conditions.

K.C. Trees: Expressed initial concerns due to the proposed tree loss. As a result of negotiations, certain trees have been retained that were originally proposed to be removed, with others having further details provided to justify their removal as being reasonable / necessary. Therefore, K.C. Trees offer no objection, subject to conditions.

The Mining Remediation Authority (formerly the Coal Authority): The application is supported by ground investigations which have considered the site and local area's coal related history. The report confirms that identified shallow mine workings pose a risk to ground stability, and that the two shafts, which have been located, will also require remediating. The MRA state 'the

development layout has clearly been designed around both of the recorded mine entries and their respective zones of influence and subject to the imposition of a planning condition to ensure the recommended remediation, the Coal Authority has no objections to this planning application’.

West Yorkshire Archaeology Advisory Service (WYAAS): The site had potential for archaeological interest associated with historic coal mining. However, on review of the submitted Built Heritage Assessment, WYAAS has advised that no further archaeological works are recommended.

West Yorkshire Metro: Expectations for sustainable travel enhancements, including the improvement of 2 local bus stops, at a cost of £26,000 and promoting the use of Metro Cards.

Yorkshire Water: No objection subject to conditions.

## 9.0 MAIN ISSUES

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

## 10.0 APPRAISAL

### Principle of development

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

### *The five-year housing land supply and the tilted balance*

- 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 2023 Housing Delivery Test (HDT) measurement which was published on 12th December 2024 demonstrated that housing delivery for Kirklees for the past 3 years has fallen below the 75% pass threshold.

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<sup>8</sup>, granting permission unless:*

1. *the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
2. *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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*

10.4 Footnote 8 of the NPPF clarifies that for applications involving the provision of housing, the presumption applies to situations whereby the local planning authority cannot demonstrate a five-year supply of deliverable housing sites; or where the Housing Delivery Test has fallen below the 75% pass threshold.

10.5 The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. 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, where relevant.

#### *Land allocation and Quantum of development*

10.6 The site falls within a housing allocation, reference HS116, 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.*

The site box for HS116 identifies an indicative capacity of 135 dwellings for the allocation. The site box also stipulates that 'Site access must be from Cliffe Lane not Ferrand Lane' and that 'There should be a sensitive approach to the design and landscaping of the site in order to maintain the agricultural character of Ferrand Lane'.

- 10.7 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land, including policies LP7 and LP11.
- 10.8 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Allocation HS116 has an indicative capacity of 135 dwellings, which this proposal is below.
- 10.9 The proposal excludes circa 0.25ha of allocation HS116, specifically the portion to the east of the site. While this remaining portion of the site is adjacent to Ferrand Lane, which the local plan states should not be used for access, the applicant has demonstrated that future access is feasible through the application site. In terms of density, a site of 0.25ha can be expected (at 35dph) to host circa 9 units. The applicant has demonstrated that this could be feasible. Accordingly, officers are satisfied that the current proposal would not prevent the remaining 0.25ha of the allocation coming forward at a future date.
- 10.10 In terms of the application site itself, due regard must be given to whether any constraints would make areas of the site 'non-developable'. The site has extensive trees to be retained, each of which requires a non-developable exclusion zone. When these are factors in, plus the 0.25ha excluded from the development, the proposal represents a developable area of 3.22ha, which at 97 dwellings equates to 30dph. This is broadly in line with the Local Plan's expectation for 35dph and is deemed appropriate for the site, giving regard to its topography, proximity to the Green Belt, and being a new edge to the settlement of Gomersal.
- 10.11 Regarding housing mix, 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).
- 10.12 The following is the SPD expectation for the Batley and Spen ward:

	<b>Market Housing</b>	<b>Affordable Rent</b>	<b>Affordable Intermediate</b>
<b>1 and 2 bed</b>	30 – 60%	40 – 79%	60%+
<b>3-bed</b>	20 – 40%	0 – 19%	20 – 39%
<b>4+ bed</b>	15 – 35%	0 – 19%	0 – 19%

- 10.13 The following is the proposal's market and affordable housing mix:

	<b>Market Housing</b>	<b>Affordable Rent</b>	<b>Affordable Intermediate</b>
<b>1 and 2 bed</b>	27 (33%)	7 (100%)	5 (55%)
<b>3-bed</b>	31 (38%)	0	3 (33%)
<b>4+ bed</b>	23 (28%)	0	1 (11%)
<b>Total</b>	81	7	9

- 10.14 It should be noted that the proposal has been through a viability exercise which confirmed that a reduced S106 package, specifically affordable housing in this case, was justified on this site. This is expanded upon within paragraphs 10.94 – 10.104. It should also be noted that the SPD's market and affordable housing expectations follow a 'comply or justify' approach. In this case, the market housing would comply with the SPD's expectations, while the viability exercise undertaken justified the modest deviation proposed for the affordable housing. Furthermore, the proposal includes a reasonable mix of detached, semi-detached, and terraced houses, as well as fifteen apartments. This represents a diverse and attractive offer of varied housing which is welcomed.
- 10.15 To summarise, 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. The proposal would aid in the delivery of housing to meet the council's targets at a time of need. Therefore, 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*

- 10.16 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
- 10.17 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.
- 10.18 The application is supported by a Climate Change Statement, which identifies the following aspects of the proposal:
- The provision of a Home User Guide, clearly explaining how to operate the systems in the most efficient manner.
  - Installation of smart meters, enabling the occupier to monitor their own energy use and expenditure.
  - In order to enable greater control and the associated reduction in energy demand, individual time and temperature controls will be installed.
  - Modern methods of construction including timber frame are being actively considered for the dwellings to reduce carbon associated with the development. The Contractor selected to deliver the project will implement a Waste Management Plan, demonstrating compliance with the waste management hierarchy and recording key statistics in relation to waste and recycling. Wherever possible, the Contractor will utilise local material suppliers and subcontractors to reduce emissions associated with deliveries and travel.
  - Air source is being considered as the main heating solution. This reflects the upcoming changes to the Building Regulations and the

Client's aspirations to be an early adopter of the key principles. Solar is also likely to be used and space provision will be provided for future batteries.

