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Wednesday 7 May 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 15 May 2025**.

(A coach will depart the Town Hall, at 10:00 a.m. to undertake site visits. The consideration of planning applications will commence at 1.00 pm in the Council Chamber.)

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

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

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

Samantha Lawton

Service Director – Legal, Governance and Commissioning

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

The Strategic Planning Committee members are:-

Member

Councillor James Homewood (Chair)
Councillor Bill Armer
Councillor Susan Lee-Richards
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

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
JD Lawson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of the Previous Meeting

1 - 4

To approve the Minutes of the meeting of the Committee held on 10th April 2025.

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.

4: Admission of the Public

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

5: Public Question Time

To receive any public questions.

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

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

6: Deputations/Petitions

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

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

7: Planning Applications

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 12th May 2025.**

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

8: Site Visit - Planning Application 2024/93458

Planning Application 2024/93458 - Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping (resubmission) land at Cliff Hill, Denby Dale, Huddersfield.

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

Estimated time of arrival on site: 10:25

9: Site Visit - Planning Application 2023/91564

Planning Application 2023/91564 - Erection of 30 residential dwellings, access, landscaping and associated works (full application) Land off Barnsley Road, Denby Dale, Huddersfield.

Ward affected: Denby Dale

Contact: Katie Chew, Planning Services

Estimated time of arrival on site: 10:50

10: Planning Application - Application No. 2024/93458

9 - 78

Planning Application 2024/93458 - Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping (resubmission) land at Cliff Hill, Denby Dale, Huddersfield.

Ward affected: Denby Dale

Contact: Victor Grayson, Planning Services

11: Planning Application - Application No. 2023/91564

79 - 118

Planning Application 2023/91564 - Erection of 30 residential dwellings, access, landscaping and associated works (full application) Land off Barnsley Road, Denby Dale, Huddersfield.

Ward affected: Denby Dale

Contact: Katie Chew, Planning Services

12: Planning Application - Application No. 2024/91503

119 -
126

Planning Application 2024/91503 - Modification of Section 106 agreement relating to previous permission 2015/92227 for erection of 19 dwellings (as amended by permission 2023/91259) - deletion of affordable housing requirement at 1 Row Street, Crosland Moor, Huddersfield.

Ward affected: Crosland Moor and Netherton

Contact: Louise Bearcroft – Planning Services

Planning Update

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

Contact Officer: Sheila Dykes

KIRKLEES COUNCIL

STRATEGIC PLANNING COMMITTEE

Thursday 10th April 2025

Present: Councillor James Homewood (Chair)
Councillor Bill Armer
Councillor Andrew Pinnock
Councillor Mohan Sokhal
Councillor Mark Thompson

Apologies: Councillor Susan Lee-Richards

1 Membership of the Committee

Apologies were received from Councillor Susan Lee-Richards.

2 Minutes of the Previous Meeting

RESOLVED –

That the minutes of the meeting of the Committee held on 6th March 2025 be approved as a correct record.

3 Declaration of Interests and Lobbying

Councillors Armer and Sokhal advised that they had been lobbied in respect of Application 2023/93667.

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 2023/93667

Site visit undertaken.

8 Planning Application - Application No: 2023/93667

The Committee considered Planning Application 2023/93667 in respect of the demolition of buildings and an outline application, including the consideration of access for vehicles into the site, for the erection of residential development (up to 261 dwellings), including redevelopment of Lodge Cottage and the Administration Building for residential use, two vehicular access points off Storthes Hall Lane, and associated works at Storthes Hall Student Village, Storthes Hall Lane, Kirkburton, Huddersfield.

Strategic Planning Committee - 10 April 2025

Under the provisions of Council Procedure Rule 36(3), the Committee received a representation from Councillor John Taylor.

Under the provisions of Council Procedure Rule 37, the Committee received representations from Heather Peacock (objector) and Mark Johnson (on behalf of the applicant).

The Committee was informed the Head of Planning and Development had agreed an amendment to the description of the application (as set out above).

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. Standard outline condition (submission of Reserved Matters)
2. Standard outline condition (implementation of Reserved Matters)
3. Standard outline condition (Reserved Matters submission time limit)
4. Standard outline condition (Reserved Matters implementation time limit)
5. Details of phasing to be submitted and approved
6. Development to be done in accordance with submitted plans
7. Reserved Matters (all) submission to include a report detailing proposal's impact on the Green Belt's openness
8. Reserved Matters (all) submission to include a report detailing climate change considerations within the design
9. Reserved Matters (layout, scale, appearance) submission to include details of housing mixture and sizes
10. Reserved Matters (all) submission to adhere to the stipulations of the parameters plan, unless explicitly justified (to allow reasonable flexibility).
11. Reserved Matters (all) submission to include crime mitigation strategy
12. Reserved Matters (all) submission to include updated Arboricultural Survey and Impact Assessment
13. Arboricultural Method Statement to be submitted and approved.
14. Limitations on development subject to public sewer easement, unless sewer diverted
15. Construction Environmental Management Plan
16. Construction Environmental Management Plan: Ecology
17. Contaminated land investigation and as appropriate remediation/validation works
18. Reserved matters (layout and landscaping) submission to be supported by up-to-date Ecological Impact Assessment.
19. Reserved Matters (layout and landscape) to include up-to-date net gain assessment
20. Ecological Design Strategy to provide details of how net gain to be delivered
21. Lighting design strategy to be submitted and approved

Strategic Planning Committee - 10 April 2025

22. Invasive species removal protocol to be submitted and approved
23. Site accesses to be implemented
24. Surfaces to be sealed and drained
25. Off-site Highway Works Implementation
26. Internal Estate Streets and Active Travel links to be agreed at Reserved matters stage
27. Footpath and active travel links into and with the site to be agreed at Reserved Matters stage
28. Highway Structures Conditions
29. Details of secure cycling to be provided
30. Electric Vehicle Charging Points to be provided
31. Fully detailed Travel Plan to be provided
32. Temporary and permanent waste collection arrangements to be agreed and implemented
33. Highway Condition Surveys and Remediation to be agreed and implemented
34. Technical drainage details, with management and maintenance arrangements, to be submitted and approved.
35. Soakaway testing to be submitted and approved.
36. Flood routing details to be submitted and approved
37. Temporary surface water management details to be submitted and approved
38. Submitted Air Quality Mitigation Measures to be implemented

Additional conditions relating to:

- Clear identification of which buildings may be demolished.
- Dedicated Demolition Construction Environmental Management Plan (CEMP)
- Construction Environmental Management Plan (CEMP) (Biodiversity)
- Arboricultural Impact and Method Statement

and a note confirming felling of Tree Preservation Order (TPO) trees not permitted until after Reserved Matters are approved.

(b) secure a Section 106 agreement to cover the following matters:

1. Affordable housing: 10% provision, by virtue of Vacant Building Credit, with a tenure split of 55% social or affordable rent and 45% intermediate housing (including 25% first homes), unless otherwise agreed at Reserved Matters stage;
2. Open space: Contribution to address any on-site shortfalls in specific open space typologies (to be calculated at Reserved Matters stage in light of on-site provision)
3. Education: Contribution towards education provision (to be determined at Reserved Matters stage, based on formular to be set within the Section 106 agreement).
4. Sustainable transport: £1,000,000 contribution towards the delivery of a bus service (£200,000 x 5 years), £64,000 towards 2x bus shelters with real time displays, £15,000 for Travel Plan monitoring, and a (£511.50 x final number of units) Sustainable Travel Fund contribution.

Strategic Planning Committee - 10 April 2025

5. Biodiversity Net Gain: Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain in the event that it cannot be delivered onsite.
 6. Management: The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including estate roads, open space, landscaped areas and surface water drainage until formally adopted by the statutory undertaker).
- (2) That, in the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution, the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; and, if so, the Head of Planning and Development be authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

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

For: Councillors Armer, Homewood, Pinnock, Sokhal and Thompson
(5 votes)

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

LOBBYING

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

Lobbying

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

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

PLANNING POLICY

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

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

National Policy/ Guidelines

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

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

REPRESENTATIONS

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

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

EQUALITY ISSUES

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

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

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

HUMAN RIGHTS

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

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

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

PLANNING CONDITIONS AND OBLIGATIONS

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

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

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

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

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

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

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 15-May-2025

Subject: Planning Application 2024/93458 Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping (resubmission) land at, Cliff Hill, Denby Dale, Huddersfield, HD8

APPLICANT

Paul Butler, PB Planning
Ltd c/o JGC (1980) &
Nick Go

DATE VALID

18-Mar-2025

TARGET DATE

17-Jun-2025

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Denby Dale

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £1,750.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £51,606.94 Sustainable Travel Fund contribution; ii) submission, approval and implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate roads and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Maintenance, management and monitoring measures for a 30-year period in relation to biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

All contributions are to be index-linked.

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

1.0 INTRODUCTION

1.1 This application for full planning permission is presented to Strategic Planning Committee as a significant number of representations contrary to the case officer's recommendation for approval have been received.

1.2 A previous application (ref: 2022/91911) for a residential development of 48 dwellings was refused on 21/03/2023 in accordance with the Heavy Woollen Planning Sub-Committee's resolution of 16/03/2023.

- 1.3 A second application (ref: 2023/92191) for a residential development of 62 dwellings was refused on 23/07/2024 in accordance with the Strategic Planning Committee's resolution of 20/06/2024.
- 1.4 An appeal (ref: APP/Z4718/W/25/3359129) against the refusal of application ref: 2023/92191 has been submitted to the Planning Inspectorate, but has not yet been determined.
- 1.5 The current application (ref: 2024/93458) is essentially a resubmission of application ref: 2023/92191, with new information relating to site stability, construction management and Biodiversity Net Gain.
- 1.6 Of note, an appeal and an application for identical proposals can be considered concurrently (by the Planning Inspectorate and the local planning authority, respectively). Furthermore, there is no barrier in planning law that would prevent the council determining the current application before the ongoing appeal is determined. The Government expects planning applications to be determined without delay, regardless of whether an appeal is concurrently under consideration.
- 1.7 The previous (ref: 2023/92191) and current (ref: 2024/93458) applications were submitted by different applicants. In this committee report the term "the applicant" indicates the party responsible for submitting whichever application is being referred to.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site lies to northeast of Cumberworth Lane, to the west of existing dwellings on Leak Hall Crescent, and to the northwest of existing dwellings on Springhead Gardens. The application site is undeveloped, grassed agricultural land, and forms part of the northern edge of the village of Denby Dale. To the north of the application site is the Green Belt.
- 2.2 The application site slopes downhill from north to south, and measures approximately 1.9 hectares in size. A public footpath (DEN/61/10) runs along its northwestern boundary, beyond which there is further grassland and trees. The application site has a narrow street frontage between existing buildings on Cumberworth Lane. Although land directly to the south is also grassed, most land to the south is residential in character. Due to its hillside location and surrounding topography, the application site is visible from several vantagepoints to the south, and from trains passing over the railway viaduct to the west.
- 2.3 The application site comprises the majority of site allocation HS144 (allocated for residential development in the Kirklees Local Plan). Springhead Gardens, a parcel of land to the south of the application site, and a further parcel to the north of Leak Hall Crescent are within the same site allocation. The application site also includes strips of land outside the site allocation, on Cumberworth Lane either side of the site entrance.
- 2.4 In relation to minerals, all of the application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. In relation to the area's coal mining legacy, the majority of the application site is within the Development High Risk Area as defined by

the Coal Authority (now the Mining Remediation Authority), while other parts are within the Low Risk Area. A 250m buffer zone (of a historic landfill site) extends into the western edge of the application site.

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

3.0 PROPOSALS

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

3.5 12 of the proposed dwellings would be affordable, provided as a mix of affordable rent homes, First Homes and other intermediate homes. These are proposed at units 8 to 13, 34 to 36 and 60 to 62, and would therefore be located at the site entrance and along the application site's northwestern edge.

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

4.0 DIFFERENCES BETWEEN APPLICATIONS 2023/92191 AND 2024/93458

4.1 For the current application (ref: 2024/93458), the applicant has resubmitted most of the drawings and documents that were previously included with application ref: 2023/92191, and has additionally submitted:

- Covering letter (PB Planning, 19/12/2024) – This asserts that there have been a number of changes in circumstances which are material considerations that should be taken into account in the determination of this resubmitted application.
- Statement of Case (PB Planning, January 2025) – This is the statement submitted pursuant to the parallel appeal, which the applicant has also submitted as an additional Planning Statement in support of the current application.
- Review of Documents Relating to Ground Investigation and Remediation (letter from RSK Geosciences, 15/11/2024) – The applicant's agent has referred to this as a "peer review" of the previously-submitted documents.
- A Unilateral Undertaking (dated 09/04/2025 and submitted in support of the parallel appeal, but also submitted as an application document). This includes a clause that states:

The Owner covenants not to dispose, sell or appropriate any of the Coal removed or extracted for commercial purposes and nor shall the Owner burn any Coal that has been removed or extracted.

- Biodiversity Net Gain Metric spreadsheet – This sets out an existing (baseline) of 12.16 habitat units, 1.14 hedgerow units and 0.19 watercourse units at the site.
- Biodiversity Net Gain Assessment (Smeeden Foreman, SF21704, 12/03/2025) – This states that an appropriate net gain is unlikely to be achieved on-site.

4.2 The financial viability information previously included with application ref: 2023/92191 has not been resubmitted.

4.3 An updated housing land supply and housing delivery position now applies, as set out below from paragraph 11.2 onwards. This further emphasises the need to grant planning permission for acceptable developments that would deliver much-needed housing.

4.4 The relevant planning legislation, policy and guidance landscape is largely the same as it was when the previous application (ref: 2023/92191) was considered, however two new matters must be noted:

- The National Planning Policy Framework (NPPF) was revised on 12/12/2024 and amended on 07/02/2025.
- Biodiversity Net Gain (BNG) has become mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and major developments must therefore deliver a BNG of 10%, utilising the statutory BNG metric. This requirement applies to the current application, but did not apply to the previous application (ref: 2023/92191) as it was submitted prior to 12/02/2024.

4.5 Also of note, the planning status of land surrounding the application site has changed, as an application for outline planning permission has been submitted in respect of land to the north, and a Reserved Matters approval has been issued in respect of the parcel of land to the south. Details of these applications are set out at paragraphs 5.5 and 5.8 below.

5.0 RELEVANT PLANNING HISTORY (including enforcement history)

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

Application site

5.2 2022/91911 – Planning permission refused 21/03/2023 for a residential development of 48 dwellings with associated highways and landscaping. The seven reasons for refusal were:

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

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

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

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

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

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

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

- 5.3 2023/92191 – Planning permission refused 23/07/2024 for a residential development of 62 dwellings including grouting, remedial works for ground stabilisation to facilitate construction of dwellings, with associated hard and soft landscaping. The reason for refusal was:

The ground works, removal of coal, and remediation associated with the proposed development would result in an unacceptable number of vehicle movements and unacceptable environmental impacts. In addition, due to unknown conditions beneath the site, there is a lack of information that prevents it being fully ascertained what the environmental impacts of the aforementioned works would be. Furthermore, it has not been demonstrated that the site is suitable for residential development. The proposed development is therefore contrary to Policies LP24, LP36, LP52 and LP53 of the Kirklees Local Plan and chapters 8, 15 and 17 of the National Planning Policy Framework.

- 5.4 An appeal (ref: APP/Z4718/W/25/3359129) against the refusal of application ref: 2023/92191 has been submitted to the Planning Inspectorate, but has not yet been determined. On 25/03/2025 the council submitted its Statement of Case to the Planning Inspectorate, defending its refusal of the application

Land south of Leak Hall Barn (north of the application site)

- 5.5 2024/92168 – Outline application for a residential development of 13 dwellings – Pending decision.

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

- 5.6 2018/93309 – Outline application for erection of residential development – Appeal against non-determination dismissed 25/11/2019.
- 5.7 2019/93906 – Outline application for erection of residential development of up to 10 dwellings – Approved 07/01/2021.
- 5.8 2023/93714 – Reserved Matters application for the erection of 10 dwellings – Approved 14/03/2025.

Springhead Gardens

- 5.9 2017/93798 – Erection of six detached dwellings – Approved 06/06/2018.
- 5.10 2020/91506 – Variation of condition 2 (plans and specification) of previous permission 2017/93798 – Approved 20/11/2020.

6.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

- 6.1 Following the refusal of planning application ref: 2022/91911, amendments were made to the proposals. An amended scheme was subsequently submitted under application ref: 2023/92191. With regard to the council's seven reasons for refusal, the key amendments were:

- 1) Further information submitted regarding site contamination.
- 2) Extensive mineral extraction is no longer proposed.
- 3) The number of dwellings proposed has been increased from 48 to 62.
- 4) The proposed dwellings have been moved away from 2 and 3 Springhead Gardens.

- 5) A revised internal road layout is proposed.
- 6) The proposed dwellings have been moved away from Cruck Cottage.
- 7) The applicant is willing to enter into a Section 106 agreement which would secure contributions and measures intended to mitigate the development's impacts and secure its benefits.

6.2 Further amendments were made during the life of application ref: 2023/92191, including to the proposed road layout, the unit size mix, and the materials to be used on dwellings close to the site entrance.

6.3 Regarding the development's financial viability, Aspinall Verdi were commissioned by the council to review the applicant's information submitted under application ref: 2023/92191. They concluded that the proposed development could in fact provide the required 12 affordable housing units, as well as Section 106 contributions. On 18/04/2024 the applicant accepted these findings.

6.4 The development's affordable housing unit size mix and locations were confirmed by the applicant under application ref: 2023/92191.

6.5 Application ref: 2023/92191 was considered by the Strategic Planning Committee on 16/05/2024. A decision was deferred for the following reasons:

More detail be provided in relation to:

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

6.6 Members also asked to see fully-worded recommended conditions.

6.7 In response to the reasons for deferral, on 31/05/2024 the applicant submitted a document addressing the five matters listed above, and later submitted additional information in further emails. The following paragraphs summarise the applicant's response to the Strategic Planning Committee's reasons for deferral of application ref: 2023/92191, and provides additional information.

How much material would be removed from the site

6.8 The applicant's response document stated that, based on an extraction area of approximately 4,500sqm, a coal seam of between 1m and 2m in thickness, an assumed average seam thickness of 1.4m, and assuming that 30% of the seam has been worked, approximately 4,400 cubic metres of material was anticipated to be extracted. The applicant stated, however, that this figure was likely to change as works progress and as more information became available. The 4,400 cubic metre figure related only to the shallow coal seam excavation, and did not include excavation that would be needed to create the on-site attenuation tank.

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

- 6.9 The applicant's response document stated that, based on approximately 300 primary holes and an additional 250 secondary holes being drilled, an anticipated hole depth of approximately 20m, and an approximate volume of 3 tonnes of grout per treatment hole, a volume of 1,650 tonnes of material would need to be brought to the site. The applicant stated, however, that this figure was likely to change as works progress and as more information became available, and that a more refined estimate may be calculated following additional borehole investigations.
- 6.10 The applicant added that this material would consist of a mix of pulverised fuel ash (PFA), Ordinary Portland Cement (OPC) and sand.

How the above operations would be carried out

- 6.11 The applicant submitted a site cross-section, illustrating the existing and proposed ground levels and the degree of change that would occur following excavation.
- 6.12 The applicant's response document stated that different grouting treatments were proposed for different parts of the site, determine by risk. Grouting was not proposed beneath private gardens and open spaces, some grouting was proposed beneath the development's estate roads, and the highest degree of intervention was proposed beneath the new dwellings. A plan attached to the applicant's document (although based on a superseded layout) illustrated this approach.
- 6.13 On site, a mixing plant would be used to prepare the grout. The applicant proposed to use "large tracked rotary rigs" (similar in size to some 360 excavators – the applicant provided a photograph) which would drill the treatment holes. Rubber grout pipes would carry the grout from the on-site mixing plant to the holes, and the grout would be injected into the holes. Tertiary holes may need to be drilled to check and prove the success of the grouting. Three rigs would be on site at any one time.
- 6.14 The removal of material from the application site would necessitate approximately 550 HGV loads being moved from the site (according to the applicant's estimate).
- 6.15 The bringing of material to the application site would necessitate further movements to and from the site – the applicant stated that, at worst, this would involve three deliveries a day (by HGV) for the duration of the drilling and grouting works.
- 6.16 Pulverised fuel ash (PFA) would be delivered to the site in 20-tonne loads. Cement would be delivered to the site on pallets. The grouting operation was expected to take at least two months (estimated), based on approximately 50 tonnes being injected per day. Based on the 1,650 tonnes of grout that may be used, 83 HGV movements in and 83 HGV movements out would be necessary.

- 6.17 Regarding works and construction traffic routing, officers advised the applicant that this should make use of higher-order roads as much as possible. That would mean using Wakefield Road (the A636) and only 175m of Cumberworth Lane. It would also mean turning right into the site (across a lane of traffic) and turning left out of the site. Risks involved with HGVs crossing a lane of traffic when turning this can be addressed through signage, bankspeople and temporary traffic lights where appropriate. The applicant submitted a construction route plan, which reflected the above advice provided by officers.

How environmental impacts would be mitigated

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

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

- 6.21 As with most fires, three elements would be needed for materials at the application site to combust: fuel, heat and oxygen. With a fuel (in this case coal) present at the site, a source of heat (such as a garden bonfire) could pose a risk if there was not an intervening non-combustible barrier that would prevent the heat and sufficient oxygen from reaching the fuel.
- 6.22 The applicant asserted that 0.5m of inert cover would provide an adequate barrier, but acknowledged the advice of KC Environmental Health that 1m of cover would be necessary, and that inert service trenches would also be required. The applicant agreed to provide these, and compliance with these requirements would have been enforced through the recommended conditions.
- 6.23 With this inert cover in place, officers were satisfied that fire risks would be sufficiently reduced, and refusal of permission on these grounds was not recommended.

7.0 PLANNING POLICY

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

Kirklees Local Plan (2019):

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

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

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

7.4 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP19 – Strategic transport infrastructure
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP29 – Management of water bodies
- LP30 – Biodiversity and geodiversity
- LP31 – Strategic green infrastructure network
- LP32 – Landscape
- LP33 – Trees
- LP34 – Conserving and enhancing the water environment
- LP35 – Historic environment
- LP36 – Proposals for mineral extraction
- LP38 – Minerals safeguarding
- LP47 – Healthy, active and safe lifestyles
- LP48 – Community facilities and services
- LP49 – Educational and health care needs
- LP50 – Sport and physical activity
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

7.5 Relevant guidance and documents are:

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

Climate change

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

7.7 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

National Planning Policy and Guidance:

7.8 The National Planning Policy Framework (published in December 2024 and updated 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 proposals. Relevant paragraphs/chapters are:

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

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

7.10 Relevant national guidance and documents:

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

8.0 PUBLIC/LOCAL RESPONSE

8.1 The applicant's Statement of Community Involvement details the public consultation that was carried out prior to the submission of application ref: 2022/91911, but notes that no further consultation was carried out following the refusal of that application and the submission of application ref: 2023/92191. Similarly, the applicant carried out no further consultation prior to the submission of the current application (ref: 2024/93458).

8.2 The current application (ref: 2024/93458) was advertised by the council as a major development, and as development affecting a public right of way and the setting of a listed building.

8.3 The current application was advertised by the council via four site notices posted on 22/03/2025, and a press notice published on 04/04/2025. This was in line with the council's adopted Statement of Community Involvement. The end date for publicity was 27/04/2025.

8.4 158 representations were received in response to the council's consultation. These were posted online. The following is a summary of the comments made:

- Application is same as previous refused application. No fundamental changes have been made.
- Development has already been refused twice, and should be refused again. Principle of consistency in decision-making is well established.
- Committee was misled regarding what matters could be considered under the previous application.
- Shortcomings and impacts of previous refused scheme have not been addressed.
- Harm would outweigh perceived benefits.
- Proposals are contrary to NPPF and Local Plan.
- Local Plan targets are based on old census data, population hasn't reached projected levels, and amount of housing required is less than stated in Local Plan. Local Plan should be reviewed with reference to correct data.
- Large houses not needed.
- Not a sustainable site for development.
- Site not suitable for residential development.
- Fields close to churches are for community use and have covenants.
- Loss of green space.
- Presumption against development in the Green Belt.
- Village would become a town. Change from a rural to an urbanised location.
- Unsightly development.
- Village would look ugly.
- Overlooking of adjacent properties from plots 39 and 40. Overlooking of Leak Hall Crescent. Plots 43 to 46 are too close to Springhead Gardens. Loss of privacy. Applicant acknowledges that required separation distances aren't being met.
- Loss of rural views.
- Loss of light to neighbouring property.
- Congestion to surrounding roads. Cumberworth Lane is not lightly trafficked and cannot take additional traffic. Other developments including Bromley Farm quarry will put HGV traffic on same roads. Cumberworth Lane is a school run route.
- Cumberworth Lane / Wakefield Road junction has restricted visibility.
- Local roads already unsuitable for pedestrians and cyclists. Cumberworth Lane lacks a footpath.
- Footpaths across site will be affected.
- Danger to schoolchildren.
- Lack of a clear traffic management plan.
- Road Safety Audit inadequate.
- Proposed entrance incapable of taking additional construction and residential traffic. Accident waiting to happen. Cumberworth Road narrows at this point. Limited visibility. Mirror needed at church. Accident occurred here last year. HGVs would have to swing widely to exit and enter. Two HGVs cannot pass here.
- Site allocation requires vehicular access to be provided from Leak Hall Lane. Local Plan Inspector confirmed this.
- Cumulative traffic assessment needed.
- Existing parking problems would become worse.

- Roads are already in disrepair, and would become worse.
- Increased flood risk, including to adjacent property and the centre of Denby Dale. Recent developments have increased flooding. Site currently absorbs water. Loss of natural soakaways. Water cascades down Leak Hall Road. Grouting of mineworkings would worsen drainage problems. Impact on nearby spring.
- Money taken from developers to improve drainage has not been spent locally.
- Long-term contamination risks.
- Risk from mine entrances. Nearby buildings show signs of movement.
- Vague remediation strategy.
- Objection to coal extraction. No public benefit would justify extraction. Contrary to National Coal Board guidelines. Guidelines will be ignored. Developer will be negligent. Coal should only be removed if of benefit to local residents. Dangerous for residents. Inadequate risk assessment. Risk of explosions during works. Honest and accurate risk assessment has not been submitted. Trojan horse application to allow opencast mining. Application masks an intention to mine coal.
- Release of methane gas during excavation.
- Lack of a risk assessment related to excavation.
- Risk of contamination of nearby spring.
- UK is moving away from coal towards renewable energy.
- Applicant's HGV movement figures are inaccurate. Based on lowest estimate, actual figure would be around 650 loads. 11 HGV movements per working day would occur.
- Applicant's coal extraction figures are imprecise and based on weak assumptions and approximations. Figures could be substantially larger, undermining the estimates regarding timescales, vehicle movements and pollution.
- Conditions beneath site are not sufficiently or accurately known. Weak assumptions have been used.
- Very little new information regarding coal extraction across the applications.
- No evidence of where or how extracted coal would be disposed of. If sold, income has not been declared. If burnt, this would be contrary to Kirklees environmental policies. Assurance from applicant doesn't mean another party wouldn't burn the coal.
- No clear explanation of route to be used to take away extracted coal – Leak Hall Crescent and Leak Hall Road should not be used.
- Comparison with Springhead Gardens is inappropriate – this is a smaller site, accessed from a minor road, with different geology and no coal seams to mine. Development of Springhead Gardens caused problems – many HGV movements, tipping of spoil onto adjacent land. That site did not closely border existing dwellings at the time it was developed.
- No clear timeframe for works, meaning prolonged impacts.
- Air pollution and dust. Air quality would deteriorate. Risk from cement dust. Adverse effect on residents' health, including children. Neighbouring residents have respiratory conditions. No mitigation proposed.
- Noise from excavation and extraction. No noise mitigation proposed. Large tracked rotary rigs generate hazardous noise. No noise mitigation is mentioned.
- Disruption occurred during construction of Springhead Gardens and Wood Nook.