- Areas of green space are incorporated within the development to provide additional permeable area. Many properties have been selected to have permeable paving on the driveways. Drains go to surface water attenuation. The drainage design includes a 40% allowance for Climate Change and a discharge rate of 5l/s.
- The application offers a well-considered landscape proposal that includes a diverse range of green spaces and habitat creation; ranging from formal lawned gardens to wildflower meadows and additional trees

The above details are welcome, although are noted to be aspirational. A condition requiring the submission of definitive details is therefore recommended, to ensure reasonable inclusion of the identified measures (having due regard to the separate requirements of Building Regulations).

10.19 Regarding the social infrastructure currently provided and available in Gomersal (and nearby Cleckheaton and Birstall) (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. 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.

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

### Urban Design

10.21 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'.

10.22 The existing dwelling to be demolished, no. 271 Cliffe Lane, has no particular architectural merit and its demolition raises no concerns from a design perspective.

- 10.23 There is development to the east, west and south around the site, so the proposal would not appear as a rural extension (i.e., encroaching into open countryside). Nonetheless, the site is on the edge of the urban environment, where the environment is transitioning into the open rural environment to the north, with Ferrand Lane forming the edge to the Green Belt. Furthermore, as a sloped site the development would be visible from short- and long-distance vistas from Ferrand Lane and the open Green Belt to the north. Inevitably, the development of the site from greenfield to a residential estate would have notable impacts upon the appearance of the environment; therefore, a considered design is required.
- 10.24 The layout of the development has largely been determined by the natural features of the site, specifically its topography and existing tree planting. The access road has been designed as much as possible to follow the contours of the land and, along with avoiding unduly steep sections, largely dictated by the shape of the land. Despite this, the proposed layout reflects a typical modern residential estate with a main estate road, with several branching private drives, that dwellings would front onto. Dwellings are well sites within their plots, giving suitable separation to the highway and appropriate side to side spacing. Some portions of the site have a higher concentration of front parking spaces; however, these are not unduly common and are suitably broken up by front landscaping.
- 10.25 The dwellings are to be a mix of two storeys, split level two / three storey properties, and three storeys, with the apartment blocks being three storeys. Dwellings in the area are varied in height, predominantly two storeys but with bungalows being commonly evident along Cliffe Lane. The proposed two-storey units would reflect the predominant character of the area. In terms of three storeys, a nearby modern estate (early 2000s) built on the former Gomersal Mills site includes a similar presence of three-storey properties. Therefore, those proposed would not be without context in the area. Regardless, set within the site with limited public views that would see the existing built environment alongside that proposed, neither the proposed three-storey apartments or dwellings are anticipated to appear unattractive or out of keeping in the established built environment in terms of their height or scale.
- 10.26 Architecturally the dwellings have a typical contemporary vernacular that is not unattractive. The architectural design of dwellings in the area is varied, resulting in no defined character or characteristics; in such a setting, the typical modern attractive vernacular of the proposed units would appear suitably high quality and attractive, while harmonising with the established built environment.
- 10.27 Walling materials are to include a mix of artificial stone, red brick, and render. The red and render brick would be predominant, with the artificial stone used at key points / lines of sight. Roofing would be grey concrete tiles. Examples of all these materials are evident in the area, and their inclusion and distribution as proposed would not cause the development to appear incongruous and there is no objection to their use. However, suitable quality materials must be used: a condition is recommended for samples to be reviewed by officers.

- 10.28 Retaining walls are to feature throughout the site, typically ranging between 0.2 to 2.0m, although in the south-east corner these would rise up to circa 4.5m (to the north of plots 79, 80, 88, and 89). Their inclusion is necessitated by the varied and sloping ground level within the site. While they would be prominent when within the development, more so than being visible from the wider area (i.e., views from outside the site), they would be kept to a minimum when viewed from the road / public vistas as they are typically between and to the rear of plots. The largest wall, as noted above, would face north towards the Green Belt, however would be near to the existing tree-belt that is to be retained, limiting its prominence. As such, the proposed extent of retaining walls is concluded to not be detrimental to visual amenity. However, facing materials for the retaining walls have not been provided: a condition for such details, to be approved by officers, to ensure those that are visible are built in a suitably attractive way, is recommended.
- 10.29 The proposed boundary treatments are typical for a modern development, including 1.8m high timber fencing to rear gardens and low fencing and/or planting to the fronts. Where rear garden boundaries front towards the new road, in most places the use of solid brick walling is proposed as a higher quality finish. This is welcomed in principle; however, several omissions are currently shown. This includes to plot 31 and 39, where fencing is proposed, along with uncertainty over the fencing atop retaining walls. This should also be considered in the context of comments in paragraph 10.44. The submitted details demonstrate that an attractive boundary treatment is feasible, however a condition for final details is recommended.
- 10.30 The development proposes the removal of six individually surveyed trees, six groups of trees and six hedgerows. Of these, two were category B (moderate quality), 15 were marked at category C (low quality) and one category U (worst quality). This includes one TPO tree, identified as T9, which is an early-mature oak. The removal of these trees is considered necessary to facilitate the development. Officers have worked with the applicant to consider whether T9 could be retained, however, by virtue of the extensive engineering works required around the site, it is not considered feasible without unduly preventing development on a sizable portion of the site and having knock-on impacts for the levels through the site. This notably includes the retention of T34, another TPO tree in the centre of the site which is proposed to be well-integrated into the proposal, being a central feature within the site. The retention of T34 creates a 'no change' zone for levels, which has implications across the site.
- 10.31 Notwithstanding the retention of T34, the loss of the other trees is a negative of the proposal, the weight of which must be considered in the context of the proposal's various benefits (including providing housing at a time of need) and the mitigation proposed. A condition for an Arboricultural Method Statement is recommended to ensure appropriate process when working near trees is followed, along with requiring the development be done in accordance with the Arboricultural Impact Assessment and limiting additional tree works without prior approval.
- 10.32 In mitigation, the proposal includes a comprehensive landscaping strategy through low level planting and trees. This includes the planting of 95 standard sized trees (and an additional 57 featured trees (smaller / younger than standard)). New trees are proposed adjacent to the highway throughout the layout (but not within it), anticipated to create an attractive green environment.

In addition, the proposal includes circa 6000sqm of public open space, including circa 800sqm in the site's centre to host T34. A condition for a fully detailed landscaping strategy, to include management and maintenance details is recommended. The S106 will also include a clause to secure the perpetual management and maintenance arrangements.

- 10.33 The applicant has demonstrated that careful consideration has been given to the shape, massing, and design of the dwellings, including their roof forms. The design of the units and wider site has had to balance several constraints, including reducing the reliance on retaining walls, keeping the heights of units to a minimum, and harmonise with the established built environment. The result of this is evident in the varied number of housing types, many of which have tailored designs to respond to different parts and challenges of the site. the loss of various trees on site (including one benefiting from a TPO) is a negative of the proposal, however the proposed landscaping is high quality and, on balance, cumulative with the other benefits of the proposal, deemed acceptable.
- 10.34 In summary, the proposed works would notably change the character and appearance of the site and wider area, while being visible from across the valley. Nonetheless, the proposed development is deemed to be designed to a high standard. The proposal would represent an attractive continuation of the residential environment, while appropriately transitioning to the rural landscape to the west. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the Kirklees Local Plan, and Chapter 12 of the NPPF.

#### The historic environment

- 10.35 Policy LP35 confirms that development proposals affecting a designated heritage asset (or an archaeological site of national importance) should preserve or enhance the significance of the asset. In cases likely to result in substantial harm or loss, development will only be permitted where it can be demonstrated that the proposals would bring substantial public benefits that clearly outweigh the harm. This reflects the requirements of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which require the local planning authority to have special regard to the desirability of preserving the heritage value of identified heritage assets, including their setting or any features of special architectural or historic interest which they possesses.
- 10.36 The site is situated to the west of the Gomersal Conservation Area, with the site's north-east corner close to the corner of the Grade II listed Gomersal Methodist Church burial ground which is within the conservation area. The listed building is bounded by a low stone retaining wall. Bawson Cliffe, a non-listed although high quality historic building considered to be a non-designated heritage asset, is sited due west of the proposed access.
- 10.37 The Gomersal Conservation Area does not have an area appraisal; however, the applicant's heritage impact assessment summarises the area's heritage value as *'the Conservation Area's character derives mainly from its building stock and less from its spatial or landscape qualities. Principal appreciation of the Conservation Area is thus along the Oxford Road and West Lane. There are some long-range views from the east which help to confirm the agricultural origins of the settlement and the general character of the area. By contrast,*

*views from the west, across the development site, are limited by intervening later housing development and add little to the appreciation of the settlement's character'. For the listed church, the report likewise identifies that its heritage value stems from its architectural form and appearance, and that 'Nothing within the development site or beyond adds to the appreciation and/or understanding of either the chapel or its graveyard'. K.C. Conservation and Design concur with the above assessments.*

- 10.38 Considering the proposal's impact on the identified heritage assets, the application site is outside of the conservation area, and the non-designated and listed building's curtilages, therefore having no direct impact. In terms of their settings, views of the new development and the church, buildings within the conservation, and adjacent Bawson Cliffe would be limited. Given the assessment undertaken above, officers concur that the development would not materially prejudice the identified assets or their respective heritage value.
- 10.39 The proposed development would have a neutral impact upon the identified heritage assets, causing no harm and therefore complying with the aims of Policy LP35 of the Kirklees Local Plan.

#### Residential amenity

- 10.40 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.
- 10.41 There are existing residential properties to the east (Cliffe Mount), south (Cliffe Lane), and west of the site (unnamed track).
- 10.42 All separation distances between the new dwellings and to third party dwellings meet or 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). Furthermore, the proposed dwellings are to be built on a lower land level, reducing their visibility and prominence when viewed from the neighbouring dwellings, further negating concerns of potential harm from considerations such as overlooking, overbearing, or overlooking.
- 10.43 The proposed three storey dwellings are predominantly centred within the site, away from neighbouring, lower properties. The exception to this is plots 63 – 66, although these would be split level, and have two storeys to their rear, effectively being two storeys when seen from the east (Cliffe Mount). The properties to the south of these plots would see plot 63's side elevation, that would appear three storeys, although as noted above it would be built on a lower land level: therefore, again, its prominence and massing would not be evident and minimise any potential harm caused.
- 10.44 Numbers 287 – 313 Cliffe Lane are bungalows that back onto the site. Each of these have limited rear garden space, with the smallest being circa 4.8m from the rear of the property to the site's boundary. As noted above, officers consider the dwelling-to-dwelling separation distances to be acceptable. However, at present, there would be a landscaped buffer zone between the rear gardens of the identified dwellings on Cliffe Lane and plots 53 – 62. Despite this, the applicant is proposing a 1.8m high close boarded fence on

the boundary to the properties on Cliffe Lane. Ultimately, this fence (or one up to 2m) could be erected without planning permission. However, a more sensitive boundary treatment would be appropriate, potentially designed in consultation with existing residents. Therefore, a condition for an updated boundary treatment is recommended to allow the applicant to consider this matter further. However, for the avoidance of doubt, if the applicant intends to progress with a 1.8m close boarded fence, officers could not reasonably object to this.

- 10.45 Regarding noise pollution, residential uses adjacent to each other are considered compatible and there are no concerns of noise pollution from dwellings. However, the proposal does include the provision of a Local Equipped Area of Play (LEAP). Guidance seeks a minimum of 20m between the activity zone of a LEAP and the habitable room facade of dwellings: this would be achieved (for both existing and proposed dwellings).
- 10.46 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.
- 10.47 In summary, officers are satisfied that the development would not materially prejudice the amenity of existing neighbouring dwellings.
- 10.48 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.49 The sizes of the proposed residential units are a material planning consideration. While scale is a reserved matter, layout is a consideration with the applicant providing building footprints and a schedule of accommodation for assessment. Thus, proposed floor spaces are known and accessible. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 10.50 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	Number of units	Proposed (GIA, sqm)	NDSS (GIA, sqm)
AT_W / 1-bed*	1	67	39
AT_X / 2-bed*	3	67	61
AT_Y / 1-bed*	10	51	39
S_AT_Z / 1-bed*	1	39	39
HT_A2 / 2-bed	20	80	70
HT_B2 / 3-bed	11	95	74
HT_C2 / 3-bed	2	107	74
HT_D3 / 3-bed	8	139	74
HT_D4 / 4-bed**	6	139	90
HT_E2 / 2-bed**	4	95	70
HT_F2 / 4-bed	4	125	90
HT_G2 / 4-bed	1	117	90
HT_H2 / 4-bed	5	152	90
HT_I2 / 4-bed	4	126	90
HT_M1/3 /3-bed**	13	133	74
HT_N2/3 / 4-bed**	4	150	90