- Cumulative impacts of quarry sites.
- Light pollution.
- Adverse impact on wildlife. Loss of habitat and hunting grounds. Foxes, badgers, hedgehogs, bats, owls and toads are present at site. Tawny owls, kestrels, buzzards and red kites are present nearby. Field mice, voles and shrews need rough grassland to find food.
- KC Ecology have noted the lack of a plan to make up for habitat shortfalls.
- Already enough housing being built in Denby Dale.
- Lack of supporting infrastructure in Denby Dale.
- Gas, electricity, sewers and water infrastructure has not been upgraded in years.
- Schools, doctor and dentist provision is inadequate.
- 85 new homes would be built across this and adjacent sites.
- Problems arising from population increase.
- Distress and anxiety for residents.
- Harm to public health and local quality of life. Elderly residents would be particularly affected.
- Query where air ambulance would be able to land.
- Impact on property values.
- Impact on surrounding buildings.
- Developer should provide insurance against damage to properties. No details of how residents would be compensated.
- Vibration may damage church foundations.
- Applicant does not intend to develop site themselves.
- Greed of developers and council's quotas should not be taken into account.
- Unclear who applicant is. Applicant is not a legal entity. Application invalid.
- Some submitted reports are four years out of date.
- Query whether applicant has permission to re-use previous reports.
- Lack of Environmental Impact Assessment.
- Council has incurred losses due to previous applicant's insolvency. Similar risk regarding Section 106 obligations.
- Disagree with officer advice regarding strength of refusal reason.
- Councillors should visit site.
- Members should support objections.

8.5 Of note, a significantly higher number of objections to the current application has been received, compared with the 56 representations received in respect of the previous application ref: 2023/92191.

8.6 Cllr Tim Bamford submitted the following comments:

I am writing as an experienced transport manager and excavations operations manager with extensive experience in heavy transport and mining operations—including many years of driving heavy goods vehicles, some in the opencast coal industry—to formally register my objection to the proposed planning application. I have carefully reviewed the application documentation and wish to highlight significant concerns that, in my view, necessitate a rejection of the proposal.

1. Site Access and Traffic Safety

Inadequate and Hazardous Access

The proposed site access on Cumberworth Lane contradicts earlier planning assurances that recommended access from Leak Hall Road. This alternative route that provided a safer junction with Wakefield Road avoids the congested centre of Denby Dale and is already supported by the Planning Inspector's concerns. In contrast, Cumberworth Lane is busy and narrow—particularly near the Methodist Chapel where its width does not permit the safe passage of two heavy vehicles simultaneously.

Heavy Vehicle Operations and Congestion

The vicinity of the proposed site features regular heavy vehicle movements. For example, a nearby haulage company on Coal Pit Lane operates fifteen HGVs and thirty trailers, and 44-ton trucks are routinely using this route. Cumberworth Lane is also the designated route for 32-ton clay trucks traveling from Peace Wood Quarry to Naylor Clayware, potentially adding hundreds of journeys per week. These vehicles require extended stopping distances—especially under wet conditions and on the steep downhill section from Lower Cumberworth—greatly increasing the risk of collisions and accidents.

Articulated Vehicle Operations and Resident Safety

I am particularly concerned about the challenges associated with manoeuvring articulated vehicles, especially when they are laden with plant and machinery. Given that these large vehicles may be unable to avoid driving on pedestrian pavements, the safety of Denby Dale residents, including schoolchildren, the elderly, and mobility-restricted individuals, is jeopardized.

2. Coal Extraction and Environmental Concerns

Coal Extraction Classification and Licensing

The application notes that approximately 4,500 cubic metres of coal will be extracted, which is comparable to the volume of two Olympic-sized swimming pools. This will generate at least 550 truck movements of coal from site and 550 return movements. This could rise as stated by the applicant. Although described as waste by the developer, this still constitutes coal extraction and should therefore require licensing by the Coal Authority. I question whether appropriate waste transfer documentation will be maintained should the coal be classified as waste and disposed of via landfill.

Carbon Release and Regulatory Compliance

The release of carbon resulting from this extraction raises additional concerns. How this aligns with the Kirklees Climate Emergency Declaration and the environmental standards outlined under para 223 of the National Planning Policy Framework (NPPF) remains inadequately addressed. Moreover, the lack of a detailed site investigation report further obscures the true extent of extraction, potentially opening the door to a full-scale opencast operation similar to those previously rejected.

Financial and Operational Uncertainties

Without an intrusive site survey, it is unclear how much grouting or remediation will be required. This omission not only poses significant logistical challenges but could also lead the developer into a financially untenable situation.

3. Conditions and Overall Suitability of the Development

I am deeply troubled that this planning application is supported by no fewer than 42 conditions. Key measures—such as the remediation strategy and the intrusive site survey—have been deferred as conditions rather than being included in the core application documents. Such arrangements do not inspire confidence that the risks associated with destabilising the site, potentially releasing contaminants, or increasing flood risks have been sufficiently mitigated. In my opinion, this site is not suitable for development, and any further progress would be a disservice to the community's safety and well-being. The adjacent site was grouted, this resulted in underground waterflows to be diverted towards neighbouring properties resulting in a collapsed wall and a flooded house. I am concerned where this water will be diverted to if Cliff Hill is grouted.

Conclusion

In view of the risks to public safety, potential environmental hazards, and the apparent deviation from previously agreed safe practices and planning policies, I respectfully urge the Planning Committee to reject this planning application in its entirety. This has come before committee twice and has been refused and is fundamentally the same application with the same issues. I trust that the Committee will give due consideration to the issues raised above and take necessary action in the best interests of Denby Dale and its residents.

- 8.7 Denby Dale Parish Council – Application is not materially different to the previous, refused application. Additional submissions do not materially alter the application. Application is a Trojan horse to enable open case coal mining. Applicant does not intend to develop site. Proposed development is contrary to Local Plan policies.

Applicant's HGV movement figures (regarding material removal) are inaccurate. Based on lowest estimate, actual figure would be around 650 loads. 11 HGV movements per working day would occur. Cumberworth Lane cannot support this additional traffic.

Large tracked rotary rigs generate hazardous noise. No noise mitigation is mentioned.

Applicant's coal extraction figures are imprecise and based on weak assumptions and approximations. Coal mining is contrary to local and national environmental policies. If the applicant's estimates are even slightly inaccurate, this figure could be substantially larger, undermining the estimates regarding timescales, vehicle movements and pollution.

No evidence submitted regarding where coal would be disposed of. If sold, income has not been declared. If combusted, this would be contrary to environmental policies. Applicant's statement doesn't prevent coal being disposed of commercially by another entity.

Springhead Gardens is not a comparable scheme. That site is off a minor road, and had no coal seams to mine. Geology is not comparable. Grouting of that site involved dozens of hundreds of HGV movements. Remediation exceeded what was originally anticipated. Spoil was tipped onto adjacent land.

Site is not sustainable or suitable for residential development.

Viability of development is doubted. Remediation costs may mean affordable housing or Section 106 obligations will not be provided, or would abandon works leaving a contaminated hole in the ground. Previous applicant went into liquidation.

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

9.0 CONSULTATION RESPONSES

- 9.1 Consultation of all previously-consulted parties was not necessary for this resubmission. Only a limited consultation was considered necessary in light of the additional information submitted under this application. The following comments were received in response:

- 9.2 KC Ecology – Significant on-site gain would be achieved in respect of hedgerow units and watercourse units. This gain would need to be secured for 30 years via a planning condition.

Regarding habitat units, a net loss is shown, with no plan to make up for the shortfall. Applicant should provide at least an outline of the intended route to achieving net gain (this information is needed in advance of a planning decision being made because, if offsite gain is required, it would need to be secured via a Section 106 agreement). If a Section 106 agreement is needed, applicant should provide sufficient information (including plans of the habitat enhancement/creation, and a 30-year Habitat Management and Monitoring Plan (HMMP)) for the heads of terms of an agreement prior to determination of the application.

The ecological reports submitted, though completed a couple of years ago, are reasonable and acceptable. A precautionary approach is advised.

Condition for a CEMP: Biodiversity (Construction Environment Management Plan) recommended.

- 9.3 KC Highways Development Management – As the proposal remain unaltered from the previous submission (ref: 2023/92191), the final comments provided by KC HDM on 24/04/2024 relating to the previous application still apply. These confirmed that KC HDM had no objection to the proposals, subject to conditions and Section 106 requirements. Updated (increased) Sustainable Travel Fund contribution recommended (£51,606.94). Updated conditions recommended.

- 9.4 The following consultee responses were received in relation to the previous application (ref: 2023/92191), and remain relevant:

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

- 9.6 Lead Local Flood Authority – Support proposals. A connection to watercourse can now be sanctioned as downstream improvements have been carried out. A proposed future connection at five litres per second is agreed in principle. A new headwall and trash screen, intention of improvement and formal design of drainage design can be conditioned. Provision of safety fences for open sections of the site's culvert adjacent to parking areas will be required at detailed design stage. Watercourse improvements should be conditioned for detailed design stage. The watercourse/drainage ditch and associated ancillary structures will need to be maintained by a management company (secured via a Section 106 agreement) with an agreed maintenance plan. This is to ensure risk is reduced on- and off-site by formalising arrangements. A box culvert would be used in one section to provide access to the northernmost plots – this was agreed in a site visit. Separately from the watercourse, all surface water drainage should have a risk assessment and method statement applied concerning maintenance and management. This should be carried out by a management company until such a time as this infrastructure is adopted by the statutory undertaker, Yorkshire Water, or equivalent NAV. The management company should be required to maintain the watercourse for the lifetime of the site. Mine capping can cause less infiltration of water, particularly in the construction phase – measures should be taken to reduce related risk. Construction-phase drainage can be conditioned. Perimeter land drainage will need to be considered as part of an assessment to ensure that this development will not increase flood risk elsewhere. Safe flood routing is shown on submitted plans. Conditions recommended.
- 9.7 Northern Gas Networks – No objection. Generic advice provided.
- 9.8 West Yorkshire Archaeology Advisory Service – Condition recommended, securing a programme of archaeological recording.
- 9.9 West Yorkshire Police Designing Out Crime Officer – Detailed comments provided regarding external lighting, soft landscaping, rear access to properties and parking.
- 9.10 Yorkshire Water – A water supply can be made available under the provisions of the Water Industry Act 1991. Condition recommended regarding foul water connection. Flood Risk Assessment and Drainage Strategy is generally acceptable.
- 9.11 KC Education – £97,444 towards secondary provision required.
- 9.12 KC Environmental Health – Applicant's findings regarding site contamination and ground gas are accepted, although further gas monitoring is required. All remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and inert service trenches are required. Application site is not within an Air Quality Management Area (AQMA) or near to roads of concern. Proposed development does not require a construction dust risk assessment or an emissions damage cost calculation. Officers accept applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO₂, PM₁₀ and PM_{2.5} are predicted to be below the national air quality objectives. Applicant's air quality methodology is accepted, and no further mitigation measures are required for this development. Adequate dust management plan has been submitted for the site remediation

phase, however details regarding dust are required for the wider construction activities. Construction Environmental Management Plan required (this can be conditioned). Regarding noise, works would be restricted to appropriate hours, and proposed construction methodology is acceptable, however temporary acoustic screens would be required. Further conditions recommended regarding noise, electric vehicle charging and site contamination (remediation).

- 9.13 KC Highways Structures – Conditions recommended.
- 9.14 KC Landscape – Details of typologies and measured areas for all proposed open spaces required. In the absence of this information, and given some areas (such as the green space between units 14 and 29) should not be counted towards on-site provision until their details are provided, a contribution of £120,305 towards off-site open space is required. Inclusion of green space on-site is welcomed. Green spaces need to be designed to meet the needs of the widest possible range of users. Purpose of open space above attenuation tank is queried. Management and maintenance details required for green spaces. Extensive areas of hard surfacing are proposed. More soft landscaping (including street trees) is required. Proposals for trees are tokenistic. Details of root protection/barriers and soil volumes required. Potentially invasive species should be avoided. Landscape management and maintenance plan required. Images in Design and Access Statement do not correspond with drawings. Curtilages of units 39 to 42 (and the adjacent open spaces) should be better defined with defensible space. Locally Equipped Area for Play (LEAP) required. Four existing play spaces are within 720m of (and a 15 minute walk from) the application site – the children and young people’s element of the open space contribution could be spent in those locations, subject to local consultation (including with Members). Retention of TPO-protected tree is welcomed, although there are concerns regarding its root protection area. Footpath connections required. Conditions and Section 106 obligations recommended.
- 9.15 KC Strategic Housing – 20% affordable housing provision required, and on-site provision preferred. Proposed 12 affordable units, and affordable unit size mix (3x 1-bedroom units, 7x 2-bedroom units and 2x 3-bedroom units) are acceptable. Given council’s 55% social/affordable rent / 45% intermediate (including First Homes) preference, provision should comprise seven social/affordable rent homes, three First Homes and two other intermediate homes. The affordable homes’ build quality and other relevant aspects should be indistinguishable from the market housing in the development.
- 9.16 KC Strategic Waste – There is one closed landfill site within 250m of the application site.
- 9.17 KC Trees – No objection in principle to site being developed. Location of dwelling in relation to TPO-protected tree may result in pressure to prune, however council would have control over an application to do so. A “no dig” cellular confinement system needs to be shown on plans and implemented for the footpath near to the tree. Conditions recommended requiring a final Arboricultural Method Statement and Tree Protection Plan.
- 9.18 KC Waste Strategy – Details of bin collection points acceptable. Looped layout preferred.