\* Apartments

\*\* Three storeys

- 10.51 All units meet or exceed the NDSS standards. All would have well-proportioned habitable rooms that are served by good sized windows that provide a clear outlook and level of natural light. The council does not hold policies relating to garden sizes: nonetheless, officers are satisfied that garden sizes are commensurate in scale to their respective host dwellings and overall, the proposed dwellings would offer a suitable standard of amenity for occupiers.
- 10.52 The separation distances within the site, between the new dwellings, are appropriate, raising no issue regarding overbearing, overshadowing, or overlooking between future residents.
- 10.53 Public Open Space in excess of 6000sqm, consisting of amenity green space, natural / semi-natural green space, and a Local Equipped Area of Play (LEAP) (details of the LEAP and its implementation recommended to be secured by condition) would be provided on site and would contribute to the amenity of future residents, as well as those in the area. This is a sizable provision, although it does not account for all required typologies (excluding allotments, parks and recreation, and outdoor sport). To offset the shortfall a contribution of £112,855 is required, to be spent in the local area. While not on-site, the support to local facilities would indirectly support new and neighbouring residents.
- 10.54 The application is supported by an Acoustic Report which has been reviewed by K.C. Environmental Health. This identifies that the ambient noise climate across the application site is associated with distant road traffic noise and is relatively low. A scheme of sound insulation works been developed to protect the proposed residential development from the ambient noise climate. This is considered acceptable, and a condition requiring the development done in accordance with the submitted report is recommended. Subject to these conditions the proposed development would not suffer from undue noise levels, in accordance with Local Plan Policy LP52.

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

#### Highway

- 10.56 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.
- 10.57 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*

- 10.58 First considering traffic generation, the proposal of 97 dwellings is expected to generate the following movements:

	<b>Arrival</b>	<b>Departure</b>	<b>Two-way</b>
<b>AM Peak</b>	8	51	59
<b>PM Peak</b>	38	23	61

- 10.59 The above represents an average of roughly 1 vehicle movement per minute attributed to the site in the peak hours (therefore being lower at other, non-peak times).
- 10.60 In terms of traffic distribution, the applicant has undertaken an assessment of the proposal's anticipated impact on local junctions. The junction capacity assessments have demonstrated that the impacts of the proposed development upon the operation of the local highway network are likely to be negligible and that all junctions would continue to operate with reserve capacity except for the A643 Spen Lane/A651 Oxford Road/A643 Church Lane signal-controlled junction which already operates over the threshold of practical capacity and close to absolute capacity. While this is noted, given the scale of the proposal and limited attributed traffic, it is not considered reasonable for this development to attempt to address an existing situation that it will not materially contribute to.
- 10.61 Including having due regard to other anticipated developments in and around the area, the proposal is not anticipated to materially affect the capacity of the local network and junctions.

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

*Point of access, internal highway layout, and parking*

- 10.63 The proposed access point onto Cliffe Lane (via the demolition of no. 271 Cliffe Lane) and the internal road layout has been reviewed by K.C. Highways who consider it to be acceptable. It is deemed to comply with the standards of the Highway Design Guide SPD. Furthermore, based on the available details, there is no prohibitive reason preventing a road scheme for adoption being brought forward at Section 38 stage.
- 10.64 All dwellings would have a level of dedicated off-road parking in accordance with the Highway Design Guide SPD. Garage spaces are a minimum of 3m x 6m, therefore able to accommodate a vehicle. The provision of these parking facilities is recommended be secured via condition.
- 10.65 In terms of visitor parking, the Highways Design Guide recommends one per four dwellings. This amounts to 24 dedicated spaces, with the proposal including 23 dedicated parking bays. While this falls short of the required standards, the shortfall is minimal and all dwellings would have sufficient private parking. Opportunities for on-street parking, without blocking turning areas, are also anticipated to be available.
- 10.66 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several shared private drives are proposed – each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste collection areas would be secured by recommended conditions. All units are shown to have adequate space for the storage of three waste bins in their rear gardens.
- 10.67 New retaining walls will be required. These will be within the site and adjacent to the existing highway. Therefore, a condition requiring technical details, to ensure they are an appropriate standard and do not affect the public highway, is recommended.
- 10.68 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*

10.69 Policy LP20 of the Kirklees Local Plan states:

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

10.70 The application is supported by a Framework Travel Plan which provides initial review and proposals relating to promoting sustainable travel methods.

10.71 At the local level walking is the most important mode of transport which can replace short car trips which contribute to congestion and pollution. Walking is the most sustainable form of transport which gives people a greater connection with their surroundings whilst also reducing pressure on the environment. The entire village of Gomersal can be reached within the preferred maximum walking distance of 2km as well as parts of Cleckheaton including the town centre to the west and Birkenshaw to the north. Within a 1km walking distance of the site, the following local services and amenities are available:

- Gomersal Local Convenience Store – 140m
- Morrisons Daily and Post Office – 475m
- Sainsbury's Local – 950m
- St. Mary's CE Primary School – 1000m

10.72 The provision of the new active travel connections to PROW SPE/56/10 through the site would also be of benefit to the wider public by improving local connectivity, the design and provision of which may be secured via condition.