10.0 SUMMARY OF MAIN ISSUES

- Land use and principle of development
- Masterplanning
- Quantum and density
- Sustainability and climate change
- Urban design matters, heritage and landscape impacts
- Residential quality and amenity
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Environmental health considerations
- Site contamination and stability
- Ecological considerations
- Trees
- Open space
- Other planning considerations
- Planning obligations

11.0 MAIN ISSUES – ASSESSMENT

Land use and principle of development

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

Housing need and delivery

- 11.2 The 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 12/12/2024 demonstrated that housing delivery for Kirklees for the past three years has fallen below the 75% pass threshold.
- 11.3 As the council is currently unable to demonstrate a five-year supply of deliverable housing sites, and as delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11. This paragraph triggers a presumption in favour of sustainable development. For decision making this means:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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.”

- 11.4 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.
- 11.5 The council's inability to demonstrate a five-year supply of housing land or pass the Housing Delivery Test weighs in favour of housing development. Nonetheless, this must be balanced against any adverse impacts of granting the proposal.
- 11.6 A residential development of 62 dwellings would make a significant contribution towards meeting identified needs. This attracts significant weight in the balance of material planning considerations relevant to the current application.
- 11.7 The applicant's covering letter states the latest NPPF sets out “an overall rhetoric of accelerating the delivery of new homes in the country, and affordable homes in particular”. This is a reasonable interpretation of the thrust of the NPPF in relation to housing delivery.
- 11.8 Full weight can be given to site allocation HS144, which allocates the majority of the application site for residential development. Allocation of this and other greenfield sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of greenfield land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site (which was previously allocated as Provisional Open Land in the Unitary Development Plan), in her report of 30/01/2019 the Local Plan Inspector stated:

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

Minerals

- 11.9 The application site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 1c of policy LP38 is relevant, and allows for approval of residential development here, as there is an overriding need (in this case, housing needs, having regard to Local Plan delivery targets) for it.

11.10 Paragraph 230 of the NPPF is also relevant, and states:

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

11.11 As explored under application ref: 2022/91911 (and reflected in the second reason for refusal), extensive coal extraction from the application site would risk significant impacts, largely due to the proximity of existing residents. The council's previous reason for refusal regarding this matter also noted that there were no overriding community benefits which would have made coal extraction from this site acceptable. For the subsequent application (ref: 2023/92191), significant objection from local residents similarly referred to the matter of coal extraction from the site, and the council's reason for refusal referred to the removal of coal (inter alia) resulting in an unacceptable number of vehicle movements and unacceptable environmental impacts. The same concerns have been raised in relation to the current application.

11.12 It remains the case that extensive coal extraction from the application site would risk significant impacts, and there are no overriding community benefits which would make coal extraction from this site acceptable. The applicant's intention to not carry out such extraction is therefore considered appropriate.

11.13 As noted at paragraph 4.1 above, with the current application the applicant has submitted further assurance in the form of a Unilateral Undertaking (dated 09/04/2025) which includes a clause that states:

The Owner covenants not to dispose, sell or appropriate any of the Coal removed or extracted for commercial purposes and nor shall the Owner burn any Coal that has been removed or extracted.

11.14 These commitments were not available for Members to consider at the time the previous application (ref: 2023/92191) was determined. They are a new material consideration of relevance to the current application, and while it is unclear what could be done to enforce these commitments or remedy a breach (especially if the coal is burnt, given that coal could not be un-burnt later), the reassurance they provide is welcomed. The applicant has added that there are no greater assurances that they could provide to confirm that they would not dispose of any coal extracted from the site for commercial purposes or burn any coal extracted from the site.

11.15 Regarding the related matter of site stability, further commentary is set out later in this report.

Site's suitability for residential development

11.16 The site's suitability for residential development was referred to in the reason for refusal of the previous application (ref: 2023/92191). As noted in the Statement of Case submitted by the council in relation to the current appeal, the application site is allocated for residential development. Local Plan site allocations are based on high-level assessments that do not consider matters such as site stability in great detail. In light of later, detailed assessment (by a

prospective applicant considering bringing forward a proposal, or by a local planning authority at application stage, for example), it is quite possible that evidence may emerge demonstrating that a site allocated for development is difficult to develop, may be not fully developable, may not be developable for its intended allocation, or may even prove to be entirely undevelopable. However, it must be noted that the council's previous reason for refusal does not state that the site (which the council allocated for residential development, having found no insurmountable barriers to development at Local Plan preparation stage) is entirely undevelopable, nor does it state that the site could never be developed.

- 11.17 The applicant's agent's covering letter of 19/12/2024 also sets out commentary regarding how the site is suitable, available and achievable.

Conclusion – land use and principle of development

- 11.18 Given the above assessment, the principle of residential development at the application site is considered acceptable, subject to the further discussion of other relevant matters later in this report.

Masterplanning

- 11.19 Careful masterplanning of development sites can ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.
- 11.20 Ideally, the wider HS144 allocated site would have been the subject of a masterplan drawn up jointly by all interested parties. Such a masterplan would have then informed subsequent applications for the development of the various separately-owned parcels of land within the wider HS144 site.
- 11.21 However, as illustrated by the planning history detailed above, development proposals for the various parcels came forward at different times. Furthermore, the applicant for application ref: 2023/92191 was unable to secure the final parcel of land (to the north of Leak Hall Crescent) for inclusion in the scheme proposed under that application. It is also noted that the Inspector determining an appeal relating to application ref: 2018/93309 concluded (in his decision dated 25/11/2019) that a masterplan was not needed for the HS144 site.
- 11.22 Although this means development proposals for the HS144 site have been piecemeal (and possibly not optimal in terms of connectivity and efficient use of land), it is noted that the topography of the wider site may have limited opportunities for internal connections and consolidated open space or drainage attenuation in any case, such that – even with a masterplan – layouts may have been similar to those proposed to date under the approved and proposed applications. No land within HS144 would be sterilised if the current application were to be approved. Finally, it is noted that the previous applications relating to the current application site were not refused on masterplanning grounds.

- 11.23 Notwithstanding the above, it is noted that there is now an application for outline planning permission (with details of access) under consideration for the parcel of land to the north (application ref: 2024/92168) within site allocation HS144. The case officer asked both applicants to explore the possibility of revised layouts including a vehicular connection between the two development sites. Such a connection could have proved useful for both existing and future residents, could have improved neighbourhood connectivity, could have reduced the need for reversing at turning heads (which, particularly for large vehicles, poses risks to pedestrians), and would not have resulted in a particularly problematic rat run being created.
- 11.24 However, the agent acting for the adjacent smaller site stated that a through-road would take up a disproportionate area of what is a relatively small site (particularly if footways on both sides of the carriageway were required, given the number of dwellings that such a road would serve), and that housing delivery is more important to Kirklees than creating a through-route for vehicular traffic. A pedestrian connection to the adjacent public footpath was instead added to the layout of that development.
- 11.25 With the adjacent applicant declining the invitation to provide a vehicular connection, this matter has not been explored further at the larger application site (under this application ref: 2024/93458), however should both applications be approved and should a single developer wish to take on both sites, officers would raise the matter again. Although it is unfortunate that two adjacent major developments are now coming forward as – essentially – two cul-de-sacs, in this case the council could not reasonably withhold planning permission on the grounds that a vehicular connection to Leak Hall Lane or Cumberworth Lane (in each case, via third party land) has not been included in the schemes currently proposed under either application.
- 11.26 The lack of a vehicular connection aside, consideration must also be given to what connections may be possible for pedestrians. Under application 2024/93458, the applicant has proposed two useful pedestrian connections to the adjacent public footpath, such that movement through the wider allocated site would be enabled despite the developments proposed at the two adjacent parcels not being fully integrated and co-ordinated, and despite there being no HS144-wide masterplan informing proposals for enabling movement beyond the red line boundary of the current application.
- 11.27 Regarding apportionment of obligations across the HS144 site, this is not a concern in relation to the current application, as the size of the proposed development (at 62 dwellings) means all relevant thresholds are triggered in any case, and no further obligations would be triggered by the total amount of development (namely these 62 dwellings, plus the six already built at Springhead Gardens, the 10 approved at land to the south of the application site, and the 13 dwellings now proposed at land to the north of Leak Hall Crescent) that may be delivered across the HS144 site (although development at land to the north of Leak Hall Crescent would trigger its own obligations). It is also noted that no major cross-HS144 infrastructure (that may disproportionately affect one of the parcels, and which should be fairly shouldered by all developers of the HS144 site) is needed.

Quantum and density

- 11.28 As noted above, site allocation HS144 sets out an indicative housing capacity of 113 dwellings within the 3.24 hectares of allocated land.
- 11.29 To ensure efficient use of land, Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve. Any proposal at application sites capable of accommodating major development would be expected to make a significant contribution towards the quanta set out in the Local Plan.
- 11.30 It is noted that a previous application relating to the current application site (ref: 2022/91911) was refused partly due to its unacceptably low density (as set out in the council's third reason for refusal).
- 11.31 With 62 units now proposed in 1.9 hectares, a density of 32.6 dwellings per hectare would be achieved by the proposed development. This falls short of the 35 dwellings per hectare figure set out in Local Plan policy LP7 and which already takes into account likely on-site open space needs.
- 11.32 It is noted, however, that constraints applicable to this site have a significant bearing on what development can be achieved. In particular, the site's topography, coal mining legacy (three mine entries exist within the site), TPO-protected tree and sewer easement have reduced the site's developable area, and have informed the proposed development's layout and quantum.
- 11.33 It is also noted that, at other sites, excessive numbers of large, detached units have driven down densities to the extent that land is not efficiently used. This, however, is not proposed at the application site – of the 62 dwellings proposed, only four would be detached, and no 5-bedroom (or larger) units are proposed.
- 11.34 Given the above, it is considered that the proposed density – while below the figure set out in Local Plan policy LP7 – is acceptable. The development represents an efficient use of scarce allocated land.

Sustainability and climate change

- 11.35 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions. An assessment is necessary to ascertain whether the proposed development would achieve net gains in respect of all three of the NPPF's sustainable development objectives.

- 11.36 The application site is considered to be a sustainable location for residential development, as it is on the edge of an existing, established settlement that is served by public transport and other (albeit limited) facilities. As noted above, Denby Dale has a number of shops, food and drink establishments, education and sports facilities, places of worship, a community hall, a community library, open spaces and other facilities. Denby Dale railway station is a 600m walk (approximately) from the entrance to the application site. The nearest bus stops are on Cumberworth Lane to the south of the application site, and there are other bus stops further to the south on Wakefield Road. Given these facilities, at least some of the daily, social and community needs of residents of the proposed development could be met locally (within walking distance), and combined trips could be made, which further indicates that residential development at this site can be regarded as sustainable.
- 11.37 A Climate Change Statement has been submitted with the application. This includes commitments regarding the use of air source heat pumps, the specification of energy-efficient electrical goods, the provision of instructions for residents, the implementation of a carbon reduction plan during construction, the orientation of dwellings to maximise solar gain (where possible), the implementation of measures to reduce flood risk, the implementation of water-saving measures, and the inclusion of appropriate landscaping incorporating biodiversity enhancements.
- 11.38 Measures would be necessary to encourage the use of sustainable modes of transport, and to minimise the need to use motorised private transport. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Further consideration of these matters is set out later in this report, however it is noted that the proposed development includes (or would be required to include, in accordance with the recommended conditions and Section 106 obligations):
- Pedestrian connections to the adjacent Public Rights of Way network;
 - Cycle storage;
 - Electric vehicle charging points;
 - A residential Travel Plan (to encourage the use of sustainable modes of transport) and related £10,000 monitoring fee; and
 - A Sustainable Travel Fund contribution of £51,606.94
- 11.39 Drainage and flood risk minimisation measures would need to account for climate change. This is addressed later in this report.
- 11.40 In relation to residential development, social sustainability largely concerns the creation of places that people will want to live in and remain living in, and that are convivial and create opportunities for interaction and community-building. Places offering low standards of residential amenity and quality are often inhabited by short-term and transient populations who do not put down roots – such places are less likely to foster a sense of community, civic pride and ownership. Design, residential amenity and quality, open space, and other relevant matters are considered later in this report.
- 11.41 In relation to residential development, economic sustainability can concern employment and training opportunities during the construction phase. The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers will

be approaching the applicant team to discuss an appropriate Employment and Skills Agreement, to include provision of training and apprenticeship programmes. Such agreements are currently not being routinely secured through Section 106 agreements related to residential developments – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. Given the scale of development proposed, there may also be opportunities to work in partnership with local colleges to provide on-site training facilities during the construction phase.

- 11.42 Following completion of construction, opportunities for local employment are relevant to the consideration of the proposed development's economic sustainability. Of note, the application site is within walking distance of employment opportunities in Denby Dale. In addition, buses and trains serving Denby Dale provide access to employment opportunities further afield.
- 11.43 In light of the assessment set out above and later in this report, it is considered that the proposal can be regarded as sustainable development.