10.73 Regarding bus connections, the site is well connected to the bus network. The closest bus stops to the site are located along the A643 Spenn Lane and A651 Oxford Road at a distance approximately 475m from the site vehicle site access onto Cliffe Lane, and pedestrian access onto Ferrand Lane, respectively. Oxford Road is part of the Core Bus Network (as identified in the WY Bus Service Improvement Plan). Bus stops are present on Cliffe Lane, which used to be served by 255 (Halifax – Leeds) although this is noted to not currently be in use. Nevertheless, officers are satisfied that the site has potential for public transport trips to destinations including Leeds, Dewsbury, Cleckheaton and Dewsbury which all allow for further onward connections to be made

10.74 Notwithstanding the above, to promote the use of the bus network, the following contributions are sought to be included within the Section 106 agreement:

- £44,500 towards Metro Cards (or similar)
- £26,000 towards bus-stop improvements

10.75 With regard to other methods of travel, opportunities for cycle improvement in the area are limited. Nonetheless, the provision of cycle storage facilities and electric vehicle charging points (EVCP), one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel

- 10.76 The applicant has submitted a draft travel plan to support the application. This identifies possible measures to influence the behaviour towards more sustainable methods of travel. These include providing up-to-date information on measures such as bus timetables, where to access up-to-date real time bus times, local car share schemes, the potential impact of working from home opportunities and the impact of online shopping in reducing travel. 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 condition. A Travel Plan monitoring fee of £10,000 (£2,000 per annum, for five years) would be necessary, to ensure the effective implementation of the Travel Plan, and this would be secured via a Section 106 as part of this outline application.
- 10.77 The site is considered to be within a sustainable location. Furthermore, it would directly link into the PROW network as well as a contribution towards public bus infrastructure. Other conditions relating to cycle storage and EVCP are proposed. As such, the development is deemed to comply with the aims of policy LP20.

#### Drainage and flood risk

- 10.78 The application is supported by a Flood Risk Assessment that includes a surface water drainage strategy. This has been reviewed by K.C. Lead Local Flood Authority (LLFA).
- 10.79 First considering flood risk, the site is wholly within Flood Zone 1. There are no nearby flood sources which may be a risk for the development. A small watercourse runs to the north of the site (unnamed, connects onto Nann Hall Beck, which is a tributary to the River Spen) although the intervening topography and level differences between the site and watercourse prevents any risk of flooding onto the site associated with the watercourse.
- 10.80 Considering surface water arrangements, the applicant has followed the drainage hierarchy in reaching their proposed discharge point. Due to ground conditions and topography, infiltration has been ruled out. However, the site is adjacent to the above-mentioned watercourse to the north of the site. It is proposed to discharge to this watercourse, via gravity. Attenuation is to be provided via a subterranean attenuation tank, with the capacity and other features designed such that there is no external flooding for the 1 in 30-year event, and all flows are retained on site for up to the 1 in 100-year event plus climate change. The discharge is to be restricted to the greenfield equivariant rate of 16.1l/s. These arrangements have been reviewed by the LLFA and are supported, subject to full technical details being provided via condition.
- 10.81 The applicant has submitted a flood water exceedance event plan which demonstrates how water would flow in the unexpected event that the surface water drainage system fails. This would direct water into the highway, away from dwelling houses and avoiding their domestic curtilages wherever possible. No flood water would be directed towards 3rd party dwellings.
- 10.82 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.

- 10.83 Foul water from the proposed development would discharge to the existing combined sewer on Cliffe Lane. Due to being at a higher level, this would necessitate a foul water pump. This proposal has not attracted an objection from Yorkshire Water and is considered acceptable.
- 10.84 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

- 10.85 Policy LP30 of the Kirklees Local Plan states that the council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.86 The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. Overall, the site is limited in its ecological value, being dominated by areas of poor-quality modified grassland, with some areas of bramble scrub, trees and hedgerows providing heightened interest, in the context of the site only. This hedgerow is, however, to be retained (and strengthened) as part of this proposal. From the suite of protected species surveys undertaken at the site to support the application, the proposed development is predicted to have no significant impacts on any ecological receptors, subject to suitable mitigation measures, which can be delivered through appropriately-worded planning conditions.
- 10.87 No invasive plant species were identified on site.
- 10.88 Local species have also been considered. Of note, while the site hosts a pond, the presence of Great Crested Newts has been discounted following survey work. A bat (common pipistrelle) roost has been identified in 271 Cliffe Lane. Compensatory measures have been recommended and additional bat roosting features are proposed to be incorporated throughout the scheme will allow for an enhancement in roosting at the site. This is considered acceptable and may be secured via condition.
- 10.89 A condition for an external lighting strategy, to ensure no harm through poorly designed lighting is recommended.
- 10.90 A condition for a Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) is recommended, to ensure construction activity is managed in an appropriate way that causes no undue harm to local habitat and species. Likewise, a condition for an external lighting strategy, to ensure no harm through lighting, particularly towards the ancient woodland, is recommended.
- 10.91 This application pre-dates the mandatory 10% Biodiversity Net Gain imposed by the Environment Act 2021. Nevertheless, policy LP33 of the Kirklees Local Plan requires that a development secures Biodiversity Net Gain. Therefore, to support this proposal, a Biodiversity Net Gain calculation has been undertaken using the DEFRA Metric v3.1. The submitted metric states that the development would result in 11.41% net gain in habitats and a 35.1% net gain

in hedgerows. This level of net gain is welcomed (without needing an offsite contribution) and ensures that the development would be able to provide an enhancement over the current situation. Several other enhancement measures can also be incorporated into the scheme in order to ensure that provisions for protected species are realised, post-development. A condition for an Ecological Design Strategy, to detail the net gain and other ecological improvement delivery, is recommended along with their management and maintenance being secured within the Section 106 agreement, for a minimum of 30 years.

- 10.92 It should be noted that the above figures are based on an outdated site layout plan. At the time of writing, the applicant is reviewing their metric calculations. Should the above figures fall below 10% net gain, this shall be noted to members within the update.
- 10.93 Subject to the recommended 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

- 10.94 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:
- 10.95 The following represents a policy-compliant set of Section 106 obligations for the proposal:
- **Affordable Housing:** 19 units (20%), consisting of 10 (55%) as affordable rent, 5 first homes (25%), and 4 (20%) as other intermediate.
  - **Public Open Site** (off-site contribution): £122,855 to enhance local open space to be utilised by residents.
  - **Education:** £150,705 to support local schools facilitate the development
  - **Sustainable Travel:** £80,500.50 (£26,000 shelter and real time improvements, £44,500.50 Mcards, £10,000 Travel Plan monitoring).
- 10.96 Section 106 obligations that would be required regardless of the financial contributions include the provision of the site's on-site Public Open Space and management / maintenance arrangements for the drainage (prior to adoption), management for the culvert, open space, and ecological features.
- 10.97 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if a full suite of Section 106 financial planning obligations were imposed upon them. The Government's planning practice guidance provides the following overview of the Viability Assessment process, for context:

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

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

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

- 10.98 The applicant's viability assessment has been reviewed by an independent viability assessor (Align) appointed by the council, to advise officers on this specialist subject. The key matters of dispute identified by Align are as follows:
- A 1.51% increase is anticipated sales value (generating £454,000)
  - Abnormal Development costs decreased by £305,000.
  - External costs decreased by £469,756
  - Contingency allowance decreased from 5% to 3%
- 10.99 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard is had to the individual characteristics of that scheme.
- 10.100 In this case, bearing in mind the site's risks (topography, abnormal etc), a profit level of 17.5% has been agreed as appropriate.
- 10.101 Utilising the above variations in calculation to inform their conclusion, Align accept that the scheme cannot provide a full policy-compliant set of contributions. A reduction is therefore needed for the scheme to be viable. Based on their professional assumptions, Align advise that the scheme can fund all non-housing financial contributions and provide £1,628,149 towards affordable housing on-site, which the applicant has agreed to.

10.102 Officers have reviewed the council's Affordable Housing and Housing Mix SPD, to determine the most effective use of this fund. Based on this, the following affordable housing package has been agreed with the applicant:

- **Affordable rent:** 7 units (x5 1-bed apartments, x2 2-bed apartments)
- **First homes:** 5 units (x3 2-bed houses, x2 3-bed houses)
- **Other intermediate:** 4 total (x2 2-bed house, x1 3-bed house, x1 4-bed house)

The above adds to 16 affordable units, or 16.5% affordable units (whereas policy would seek 19 units / 20%), and represents what officers consider to be the most effective and efficient use of the identified surplus £1,628,149, having due regard to identified local needs.

10.103 In terms of the specific plots, the Local Plan requires that affordable units are the same quality and indistinguishable from market units. In this case, the applicant does not have an 'affordable' range of house-types, with those proposed being the same as the market units. Their proposed locations are considered reasonably spread through the site. It is noted that the 7 affordable rent units would all be apartments. With 15 apartments proposed, across two blocks, circa 50% would be affordable. These are proposed to be split 3/4 across the two blocks, which is deemed suitably spread.

10.104 The above reduced affordable housing offer would be in addition to all other policy expected contributions, which are repeated below for convenience:

- **Public Open Site** (off-site contribution): £122,855
- **Education:** £150,705
- **Sustainable Travel:** £80,500.50 (£26,000 shelter and real time improvements, £44,500.50 Mcards, £10,000 Travel Plan monitoring).

#### Other Matters

##### *Air quality*

10.105 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 site is not within an Air Quality Management Area, nor near to any roads of concern, although the district's Air Quality Management Area 4 (AQMA) is located circa 1km to the north.

10.106 The traffic flows attributed to the development which are predicted to go towards the AQMA are below the required thresholds set out within the WYLES guidance, therefore raising no concern. Regarding the site itself, Monitoring data provided by Kirklees Council, DEFRA background maps and other emissions sources were reviewed to assess the exposure of future sensitive receptors across the proposed development site. It showed that annual mean pollutant concentrations are below the air quality objectives within AQMA 4. It is therefore predicted that Nitrogen Dioxide (NO<sub>2</sub>) and PM concentrations (a measure of the amount of particulate matter in the air) are expected to be below the respective air quality objectives at all locations across the development site, which is located 300m from the A651 and A643, which are major sources of vehicle emissions. The report goes on to say that local roads such as Cliffe Lane and Ferrand Lane are not considered to significantly contribute to road vehicle emissions.

- 10.107 Given the above, the proposal is not anticipated to cause material harm to local air quality which requires a financial contribution. However, on-site mitigation is required, including the provision of EV charging for all dedicated parking, a travel plan promoting alternative mode of travel, and dust mitigation during the construction phase, each of which may be secured via condition.
- 10.108 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, in accordance with policy LP51 of the Kirklees Local Plan.

#### *Contamination*

- 10.109 In accordance with 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 its proximity to a historic landfill. The application is supported by Phase 1 (desktop) and Phase 2 (site investigation) Contaminated Land reports which have been reviewed by K.C. Environmental Health.
- 10.110 The Phase 1 report's conclusion has been accepted; however, the Phase 2 report provides inadequate assessment relating to ground gas and other technical matters for K.C. Environmental Health to support the conclusion. Accordingly, K.C. Environmental Health recommend conditions relating to further ground investigations and the re-submission of the Phase 2 report. Subject to the imposition of these conditions, officers are satisfied that the proposal complies with the aims and objectives of Policy LP53.

#### *Coal legacy*

- 10.111 The application site falls within the defined Development High Risk Area, where there are underground coal mining features and hazards that may pose a risk to development. The application is supported by a Coal Mining Risk Assessment which has been reviewed by the Mining Remediation Authority.
- 10.112 In summary the Mining Remediation Authority advise that '*the development layout has clearly been designed around both of the recorded mine entries and their respective zones of influence and subject to the imposition of a planning condition to ensure the recommended remediation, the Coal Authority has no objections to this planning application*'.
- 10.113 In line with the MRA's conclusion, officers recommend that the requested conditions be imposed. Subject to this, the proposal is considered to be compliant with Local Plan policy LP53.

#### *Crime Mitigation*

- 10.114 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. A condition for a lighting strategy for private areas (i.e., shared driveways that won't benefit from street-lighting) is recommended. Subject to this, the proposal is considered to comply with policy LP24(e).

## *Minerals*

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

## Representations

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

## Urban Design

- *The Crime Prevention Report notes that trees should have their branches 2m above the ground and that public areas should be lit: this will erode local character and harm local species.*

**Response:** Planning requires the balance of various material planning considerations. The reference to 2m branch clearance is general advice offered by the Council's Crime Mitigation Officer but does not form part of this application and is not to be secured by officers. A condition for an ecological lighting strategy is recommended.