Urban design matters

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

Site context

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

Design assessment

- 11.48 The proposed development would inevitably have a transformative effect on the appearance of the application site, as what is currently green space would be developed with new buildings and hard surfaces. This visual impact would, however, be softened by the implementation of soft landscaping and the inclusion of areas of open space. It is also noted the application site is largely surrounded on three sides by existing buildings, such that the proposed development would not read as a new, sprawling intrusion into the green space that surrounds Denby Dale. The impact of the proposed development on the character of Denby Dale (as defined by its appearance and layout) would not be significantly adverse.
- 11.49 The proposed development's internal layout is considered to be legible and logical. It appropriately responds to the site's topography (as far as is possible, given the need to achieve appropriate road gradients) and other constraints such as the TPO-protected tree. It is accepted that a looped road layout (which is normally preferred, as it reduces the need for refuse collection vehicles reversing, and can be more dementia-friendly) is not possible at this site due to its topography. Similarly, it is accepted that a vehicular connection through to Leak Hall Lane would not be provided under this application and the application for the adjacent site to the north. The arrangement of dwellings around the proposed estate road would not appear regimented, and this would assist in helping the development reflect its surroundings (where existing development appears similarly unregimented).
- 11.50 The proposed typologies and house types are considered appropriate for this site. A welcomed mix of terraced, detached and semi-detached dwellings is proposed. This is reflective of the variety that surrounds the application site, and would ensure that a repetitive or monotonous street scene is not created. The proposed 2-storey height of the dwellings is suitably reflective of the majority of buildings nearby. The 3-storey elevations to the rear of eight units (at plots 39 to 46) are similarly considered to be suitably reflective of existing buildings nearby, as are those dwellings that would have rooms in their attic spaces. These taller elements would not appear unduly obtrusive in views from public vantagepoints (including in longer views from Barnsley Road).
- 11.51 The proposed elevations are considered acceptable for this location. The proposed pitched roofs and fenestration arrangements are suitably reflective of local vernacular, while other details (including the proposed forward-facing gables and timber entrance canopies) would add interest to the elevations and street scene.
- 11.52 Artificial stone is proposed for the majority of the dwellings. This material is considered acceptable in principle for this location, however it is recommended that a condition be applied, requiring the submission of details and samples of all external materials. This would ensure the council would have final control over the quality and appearance of the artificial stone. Natural stone is appropriately proposed for the four dwellings nearest to the application site's entrance on Cumberworth Lane, where most of the existing buildings are of natural stone. The other external materials proposed by the applicant (namely, concrete slate-effect tiles, grey UPVC and timber) are considered acceptable for this location, again subject to final approval at conditions stage.

Heritage assets

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

Crime prevention

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

Landscaping

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

Boundary treatments and retaining walls

- 11.57 Details of proposed boundary treatments and retaining walls have been provided by the applicant in drawings 0205 rev P05 and 0210 rev P06. Boundary treatments proposed along the development's estate road are generally considered acceptable. Stone walls are proposed at the site entrance (these would need to be of natural stone), and metal railings (painted black) would separate front gardens. Away from the estate road, most rear gardens would be separated by 1.8m high timber fences. 1.8m timber fences are also proposed in places around the edges of the site, which may not be appropriate where the amenities of adjacent neighbours and the adjacent public footpath would be adversely affected, or where such boundary treatments would be prominent in views from outside the site (local residents raised this concern in representations). For visual amenity and landscape impact reasons, the new Green Belt edge to Denby Dale (that would be established by the proposed development) should be lined with appropriate boundary treatments and soft landscaping.
- 11.58 Retaining walls are proposed in several locations, including between the termini of the two branches of the development's estate road, and along part of the application site's southern boundary. In these locations, the submitted drawing indicates that retaining walls of between 3m and 4m (in height) are proposed. This is significant, and risks causing harm in terms of visual and residential amenity (although it is noted that a retaining wall of a similar height has been constructed relatively recently nearby at East Hill Way). Given that the final heights of these retaining walls have not yet been determined by the applicant, given the potential for harm to be caused, and given that there may be opportunities to reduce the height of these walls through adjustments to levels, it is recommended that a condition be applied, requiring the submission of full details and justification for all retaining walls. The same condition would also require details of the materials of the proposed retaining walls, and of adjacent soft landscaping which may help to soften their visual impact.
- 11.59 A further condition relating to boundary treatments is also recommended. Details submitted pursuant to this condition would additionally need to account for flood routing and the movement of hedgehogs.

Residential quality and amenity

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

Neighbour amenity

- 11.61 Application ref: 2022/91911 was refused partly due to impacts upon the amenities of the occupants of existing neighbouring dwellings. The council's fourth and sixth reasons for refusal concerned the impact of the proposed development in relation to 2 and 3 Springhead Gardens and Cruck Cottage, which are residential properties located to the south of the application site. However, no such reasons for refusal were included in the council's subsequent decision regarding application ref: 2023/92191.

11.62 Separation distances between the proposed dwellings and existing adjacent properties (as illustrated and annotated on drawing 0207 rev P04 and described in the resubmitted Planning Statement) would be adequate to ensure no unacceptable loss of natural light, privacy or outlook would occur. Regarding Cruck Cottage, which is a bungalow located close to the application site boundary, the resubmitted Planning Statement notes that the rear elevations of the nearest proposed dwellings have been moved back by 2.3m (compared with what was proposed under application 2022/91911). It goes on to note that while a 21m elevation-to-elevation distance would not be achieved (as is expected under the council's Housebuilders Design Guide SPD), there is an existing level difference, and "the possibility of looking into Cruck Cottage is considered to be entirely eliminated, with any overlooking from the proposed development being on the roof of Cruck Cottage and not into the dwelling or outside amenity space". This is accepted. Regarding 2 and 3 Springhead Gardens, in the current proposals 21m elevation-to-elevation distances (or slightly less) would be achieved by units 43 to 46. Where separation distances would fall slightly short of the SPD's expectation, this is considered acceptable due to the oblique angle at which the dwellings would be set in relation to the rear elevations of those existing neighbouring dwellings. Units 39 and 40 have been referred to in representations, however the proposed separation distances from these dwellings are considered adequate.

11.63 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses in relation to noise.

Construction management

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

Residential quality and amenity

11.65 The quality and amenity of the proposed residential accommodation is also a material planning consideration.

11.66 All of the proposed dwellings would be dual aspect. This is welcomed, as dual aspect enables natural ventilation, and has amenity and outlook benefits.

11.67 All dwellings would have adequate privacy, outlook and access to natural light.

11.68 Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents.

11.69 Adequate distances would be provided within the proposed development between new dwellings.

- 11.70 The sizes of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.
- 11.71 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard has become more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.
- 11.72 All of the proposed units would be NDSS-compliant.
- 11.73 All new units would have ground floor WCs, making those units at least visitable by people with certain disabilities.

Unit size mix

- 11.74 The following unit size mix is proposed:
- 3x 1-bedroom units
 - 12x 2-bedroom units
 - 24x 3-bedroom units
 - 23x 4-bedroom units
- 11.75 Within the above, 50 units would form the development's private (market) element, provided as 5x 2-bedroom units, 22x 3-bedroom units and 23x 4-bedroom units. This unit size mix is considered against the expectations (for the Kirklees Rural East sub-area) set out in the council's Affordable Housing and Housing Mix SPD as follows:

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

- 11.76 The proposed mix for the development's private element does not fully accord with the expectations of the guidance set out in the SPD, in that a shortfall of smaller units and an overprovision of larger units is proposed. While this weighs negatively in the balance of planning considerations, it is not recommended that permission be refused on these grounds. No such reason for refusal was included in the council's decision regarding application ref: 2023/92191.

Affordable housing

- 11.77 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split is expected.
- 11.78 First Homes, launched by the Government in 2021, are a specific kind of discounted market sale housing (and a form of affordable housing) which:
- must be discounted by a minimum of 30% against the market value;
 - are sold to a person or persons meeting the First Homes eligibility criteria;
 - on their first sale, will have a restriction registered on the title at HM Land Registry to ensure this discount (as a percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer; and
 - after the discount has been applied, the first sale must be at a price no higher than £250,000.
- 11.79 At the time the previous application (ref: 2023/92191) was considered, First Homes were the Government's preferred discounted market tenure and were expected to account for at least 25% of all affordable housing units delivered by developers through planning obligations. In response to this Government initiative, in December 2021 the council published a First Homes Position Statement, explaining how this tenure would be secured in Kirklees. Of particular note, the 25% requirement for First Homes was expected to form part of the normally-required 45% intermediate element of a development's affordable housing provision.
- 11.80 Given the above policy and guidance that applied at the time the previous application (ref: 2023/92191) was considered, the applicant proposed an affordable housing element that included First Homes. However, footnote 31 of the most recent update to the NPPF states:
- The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need.*
- 11.81 The council has not withdrawn or amended its First Homes Position Statement since the NPPF was updated, and First Homes are still referred to in the council's Affordable Housing and Housing Mix SPD.
- 11.82 The applicant's affordable housing proposals have not changed in the current application. They remain as follows:
- seven social/affordable rent units;
 - three First Homes; and
 - two other intermediate units.

11.83 The unit size mix for the proposed affordable element remains as follows:

Affordable Rent:

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

First Homes:

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

Other intermediate:

- 2x 1-bedroom units

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

11.85 Totalling 12 affordable units (when 20% of 62 dwellings is 12.4), the proposed provision is policy-compliant. The proposed affordable housing tenure mix is also considered acceptable. Although the NPPF no longer requires the provision First Homes, in Kirklees they remain an acceptable form of intermediate affordable housing.

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

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

11.87 Crucially, the proposed affordable rent element is SPD-compliant. The proposed intermediate element is not SPD-compliant (in that all units would have one or two bedrooms, and no 3-bedroom units are proposed), however this has not attracted an objection from KC Strategic Housing (officers of the relevant team in fact suggested the affordable housing unit size mix now proposed), and it is not recommended that permission be refused on the grounds that part of the affordable housing offer does not fully meet the expectations of the guidance set out in the SPD. No such reason for refusal was included in the council's decision regarding application ref: 2023/92191.

11.88 Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development. The proposed locations of the affordable housing units (at the termini of the two branches of the development's estate road, and at the site entrance) are considered acceptable. The development's affordable housing element would be well spread and provided in locations with good levels of amenity, and would not be clustered or isolated in an inferior or distinguishable part of the application site.

- 11.89 The design of the proposed affordable housing would also ensure it would not be visually distinguishable from the development's private element. Of the three house types proposed in the affordable element, two would also be used in the private element. The same materials would be used across the tenures (including at the west end of the application site, where natural stone would be used on private and affordable units at plots 1, 60, 61 and 62), and elevational detailing would be similar across the application site.

Highway and transportation issues

- 11.90 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 11.91 Paragraph 115 of the NPPF states that, in assessing applications for development, it should be ensured that sustainable transport modes are prioritised (taking account of the vision for the site, the type of development and its location); safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, and other transport elements reflects current national guidance; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on 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 highway safety, or if the residual cumulative impacts on the road network, following mitigation, would be severe (taking into account all reasonable future scenarios).

Existing conditions

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

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

Traffic impact and network assessment

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

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

- 11.98 KC HDM officers generally agree with the above conclusions, and agree that the development is not anticipated to have any significant effect beyond the site access junction. To put this into context, development traffic would represent a maximum increase of 6.7% in vehicular traffic on Cumberworth Lane to the southeast of the access to/from the village centre (26 new vehicle trips compared to 371 existing PCUs in the 2028 PM peak baseline data).
- 11.99 The site access junction has been modelled using the PICADY function within the Junctions 9 software. This assessment demonstrates that the proposed site access junction would operate comfortably within practical capacity in the future design of 2028 and is therefore considered suitable to serve the proposed development.
- 11.100 It is considered that the impact of the traffic generated by the development would have no material or severe impact on the operation or safety of the local highway network.

Site access

- 11.101 Much discussion with the applicant during the life of the previous application concerned the design, adequacy and safety of the proposed site access on Cumberworth Lane.

- 11.102 The proposed site access takes the form of a simple priority T-junction, with a minor road carriageway width of 5.5m and 2m wide footways on both sides. 10m radii are proposed at the site access to accommodate the turning movements of the council's design refuse vehicle (11.85m long) to/from the site access, which has been demonstrated on the applicant's swept path drawings.
- 11.103 A 2m wide footway is proposed along the site frontage, which would connect the site access to the private access track that carries public footpath DEN/61/10 to the north of the site. To the south of the site frontage, the proposals include a new 1.5m wide section of footway that would front 1 Chapel Court and would connect to the existing footway network to the south. These footway improvements would provide a direct link to the wider footway network to the south from the development site, and would also provide improved provision for existing pedestrians walking between public footpath DEN/61/10 and the village centre. It is noted that the 1.5m wide section of footway is below the preferred minimum width of 2m, which cannot be provided in this location due to land constraints. However, this width is sufficient to allow two pedestrians to pass and also for guided pedestrians (e.g. parents with children) in accordance with guidance contained in the DfT's Inclusive Mobility document. Dropped crossing points are proposed at the site access junction, and on either side of the junction to assist pedestrians crossing Cumberworth Lane. These would be suitably located where there would be adequate pedestrian/vehicle inter-visibility. The proposed footway improvements at the site access and on Cumberworth Lane are considered acceptable and would provide a welcome improvement for existing and proposed highway users. It is also noted that the new footway would also have consequential benefits to junction visibility for properties accessed from the private track that carries public footpath DEN/61/10 (as the existing retaining wall that blocks visibility will be set back).
- 11.104 Notwithstanding the posted speed limit on this part of Cumberworth Lane, as on-site observations suggested that southbound approach speeds to the proposed site access junction were in excess of 30mph, the applicant provided speed survey data in their Transport Assessment (Appendix D) to determine the required junction visibility splay for approaching southeast-bound traffic. The speed survey was undertaken at a point approximately 100m north of the proposed site access (e.g. at the speed limit change), and identified 85th percentile southeast bound speeds of 34.8mph.
- 11.105 Based on the guidance contained in Manual for Streets Parts 1 & 2 (MfS), and taking into account the recorded approach speeds and gradient of Cumberworth Lane, a 2.4m x 59m visibility splay is required looking northwest from the proposed site access. This has been demonstrated on the proposed site access drawing 2111502-Rev I, with the splay measured to the nearside wheel track in accordance with MfS guidance. Given the proximity of the site access to the Wakefield Road junction and the built-up nature and geometry of the southern end of Cumberworth Lane, vehicles are observed to be generally travelling within the posted 30mph speed limit in the northbound direction. Accordingly, a visibility splay of 43m commensurate with a 30mph speed limit is considered appropriate to the southeast of the site access, which has again been demonstrated on the proposed site access drawing.