- *Bawson Cliffe is identified as a Victorian Villa in the submitted heritage document. This is disputed, and is noted to be Georgian by the objector, who contends that the proposal, particularly the three-storey properties included, will harm its setting and heritage value.*

**Response:** Bawson Cliffe is not a designated heritage asset (i.e., listed), although has heritage value and may be considered a non-designated heritage asset. The claimed error in the applicant's heritage impact assessment is noted, however, would not fundamentally change how the application has been assessed. Bawson Cliffe is positioned within a sizable curtilage and is separated from the site by the route carrying PROW SPE/56/10. While elements of the proposal would be visible alongside Bawson Cliffe, these would be at some distance and set back, including the three-storey properties. Officers are satisfied that Bawson Cliffe's heritage value would not be eroded or harmed by the proposal.

- *While the site is not Green Belt, it is next to the Green Belt and will bring the urban areas to the fringe of the Green Belt.*
- *Expectation for a buffer zone between the site and Ferrand Lane.*

**Response:** A landscaped buffer zone, plus Ferrand Lane, would separate the development from the Green Belt, allowing for a suitable transition between the built environment and the open Green Belt land.

### Amenity

- *The development, including its associated traffic, will result in harmful noise pollution.*

**Response:** Noise from cars at residential properties is not considered a materially significant noise pollutant which needs to be formally assessed or controlled.

- *There are insufficient amenities, parks and facilities for local children.*

**Response:** The proposal includes the provision of a Local Equipped Area of Play on site and includes a financial contribution towards other local public open space, in accordance with policy. Beyond this very limited weight could be attributed to this concern on the planning balance.

### Highways

- *Clarity is required on what will happen to the Public Right of Way on Ferrand Lane.*
- *Traffic should not use Ferrand Lane, which is unmade, muddy, and not suitable for more vehicle movements.*
- *The proposal includes pedestrian access onto Ferrand Lane. Ferrand Lane is unadopted and unlit, without a pavement, and is currently only fronted by 5 dwellings. Sightlines on the lane are limited due to its narrowness and hedgerows. The lane is subject to commercial traffic by way of heavy goods vehicles and other traffic generated by the Scout's activity centre. This access proposition poses significant risk to pedestrians.*
- *Questions over the number of accesses onto Ferrand Lane, with an indicated preference to one and no vehicle access.*

**Response:** Ferrand Lane and the unnamed track to the west of the site hosts PROW SPE/56/10. This would not be changed by the proposal, bar the proposed two connection points, technical details of which (to ensure they are suitable) are recommended to be secured via condition. The connections are welcome, complying with the general principle of supporting pedestrian movements. While the proposal would likely result in an increase in pedestrian movements of the PROW, they are not expected to be significant, given that there are limited amenities which it directly leads to, nor represent a safety concern. No vehicle access or movements are proposed on Ferrand Lane as part of the proposal.

- *The submitted highway documents under consideration relate to 87 units, not 97.*
- *The Road Safety Audit undertaken relates to the original 87-unit scheme, not the proposed 97 units, nor does it take into account take into account the vehicles that will use the access road into the site from Heathfield which currently use the lane adjacent to the house 271.*

**Response:** While this is noted, the level of traffic attributed to an additional ten dwellings plus those at the Heathfield site would be minimal and would not affect the required geometry of the road, therefore not invalidating the assessments undertaken.

- *The Road Safety Audit notes that large refuse vehicles may cause encroachment onto the onto the opposing traffic lanes of Cliffe Lane*
- *To achieve the required visibility splay into the site, the applicants wish to narrow Cliffe Lane which will, if approved, create major problems for all traffic.*
- *The proposed access is unsuitable, being not fit for purpose, particularly for larger vehicles.*

**Response:** The refuse vehicle encroachment is noted; however, it would be minimal and would not be unusual. For a once-a-week / limited event, would not materially prejudice safety. Regarding the proposed access works, the access has been assessed by K.C. Highways to be safe and appropriate. Road narrowing would be required, but would ensure that a 6m wide carriageway would be maintained on Cliffe Lane. These works would be subject to a separate technical S278 process.

- *The local road networks are historic, with narrow junctions with poor sightlines. Putting more vehicles into this area is not safe.*
- *Traffic surveys should be undertaken during school days / hours. Those undertaken were only recorded vehicle movements in the periods of 0700 – 0915 and 1500 – 1845 on one day on Tuesday 28th March, and recorded 2,181 vehicle movements.*

**Response:** Traffic surveys are done during the peak hours for traffic, which these are. The 28<sup>th</sup> of March is not a holiday period. The methodology of the traffic surveys, and its findings, are considered acceptable by K.C. Highways DM. The assessment undertaken includes considering the capacity of location junctions, as detailed in paragraph 10.60.

- *Bus stops near to the site have had their services cut.*

**Response:** This is noted, however would not materially prejudice the assessment undertaken.

### *Ecology*

- *The submitted reports are inconsistent in regards to the hedge identified as H1. The agricultural report states it is to be retained whereas other plans are indeterminate. Also, uncertainty what is meant by 'hedge line', which is open to misinterpretation.*

**Response:** H1 is a hedgerow on the east boundary of the site which is proposed to be retained. A condition is recommended that the works be undertaken in accordance with the Arboricultural Impact Assessment which show it is to be retained, with an Arboricultural Method Statement also recommended for protection measures during construction.

## Drainage

- *The surface water is proposed to be discharged to a watercourse on third party land. This is disputed to be a watercourse, being called by the objector a 'ditch' and stating they will not allow any discharge.*
- *Concerns over inconsistency of the proposed surface water discharge rate, with different documents stating different numbers. This should be agreed with the land owner.*
- *The attenuation tank is proposed as geocell. This should be concrete instead, as they are more robust and simpler to maintain.*
- *A petrol interceptor should be included prior to surface water entering the attenuation tank, to avoid hydrocarbons entering the wider water catchment, as well as silt traps.*
- *The neighbouring Spen Valley District Scout Council were not approached or contacted during the applicant's pre-application engagement exercise.*
- *If access is needed to the Fanwood Scout Campsite (to facilitate the drainage arrangements), appropriate safeguarding would be needed.*
- *The development's drainage system would need to deal with any surface water runoff from Ferrand Lane, so this water is also captured and directed through the new system, as part of the agreed flow, along with other design considerations they deem necessary. This includes suitable long-term management and maintenance arrangements, and that the surface water outflow system is installed prior to houses being constructed.*

**Response:** The above comments were submitted when the application was originally received. Following their receipt, the applicant has confirmed that a meeting between land owners has taken place and an agreement has been made. Notwithstanding this, many of these matters relate to the technical design of the drainage which are recommended to be secured via condition. Other elements relate to land ownership, which would be a private matter between the parties involved.