- 11.106 Under the previous application (ref: 2023/92191), local residents raised concerns regarding the proposed site entrance junction visibility and have suggested that the guidance in MfS should not be applied in this situation, and instead that guidance from the Design Manual for Roads and Bridges should be applied to Cumberworth Lane. However, Section 1 and 10 of MfS (Part 2) states that stopping sight distances (SSD) for roads where speeds are below 37mph (60kph) should apply the MfS guidance. Further guidance on this matter is also provided in the Kirklees Highway Design Guide SPD, which states: "For routes that carry over 10,000 vehicles per day and/or have vehicle speeds greater than 37mph, the visibility guidelines within the Design Manual for Roads and Bridges (DMRB) should be followed". As the recorded speeds are below 37mph and the two-way flow of traffic on Cumberworth Lane is well below 10,000 vehicles per day (based on the traffic data contained at Appendix D of the TA, the average weekday two-way flow was recorded at 3,507 vehicle per day), it is clear that the MfS guidance is applicable in this situation.
- 11.107 As vehicles speeds above 30mph have been recorded to the northwest of the site access at the entrance to the 30mph speed limit, the applicant has agreed to provide improved speed limit terminal signage on yellow backing boards on both sides of the carriageway (on offset brackets on the east side to avoid carriageway overhang), together with a 30mph speed limit roundel road marking on the carriageway, to highlight the speed limit change and encourage better compliance with the speed limit. These works would be implemented as part of the site access proposals, and it is recommended that they be secured by planning condition.
- 11.108 Local residents also raised concerns about the narrow carriageway width on Cumberworth Lane within the vicinity of the proposed site access, suggesting that it is not wide enough to allow vehicles to pass. KC HDM officers have noted that the running carriageway width is circa 5.5m within the vicinity of the site access. As confirmed in MfS, this width is sufficient to allow two vehicles to pass, including HGVs passing light vehicles (cars/vans) or cyclists. Therefore, as the proposals maintain the running carriageway width of 5.5m past the site access, the development would not impact on passing traffic at the site access, and as previously mentioned, swept path analysis has been provided to confirm that the council's design refuse vehicle (the largest fleet vehicle) can safety turn to/from the access.
- 11.109 The proposed site access, footway and signing/road marking proposals on Cumberworth Lane have been subject to a Stage 1 Road Safety Audit. This did not raise any significant issues that cannot be addressed at the detailed design stage. The only issue of note that was raised was the location of one of the dropped pedestrian crossing points on Cumberworth Lane that has now been relocated to ensure that adequate pedestrian/vehicle inter-visibility would be provided.
- 11.110 In light of the above, the site access proposals and associated works on Cumberworth Lane are considered acceptable, and would provide an improvement over the current arrangements.
- Road safety*
- 11.111 A review of personal injury collisions for the preceding five-year period, (January 2017 to December 2021) has been undertaken in the applicant's Transport Assessment, the findings of which indicate that there have been no collisions resulting in injury in the vicinity of the site access on Cumberworth Lane. The TA concludes that:

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

- 11.112 KC HDM officers generally agree with the above finding. It is also noted that some local objections suggested that the Crashmap data included in the TA is incorrect, as there have been other incidents in the area that have not been identified. This is likely to be due to the collision data only including reported incidents that resulted in person injury, as these are the only incidents that are recorded in the DfT data used in Crashmap. As such, when considering the previous the previous application (ref: 2023/92191), KC HDM officers reviewed the more detailed personal injury collision data available to the council, which confirmed that there were no reported personal injury collisions on Cumberworth Lane within the vicinity of the site or its junction with Wakefield Road within the last five years of available data (noting that there is a time lag on the available data, so it may not have included any very recent incidents).

Public rights of way

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

Site layout

- 11.115 The proposed site layout comprises a combination of traditional estate roads with footways on both sides, shared surface streets with hard margins and private drives. The overall layout takes the form of a series of cul-de-sacs terminating in service vehicle turning heads.

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

Servicing

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

Parking

- 11.121 Parking provision across the site must reflect anticipated need (balanced against aesthetic, street scene, safety and sustainability considerations), having regard to likely vehicle ownership. The council has not set prescriptive parking standards for residential development. However, it is expected that development will provide parking in line with the recommended levels set in the council's Highway Design Guide SPD, which requires two spaces for 2- and 3-bedroom dwellings, and three spaces for 4-bedroom (or larger) dwellings. Should garages be proposed, they must have an internal dimension of 3m x 6m to be taken into account as available off-street parking.

- 11.122 KC HDM officers previously raised concerns that some of the 4-bedroom dwellings were only proposed to have two parking spaces, and that some of car parking spaces were of insufficient length to accommodate large cars. The layout was therefore amended to ensure that all car parking spaces are of an adequate size, and for all of the 4-bedroom dwellings that would only have two off-street parking spaces (this applies to 15 of the 23 4-bedroom dwellings), these do not include garages spaces (as these are often not used). For the remaining dwellings, the proposed off-street car parking provision is in accordance with the council's Highway Design Guide SPD recommendations, including suitably-sized garages (proposed for the remaining eight 4-bedroom dwellings).
- 11.123 16 visitor parking spaces have been shown within the proposed adoptable highway, in the form of dedicated laybys and other informal locations that do not block drives, bends or turning heads. This provision is considered to be adequate and is in accordance with the council's Highway Design Guide SPD, which recommends one visitor space per four dwellings.
- 11.124 Sufficient spaces are proposed to reduce the risk of new residents parking on nearby streets or in other inappropriate locations. Where possible, unbroken rows of parking spaces have been avoided, for visual amenity reasons.
- 11.125 Cycle parking is proposed for all dwellings in cycle sheds within secure garden areas that are accessible via external routes. These proposals are acceptable in principle, with the final details to be secured by a recommended planning condition, which would require secure cycle parking that can accommodate a range of cycle types to ensure that it is inclusive.

Sustainable transport

- 11.126 It is recommended that a Sustainable Travel Fund contribution of £51,606.94 be secured via the necessary Section 106 agreement. This has been increased from the £49,335.88 recommended under application ref: 2023/92191 due to the relevant cost increasing from £795.74 to £832.37 per dwelling for a Residential MCard (Rail/Bus Zone 2-5). Although the calculation of this sum is based on 62 units multiplied by the cost of an MCard, the contribution would be secured flexibly, so that it could be put towards a range of measures intended to encourage the use of sustainable modes of transport.

Travel planning

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

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

Construction management

- 11.130 As well as for residential amenity and environmental health reasons, management plans relating to the proposed groundworks and the construction phase would be required in connection with highway considerations. These would need to secure the provision of wheel washing facilities, among other measures.
- 11.131 A further condition requiring highway condition surveys (carried out before and after construction, and including public footpath DEN/61/10) is recommended.
- 11.132 Under the previous application (ref: 2023/92191) limited details were provided in relation to construction access, although the applicant had referred to the potential removal of material from the application site (approximately 4,150 cubic metres to be extracted over eight weeks, which would equate to around 10 loads per day based on 5.5 working days per week and 10 cubic metre loads). This information was subsequently updated, and there were also discussions with the applicant regarding HGV routing. For this element of the development process, it has been indicated that this would take place via the new access on to Cumberworth Lane. Therefore, further details of the construction access arrangements would need to be provided as part of the CMP. This would need to include adequate junction visibility and geometry (to be confirmed by swept path analysis), and measures to ensure the safety of pedestrians walking past the site access (the new footway would need to be provided along the site frontage, at least in a temporary form).
- 11.133 Local residents expressed concern that construction access may take place via the private track that carries public footpath DEN/61/10 along the application site’s northwest boundary. However, this would not be acceptable, and construction access would only be acceptable via a suitably-constructed construction access on to Cumberworth Lane. An appropriate condition related to this is recommended.

Flood risk and drainage issues

- 11.134 In relation to flood risk and drainage, the requirements of chapter 14 of the NPPF, and Local Plan policies LP27, LP28 and LP29, must be addressed. Drainage and flood risk (including provisions for flood routing) should be a key influence on any layout proposed for the application site.
- 11.135 The allocated site is located within Flood Zone 1 and is therefore generally at low risk of flooding. A watercourse runs along the application site’s northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent). Yorkshire Water sewers exist beneath Cumberworth Lane and other nearby streets.
- 11.136 The application site is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) and a full site-wide drainage strategy is required. These have been submitted.

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

Environmental health considerations

- 11.143 The application site is not within an Air Quality Management Area (AQMA) and is not near to roads of concern in relation to air quality. KC Environmental Health have advised that the proposed development does not require an emissions damage cost calculation. Officers in that team have accepted the applicant's assertions that increases in traffic flows on local roads (caused by the proposed development) will not generate any significant emissions and concentrations of NO₂, PM₁₀ and PM_{2.5}, and these are predicted to be below the national air quality objectives. The applicant's air quality methodology is considered by KC Environmental Health to be acceptable, and no further mitigation measures are required for this development.
- 11.144 For air quality reasons, a condition requiring the provision of electric vehicle charging points for all dwellings is recommended. This condition would require the charging points to be made operational and to be retained thereafter (and, therefore, goes further than the relevant current requirements of the Building Regulations).
- 11.145 Regarding dust, KC Environmental Health previously advised that the proposed development does not require a construction dust risk assessment. An adequate dust management plan has been submitted for the site remediation phase, however details regarding dust are required for the wider construction activities. An appropriate condition is therefore recommended.

- 11.146 Regarding noise during the remediation and construction phase, works would be restricted to appropriate hours, and the applicant's proposed construction methodology (to the extent it has been detailed to date) is considered acceptable, however temporary acoustic screens would be required.
- 11.147 Cumberworth Lane is a source of traffic noise, and the previous applicant's acoustic consultant advised that acoustic screening would be required to protect residents of the nearest new dwellings (at the west end of the application site) from that noise. KC Environmental Health subsequently supported the erection of acoustic screening. However, it is considered that such screening would be visually harmful (at a location close to the site entrance), and in any case the previous applicant (for the previous application ref: 2023/92191) more recently stated that – since those dwellings were moved away from west end of the site – no such screening is in fact required. A condition requiring the erection of such screening is therefore not recommended. Other dwellings within the proposed development are not considered to be at risk of amenity harm in relation to noise.
- 11.148 Notwithstanding the above commentary regarding dust and noise, it is noted that many residents remain concerned regarding the amenity impacts of the proposed site remediation, particularly in relation to the potential removal of approximately 4,150 cubic metres (pre-update figure) of material from the application site. These concerns are understandable.
- 11.149 To address these concerns, conditions are recommended requiring the submission of management plans for both the extraction and construction phases of development. Both plans would need to specify hours of working, and control noise and vibration, dust and artificial lighting to minimise impacts upon neighbouring residents.

Site contamination and stability

- 11.150 The application site is affected by previous coal mining activities. The applicant's Phase 2 Geo-Environmental Report details intrusive investigations carried out via boreholes at the application site, and describes ground conditions. Three areas of coal were discovered at the application site, together with related voided strata. These seams and voids range from 0.4m to 2.5m in thickness. The applicant has stated that these areas pose a risk to stability as there is insufficient thickness of competent rock cover above the workings to mitigate the risk of instability impacting the surface. Three mine entries also exist at the application site – one towards the southwestern corner of the site (where plot 58 is now proposed), and two towards the application site's northeastern boundary.
- 11.151 The extent of the site investigation summarised above is considered acceptable for a site and a development of this size, location and nature. Furthermore, it is noted that for the current application, the applicant has submitted a "peer review" in the form of a letter from RSK Geosciences (dated 15/11/2024), which supports officers' previous advice that the extent of site investigation carried out by the previous applicant was normal, proportionate and adequate for the purpose of assessing and determining a planning application.
- 11.152 There is one closed landfill site within 250m of the application site.

- 11.153 Paragraph 196 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination (this includes risks arising from former activities such as mining). Paragraph 197 states that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 11.154 Local Plan Policy LP53 states that development on land that is unstable, currently contaminated or suspected of being contaminated due to its previous history or geology, or that would potentially become contaminated as a result of the development, will require the submission of an appropriate contamination assessment and/or land instability risk assessment. For developments identified as being at risk of instability, or where there is evidence of contamination, measures should be incorporated to remediate the land and/or incorporate other measures to ensure that the contamination/instability does not have the potential to cause harm to people or the environment. Such developments which cannot incorporate suitable and sustainable mitigation measures which protect the well-being of residents or protect the environment will not be permitted.
- 11.155 To stabilise the application site, the applicant proposes the following:
- A drill and grout operation which would consist of drilling approximately 300 primary holes and 250 secondary holes which would then be injected with a grout mix to fill and strengthen the voids beneath the site.
 - For the three mine entries within the application site, grouting (as described above) and capping with reinforced concrete that is twice the diameter of the entry.
 - At the centre of the site, where ground levels would be lowered by up to 2.5m, excavation may be carried out to remove existing mineworkings or seams in full. The need for such excavation would be determined by final levels. Should such excavation be deemed necessary by the applicant, an extraction volume of approximately 4,150 cubic metres was anticipated (this was subsequently revised to 4,400 cubic metres by the applicant). However, where this excavation is deemed impractical, the applicant proposes grouting as described above.
- 11.156 Further detail regarding these works is set out under paragraph 6.9 onwards of this committee report.
- 11.157 Of note, the above represents a reduced level of intervention in relation to ground works. Under application ref: 2022/91911, extensive excavation and backfill was proposed – the relevant committee report noted that the applicant’s submission referred to the extraction of 12,000 tonnes of coal (although in the most recent Planning Statement the applicant has said that 6,000 tonnes were to be extracted).
- 11.158 The ground works now proposed, including the potential extraction of approximately 4,150 or 4,400 cubic metres of material, are not unusual for a development of this size and nature, at a sloped site where there are existing voids and seams near to the proposed surface level, and where sub-surface space needs to be created for surface water attenuation. As noted in the comments of KC Environmental Health, coal remaining close to the surface of a development site is at risk of combustion, and its removal and covering with inert material may be necessary. At the volume suggested by the applicant,

the potential extraction can be regarded as incidental to the residential development of the application site (accordingly, the applicant considers the material to be waste rather than a resource), and the development description did not need to refer to extraction. However, for sustainability and amenity reasons, the extraction of material from the application site should be minimised as far as is possible. It is also noted that the applicant previously stated that it was not yet certain exactly how much – if any – material would be extracted. A condition is therefore recommended, requiring the submission of detailed information quantifying any such extraction, demonstrating the need for it (as opposed to re-use on site), explaining how it has been minimised, and explaining how its impacts would be mitigated.

- 11.159 The Coal Authority (now the Mining Remediation Authority) noted that the proposed grouting could be secured by condition. They additionally stated that one of the site's three mine entries (shaft 422408-015, located in front of where unit 39 to 42 are now proposed) would be remote from any built development and owing to past excavations is likely to have been removed in its entirety, therefore risks related to it would be low and do not warrant any further intervention.
- 11.160 However, in relation to the site's other two mine entries (422408-002 to the rear of where unit 58 is now proposed and 422408-016 towards the east end of the site where open space is now proposed), the Coal Authority raised concerns, noting that both require capping at rock head and grouting, and that the applicant's submission suggests that the proposed dwellings would avoid the entries, but not their zones of influence. Whilst the Coal Authority accepted that the remedial strategy proposed would effectively nullify the zones of influence, they were unclear as to how the mine entries, together with their treatments (i.e. the caps) would sit within the context of the development. Noting that building over the caps would be contrary to the Coal Authority's adopted policy, they requested amended information confirming the locations of the mine entries (and their treatments) in relation to the proposed development.
- 11.161 Under the previous application (ref: 2023/92191), the applicant subsequently submitted drawings providing the requested information. This was forwarded to the Coal Authority by officers, and in response to the council's reconsultation, the Coal Authority withdrew their objection subject to recommended conditions being applied. It is considered that the submitted information adequately illustrates that built development is not proposed within the zones of influence of the site's mine entries.
- 11.162 It is recommended that other conditions relating to the remediation of the site's coal mining legacy be applied in accordance with the comments of the Coal Authority. Subject to appropriate details being submitted pursuant to these conditions, it is considered that the applicant's proposals would satisfactorily stabilise the site (in accordance with the NPPF and the Local Plan), rendering it able to support residential development.
- 11.163 Regarding site contamination, KC Environmental Health advised that the applicant's findings (including in relation to ground gas) are accepted, although further gas monitoring is required. Of note, KC Environmental Health advised that all remaining coal is required to be isolated beneath a minimum 1m thickness of inert material, and that inert service trenches are required. The site contamination conditions listed in KC Environmental Health's comments are included in the list of recommended conditions.

Ecological considerations

- 11.164 The application site is undeveloped, grassed agricultural land, and slopes downhill from north to south. A watercourse runs along the application site's northeastern boundary (to the rear of existing dwellings on Leak Hall Crescent).
- 11.165 As noted above, the Wildlife Habitat Network covers almost all of the application site. All of the application site is within the Impact Risk Zones of the Dark Peak and Denby Grange Colliery Ponds Sites of Special Scientific Interest. Bats, twites and swifts are present at and around the application site. Biodiversity Opportunity Zones cover most of the application site (Pennine Foothills for most of the site, Built-up Areas for a small part at the Cumberworth Lane frontage).
- 11.166 The resubmitted Ecological Impact Assessment found that habitats within the application site were of varying ecological value. The majority of the site's grassland was assessed by the applicant to be modified grassland of low distinctiveness. A small area of other neutral grassland was present to the east of site which supports greater species diversity. Scrub habitats and trees on site were found to be of value to local wildlife including breeding birds, invertebrates and mammals such as bats and hedgehog. Sections of hedgerow remaining on site comprise native species and were found by the applicant to be representative of UKBAP priority habitat (where identified to be over 20m in length). One hedgerow (H1) has the potential to meet the ecological criteria for importance under the Hedgerow Regulations 1997, qualifying as species-rich. Ground flora was found to be dominated by coarse grass species and ruderal vegetation including undesirable species such as thistles and nettles. The plant communities at the site were found to be of widespread occurrence and characteristic of the habitats present in the wider area and common nationally. No rare or locally uncommon plant species or invasive species as listed under the Wildlife and Countryside Act 1981 (as amended) were detected by the applicant at the site. The Spanish bluebell hybrid (regarded as a non-native invasive species) was recorded to the northern boundary of site. Bird species observed by the applicant during a site walkover included greenfinch, house sparrow, woodpigeon, starling, wren, dunnock, swift and kestrel, as well as several species that are not of conservation concern.
- 11.167 Under the previous application (ref: 2023/92191), several local residents stated that other species are present at the application site, including deer, toads and owls.
- 11.168 A condition requiring on-site biodiversity enhancements is recommended.
- 11.169 As noted earlier in this committee report, Biodiversity Net Gain (BNG) has become mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Major developments must therefore deliver a BNG of 10%, utilising the statutory BNG metric. This requirement is subject to limited exceptions, however the applicant has not put forward a case that the development is exempt from mandatory BNG, nor do officers consider exemption applicable in this case. 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 and approved by the local planning authority prior to commencement of the development.

- 11.170 Chapter 15 of the NPPF, Local Plan policy LP30, and the council's Biodiversity Net Gain Technical Advice Note similarly set out that 10% BNG should be demonstrated.
- 11.171 It remains the case that achieving biodiversity net gain within an application site is the preferred option. If this cannot be achieved within an application site (i.e., where it can be demonstrated that on-site compensation methods have been exhausted), applicants are required to secure off-site compensation. In those situations, as set out in the council's Biodiversity Net Gain Technical Advice Note (paragraph 3.4.1 onwards), applicants will need to demonstrate that sufficient off-site habitat creation or enhancement has been secured to achieve a minimum 10% biodiversity net gain.
- 11.172 In accordance with the council's Technical Advice Note, applicants are encouraged firstly to source and bring forward appropriate sites on which their biodiversity offsetting can occur. These should be reasonably close to the development site and have the potential to establish or enhance in-kind habitats to those due to be lost.
- 11.173 Taking into account site constraints and other demands on space, officers are satisfied that on-site compensation methods have been exhausted. It is understood that the applicant controls land within the vicinity of the application site, however the applicant has not yet decided whether this land would be used for delivering habitat units.
- 11.174 For the current application, the applicant has submitted a biodiversity metric calculation using the statutory metric (whereas under the previous application ref: 2023/92191, the Biodiversity Metric version 3.1 was used, and this resulted in different figures being obtained). The updated metric calculation sets out the application site's existing values (i.e., its baseline), as well as the site's post-development values, and the changes (in units and percentages), as follows:

Unit type	Existing (baseline)	Proposed (post-development)	Change in units	Percentage change
Habitat	12.16	6.03	-6.13	-50.41%
Hedgerow	1.14	1.94	+0.8	+70.07%
River	0.19	0.35	+0.16	+86.72%

- 11.175 Although it is noted that the site's hedgerow and river unit baselines are low, the respective 70.07% and 86.72% increases (which would be achieved on-site) are nonetheless welcomed. A condition securing the delivery of these gains is recommended in accordance with the comments of KC Ecology.
- 11.176 Regarding the development's impact upon habitat units, in order to compensate for the 50.41% loss, and to achieve a 10% gain, 7.35 habitat units would need to be provided off-site. The applicant would need to explain how and where these units would be delivered via the future submission to be made pursuant to the statutory pre-commencement condition which requires a Biodiversity Gain Plan to be submitted and approved. An informative is recommended, reminding the applicant that the pre-commencement Biodiversity Gain Plan general planning condition (imposed by legislation) applies.

- 11.177 To achieve a 10% increase in habitat units, significant off-site measures would be necessary, which in turn necessitates the securing of maintenance, management and monitoring measures (via a Section 106 agreement, for a 30-year period) in relation to the BNG required of the proposed development. It is recommended that this be included in the Section 106 Heads of Terms.
- 11.178 Subject to the biodiversity net gain contribution being secured, and conditions being applied in relation to ecological mitigation and landscaping, it is considered that the proposed development is acceptable in terms of its ecological impact.

Trees

- 11.179 Local Plan policy LP33 is relevant. Tree Preservation Order TPO 17/21/t1 protects an oak tree within the application site. An area of open space is proposed around this tree, and the nearest new dwelling would be unit 39. The applicant's drawings note that earth has been piled up against this tree. Excess soil will need to be removed, and the applicant has stated that compaction damage within the tree's root protection area would be remediated.
- 11.180 Regarding the development proposed around the tree, the applicant proposes a root protection barrier as part of the creation of the new estate road adjacent to the tree. Under the previous application ref: 2023/92191, KC Trees advised that a "no dig" cellular confinement system will need to be shown on plans and implemented. KC Trees also expressed concern regarding the location of unit 39 in relation to the tree, and the potential pressure to prune that may follow. However, officers note that the council would have control over an application to carry out any such pruning.
- 11.181 The applicant has submitted Arboricultural Method Statement and Tree Protection Plan, however a condition is recommended requiring the submission of final (amended) versions of these documents.
- 11.182 As noted earlier in this report, in light of Green Streets principles, paragraph 136 of the NPPF (which requires new streets to be tree-lined), and concerns previously raised by KC Landscape, a condition requiring full details of soft landscaping is recommended, and in considering details submitted pursuant to that condition officers would require opportunities for further street tree planting (including within private curtilages, if necessary) to be explored.

Open space

- 11.183 Three areas of publicly-accessible open space are proposed on-site in appropriate locations (namely, around the TPO-protected tree, above the development's attenuation tank (where buildings cannot be erected), and either side of the site proposed entrance). Other, smaller spaces have also been annotated as "POS" in the applicant's drawings.
- 11.184 Limited information has been submitted regarding the purpose, character, equipment and soft landscaping of the on-site open spaces. Therefore, only a basic assessment of the proposals against the council's Open Space SPD is possible at this stage. Open space of various typologies, and a Locally Equipped Area for Play (LEAP), would be required of a residential development of this scale. Until further details of the proposed open spaces

are provided, and given that some areas (such as the green space between units 14 and 29) should not be counted towards on-site provision at this stage, a contribution of £120,055 towards off-site open space would be required. This has been calculated in accordance with Local Plan policy LP63, and the methodology set out in the adopted Open Space SPD, and takes into account deficiencies in the Denby Dale ward. Members should be aware, however, that – should the applicant provide further information that would enable more of the proposed open space to be counted towards on-site provision, and/or would clarify that the proposed open space would indeed be of specific typologies – this contribution could be significantly reduced.

- 11.185 Similarly, if acceptable details of an on-site LEAP were to be provided, this element of the contribution would no longer be required. If, however, a contribution towards off-site provision is to be collected, it is noted that four existing play spaces are within 720m of (and a 15-minute walk from) the application site – the children and young people’s element of the open space contribution could be spent in those locations, subject to local consultation (including with Members).
- 11.186 It is recommended that further details of the on-site open space (and the final contribution, as well as an inspection fee of £1,750) be secured via the necessary Section 106 agreement. Details of the management and maintenance of these spaces would also be secured via the Section 106 agreement.

Other planning considerations

- 11.187 Regarding archaeology, the applicant submitted an Archaeological Desktop Assessment. The West Yorkshire Archaeology Advisory Service (WYAAS) noted that the northern part of the application site coincides with part of the presumed extent of a medieval settlement located to the south of Leak Hall. Earthworks identified here were considered to be evidence of medieval buildings and ploughing. This evidence was located in a sub-square field to the south of Leak Hall which is bisected by a trackway.
- 11.188 WYAAS further noted that the condition of these archaeological earthworks has been reassessed more recently (in 2012 and 2022). On both occasions the earthworks were not visible due to scrubby growth. The south-western part of the area of interest had been obscured and possibly destroyed by spoil and vehicle movements associated with the construction of new dwellings off Leak Hall Road in the recent past. WYAAS have noted the difficulty of carrying out predetermination geophysical surveys due to the present ground conditions. Geotechnical assessment has identified evidence of coal mining within the site, and this activity is likely to have damaged any evidence of earlier activity.
- 11.189 WYAAS recommended a condition be applied, securing a programme of archaeological recording. This may include strip and record excavation, excavation of archaeological trial trenches, and observation of geotechnical and other ground reduction works.
- 11.190 As with the previous application (ref: 2023/92191), local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it

is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

- 11.191 The impact of proposed developments upon the values of existing nearby properties is not a material planning consideration.
- 11.192 Whether the applicant intends to develop the site, or sell the site (with planning permission) to a developer, is not a material planning consideration.
- 11.193 As with the previous application (ref: 2023/92191), a resident has commented regarding locations in Denby Dale where an air ambulance (helicopter) could land in an emergency. However, officers note that the site is not protected for this purpose via any current planning policies, and alternative landing sites appear to be available in Denby Dale.