## Other

- *The site is near to Fan Woods Scout Campsite. Residential development near to this will pose a security / safeguarding concern. Also, noise from the development will cause issues for the campsite.*

**Response:** There is considered no intrinsic security risk associated with the proposed development and this would form a private matter for the parties involved.

- *There is no Tesco superstore in Gomersal, as noted within the applicant's viability statement. There is a small Tesco in Birstall.*

**Response:** This is noted, although would not materially prejudice the assessment and outcome of the identified report.

- *Dispute the validity of the pre-application community engagement exercise undertaken by the applicant.*

**Response:** This is noted, although no evidence to substantiate the claim has been provided. Regardless, while pre-application community engagement is expected, it is not a statutory requirement which could weigh against the proposal.

- *Disagreement with national and local policy on the need for housing construction. Reference to research conduct by the London School of Economics and Political Science which is stated to suggest 'that there are better solutions than building new dwellings to solve the problems the UK housing market currently suffers.'*
- *New housing is harmful to the environment, with the objector stating 'Housing accounts for 17% of the UK's CO2 emissions, and new constructions, even those that are energy-efficient, have high material and embodied carbon costs and do not address the inadequacy and inefficiency of the existing housing stock'.*

**Response:** As set out in paragraph 10.1, planning decisions must be made in accordance with planning policy, as has been detailed throughout this assessment. For the reasons given, the proposal is found to comply with all relevant local and national policies.

- *There are dangerous gasses under the site, associated with coal mining, which should not be disturbed.*

**Response:** This is noted; however, the matter has been considered by K.C. Environmental Health and there are considered no prohibitive constraints to the appropriate development of the site. However, as detailed in paragraph 10.109 and 10.110, conditions are recommended for appropriate investigation and remediation measures.

- *The site is Green Belt and should not be developed. Brownfield sites should be developed prior to greenfield sites.*

**Response:** The site is not Green Belt and is allocated for housing in the Kirklees Local Plan. 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 proposal will increase demands on local amenities, such as schools and doctors, which are oversubscribed and struggling at present. This must be considered cumulative with various other developments expected or being built 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 affect land stability and result in foundational / ground damage to nearby dwellings. Insurance should be offered to existing residents.*

**Response:** This is considered supposition, with no evidence provided to substantiate the claim to carry weight at this planning stage. The matter of the site's coal legacy has been addressed in paragraphs 10.111 – 10.113, with the Mining Remediation Authority offering no objection to the proposal. Matters of insurance are not a material planning consideration. It is the applicant's responsibility to ensure a safe development and would be a private matter for the applicant consider.

- *The proposal will lead to an increase in anti-social behaviour on Ferrand Lane and in the wider area.*

**Response:** This is considered supposition and is not considered to weigh against the proposal.

## **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 proposal seeks the residential development of a housing allocation. While the density is below the typical target of 35 dwellings per ha, due to the site's constraints the proposed density is deemed reasonable, given the constraints on the site. Likewise, the housing mix is deemed appropriate. Therefore, the principle of development is deemed appropriate.
- 11.3 Site constraints including topography and trees, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. Across the various amendments, the design and appearance of the site has evolved to an acceptable position that would be attractive and 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 Viability issues have been demonstrated to prevent a fully policy-compliant suite of Section 106 obligations being secured, however a reduced contribution has been negotiated and agreed with the application which would assist in mitigating local impacts of the proposal. Officers consider this package of S106 obligations is justified for this scheme and site.

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. Sample facing materials to be provided (dwellings and retaining walls).
4. Local Area of Equipped Play details to be submitted, approved, and implemented.
5. Updated boundary treatment plan, to include consideration of boundary to numbers 287 – 313 Cliffe Lane, to be submitted, approved, and implemented.
6. Detailed landscaping with management and maintenance arrangements, to be submitted, approved, and implemented.
7. Arboricultural Method Statement to be submitted and approved. Works to be done in accordance with Arboricultural Impact Assessment, with no unidentified tree-works to take place unless further Arboricultural Impact / Method Statement approved.
8. Technical details of retaining walls to be submitted, approved, and implemented.
9. Mitigation to be done in accordance with Acoustic Report.
10. Construction Environmental Management Plan (CEMP), including dust mitigation measures, to be submitted, approved, and implemented.
11. Access to be constructed in accordance with approved plan.
12. Road condition survey to be submitted and approved.
13. Cycle store details to be submitted, approved, and implemented.
14. Waste storage facilities and shared collection points to be provided.
15. Temp waste collection strategy to be submitted, approved, and implemented.
16. Parking to be provided prior to occupation.
17. Updated Travel plan to be submitted, approved, and implemented.
18. Footpath connection details to SPE/56/10 to be to be submitted, approved, and implemented.
19. Drainage strategy details to be submitted and approved.
18. Flood routing details to be submitted and approved.
19. Temporary drainage arrangements during construction.
20. Construction Environmental Management Plan: Ecology (CEMP : Ecology) to be submitted, approved, and implemented.
21. Ecological Design Strategy to secure net gain and other ecological enhancements to be to be submitted, approved, and implemented.
22. Ecological lighting strategy to be to be submitted, approved, and implemented.
23. No site clearance within the bird breeding season (unless appropriate survey undertaken).
24. Electric Vehicle Charging Point (EVCP) charging strategy to be submitted, approved, and implemented.
25. Contaminated land investigation and remediation to be submitted, approved, and implemented (as required).
26. Coal legacy investigation and remediation to be submitted, approved, and implemented (as required).

## **Background Papers**

### Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023%2f92966>

### Certificate of Ownership

Certificate B signed.

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