Planning obligations

- 11.194 A development of this scale would have significant impacts requiring mitigation. The following planning obligations securing mitigation (and the benefits of the proposed development, where relevant to the balance of planning considerations) would need to be included in a Section 106 agreement. These are as per those included in the previous committee report, but with amendments made to the on-site open space inspection fee, sustainable transport and biodiversity.

- 1) Affordable housing – 12 affordable dwellings (seven social/affordable rent, three First Homes, and two other intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of up to £120,055 to address shortfalls in specific open space typologies.
- 3) On-site open space inspection fee – £1,750.
- 4) Education – Contribution of £97,444 towards secondary provision.
- 5) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including: i) a £51,606.94 Sustainable Travel Fund contribution; ii) submission, approval and implementation of a Travel Plan; iii) £10,000 towards Travel Plan monitoring; and iv) provision of public access between the development's estate roads and public footpath DEN/61/10 (and maintenance of links) in perpetuity.
- 6) Biodiversity – Maintenance, management and monitoring measures for a 30-year period in relation to biodiversity net gain.
- 7) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, of infrastructure (including surface water drainage until formally adopted by the statutory undertaker, and of the site's existing watercourse) and of street trees (if planted on land not adopted).

- 11.195 All contributions are to be index-linked.
- 11.196 The applicant has confirmed that the above-listed heads of terms are agreed.
- 11.197 The applicant has not submitted financial viability evidence under this application.

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

Conditions

11.199 Full wording of conditions is not normally set out in committee reports, however in response to Members' request (made at the Strategic Planning Committee meeting of 16/05/2024 in relation to the previous application ref: ref: 2023/92191), a draft list of conditions is appended to this committee report. This is as per the list included in the previous committee report (which the applicant has confirmed agreement to), but with amendments made to some conditions, and with two additional conditions included, as requested by KC Highways Development Management.

11.200 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.

11.201 Other conditions are standard, and/or are explained earlier in this report.

11.202 The fact that 39 conditions are recommended does not indicate that the applicant's submissions are lacking, nor does it indicate that the proposals have not been appropriately assessed at application stage. This number of conditions is not unusual for a development of this size and nature. It is also noted that many of the recommended conditions are compliance conditions that do not require the submission of further details to the council.

11.203 It is recommended that authority to amend and add to this draft conditions list be delegated to the Head of Planning and Development.

12.0 CONCLUSION

12.1 The majority of the application site is allocated for residential development under site allocation HS144, and the principle of residential development at this site is considered acceptable.

12.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), access, topography, drainage, ecological considerations, heritage, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.

12.3 The applicant has satisfactorily addressed the concerns set out in the previous reasons for refusal for application ref: 2022/91911. Furthermore, notwithstanding the defence at appeal (prepared by officers) of the council's refusal of application ref: 2023/92191, officer advice remains as per the committee report written for that application. That committee report advised that the proposed development was acceptable in planning terms, and recommended that permission be granted. That advice and recommendation is further supported by the updated housing land supply and housing delivery position that now applies in Kirklees.

- 12.4 Given the above assessment and having particular regard to the 62 homes (including 12 affordable homes) that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 12.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

13.0 CONDITIONS

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

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

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

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

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

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

- Justification for all extraction, and details of how extraction has been minimised and how material would be re-used on site as far as is possible;
- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for works traffic (as stipulated by condition 7);
- Confirmation that no works traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Works vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;

- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;
- Measures to control and monitor the emission of dust and dirt during works;
- Mitigation of noise and vibration arising from all works, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all works and security of the site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction or other works be carried out at nearby sites during the same period).

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

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

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

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

- A timetable of all works;
- Any phasing of development;
- Hours of works;
- Point of access for construction traffic (as stipulated by condition 7);
- Confirmation that no construction traffic shall use the track (which carries public footpath DEN/61/10) to the north of the site;
- Construction vehicle sizes and routes;
- Numbers and times of construction vehicle movements;
- Locations of HGV waiting areas and details of their management;
- Parking for construction workers;
- Loading and unloading of plant and materials;
- Storage of plant and materials;
- Signage;
- Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site, including the provision of adequate wheel washing facilities within the site;
- Street sweeping;

- Measures to control and monitor the emission of dust and dirt during construction;
- Site waste management, including details of recycling/disposing of waste resulting from construction works;
- Mitigation of noise and vibration arising from all construction-related activities, including restrictions on the hours of working on the site including times of deliveries;
- Artificial lighting used in connection with all construction-related activities and security of the construction site;
- Site manager and resident liaison officer contacts, including details of their remit and responsibilities;
- Engagement with local residents and occupants or their representatives; and
- Engagement with the developers of nearby sites to agree any additional measures required in relation to cumulative impacts (should construction be carried out at nearby sites during the same period).

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

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

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

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

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

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

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

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

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

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

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

7. Prior to the commencement of development (including ground works), a vehicular access into the site shall be created at Cumberworth Lane for use by works and construction traffic. Prior to being brought into use, visibility splays of 2.4m x 59.5m to the northwest and 2m x 43m to the southeast shall be provided at the access and shall be cleared of vegetation and boundary treatments and visibility splays shall be kept clear of all obstructions to visibility above 0.6m measured from the ground thereafter. This access shall be used by works and construction traffic for the duration of the works referred to in conditions 3 and 4, and no other access to or egress from the site for works or construction traffic shall be provided, enabled or used unless approved in writing by the Local Planning Authority.

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

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

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

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

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed.

The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

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

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

9. Where implementation of the development hereby approved is to be phased, and/or any of the dwellings hereby approved are to become occupied prior to the completion of the development and/or prior to the adoption of the estate roads, details of temporary arrangements for the storage and collection of wastes from those residential units, and details of temporary arrangements for the management of waste collection points, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of those residential units. The temporary arrangements so approved shall be implemented prior to the first occupation of those residential units, and shall be so retained thereafter for the duration of the construction works and until the estate roads are adopted unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

elements have been fulfilled in accordance with the programme set out in the WSI.

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

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

11. Means of access to and from the site shall be in accordance with the preliminary access design shown on drawing 211502 rev I hereby approved unless otherwise agreed in writing by the Local Planning Authority and shall be provided prior to first occupation of the development and thereafter retained and maintained for the lifetime of the development.

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

12. The development hereby approved shall not be first occupied until the off-site highway works shown on drawing 211502 rev I (comprising new footways, new kerbing, pedestrian crossing points, road markings and signage improvements on Cumberworth Lane) or an alternative scheme of off-site highway works have been completed in full.

Reason: To ensure the free and safe use of the highway, in the interests of highway safety and amenity, and to accord with Policies LP20, LP21 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23. No dwelling hereby approved shall be first occupied until all areas and associated features (for that dwelling's development phase) to be used by vehicles and pedestrians (including streets, footpaths, cycle tracks, loading, servicing and parking areas) have been laid out, surfaced and drained, such that loose materials and surface water does not discharge or transfer onto the adjacent highway. Those areas and associated features shall thereafter be retained and maintained for the lifetime of the development.

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

24. Prior to the commencement of the construction of any new estate roads, an Estate Road Phasing and Completion Plan shall be submitted to and approved in writing by the Local Planning Authority. The Estate Road Phasing and Completion Plan shall set out the development phases and the works that are to be completed for each phase of the development. No dwelling within each relevant phase shall be first occupied until the estate road(s) that provide access to those dwelling(s) has/have been completed in accordance with the Estate Road Phasing and Completion Plan.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development, in the interests of highway safety, and in accordance with Policies LP20 and LP21 of the Kirklees Local Plan.

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

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

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

26. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 23. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered is identified or encountered on site, all works in the affected area (other than site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within two working days. Unless otherwise agreed in writing with the Local Planning Authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

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

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

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

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

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

29. Notwithstanding what is shown on the drawings hereby approved, prior to the commencement of superstructure works, details of all external materials to be used shall be submitted to the Local Planning Authority, and samples shall be left on site for the inspection and approval in writing of the Local Planning Authority. No materials other than those approved in accordance with this condition shall be used.

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

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

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

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

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

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

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

33. Prior to the first occupation of any dwelling with external lighting (other than street lighting on streets to be adopted), details of the external lighting for that dwelling shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a scheme detailing street lighting to all private (unadopted) roads/drives/courtyards and shall not include low-level or bollard street lighting. The external lighting shall be

designed to avoid harm to residential amenity, increased highway safety risk, risk of creating opportunities for crime and anti-social behaviour, and disturbance to wildlife. All external lighting shall be installed in accordance with the details (including specifications and locations) so approved, and the external lighting shall be maintained thereafter in accordance with the approved details. No dwellings accessed from a private (unadopted) road/drive/courtyard shall be brought into use until the street lighting so approved for that road/drive/courtyard has been installed and brought into use, and the street lighting shall be retained as such thereafter. Under no circumstances should any other external lighting be installed without prior written consent from the Local Planning Authority.

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

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

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

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

Reason: In the interests of local ecological value, visual amenity and highways safety, to ensure high quality open spaces are provided, to minimise flood risk, to ensure the amenities of existing neighbouring residential units and the residential units hereby approved are protected, in

the interests of creating a safer, more sustainable neighbourhood and reducing the risk of crime and anti-social behaviour, and to accord with Policies LP21, LP24, LP27, LP30, LP32, LP33, LP47 and LP63 of the Kirklees Local Plan, and chapters 8, 12 and 15 of the National Planning Policy Framework.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2024/93458>

Certificate of Ownership – Certificate B signed.

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Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 15-May-2025

Subject: Planning Application 2023/91564 Erection of 30 residential dwellings, access, landscaping and associated works (full application) Land off, Barnsley Road, Denby Dale, Huddersfield, HD8

APPLICANT

Katie Milnes, Strata

DATE VALID

26-May-2023

TARGET DATE

25-Aug-2023

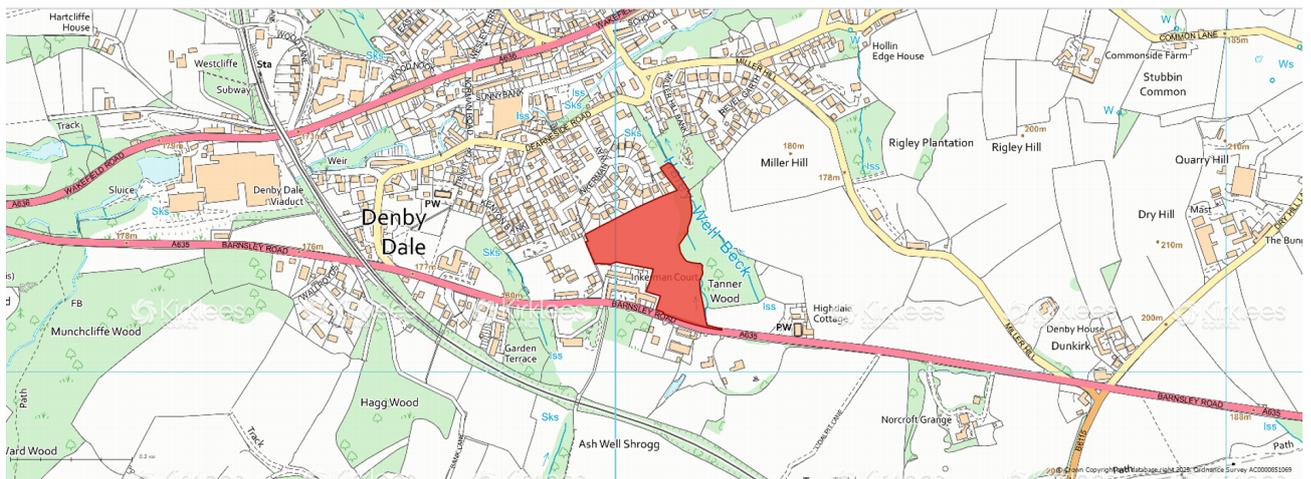
EXTENSION EXPIRY DATE

28-Feb-2025

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Denby Dale

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

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

Affordable housing: 2x First Homes, 3x Social/Affordable Rent and 1x other intermediate (such as Shared Ownership/Discounted Market Sale)

Public Open Space: Delivery of the on-site Public Open Space, and an off-site contribution to local Public Open space of £43,692

Education: £75,849 towards local schools/colleges

Sustainable Travel: £15,600 contribution towards sustainable travel provisions (such as a Metro card scheme)

Management and Maintenance: Management and maintenance of on-site Public Open Space in perpetuity, drainage features in perpetuity (unless adopted by the statutory undertaker) and Biodiversity Net Gain measures for a minimum of 30 years.

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; 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 of a residential development of 30 dwellings. The application site includes land allocated for housing in the Local Plan (allocation HS136) and a portion of Green Belt land.
- 1.2 The application is brought to the Strategic Planning Committee, in accordance with the Delegation Agreement, due to a significant number of public representations being received contrary to the Officer's recommendation.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is located in Denby Dale on Barnsley Road, approximately 1.2 miles away from Denby Dale District Centre. Residential properties are located to the north, south and west, with Tanner Wood (designated Ancient Semi Natural Woodland) running along the eastern boundary.

2.2 The site itself is irregular in shape and has an area of circa 2.35ha. The majority of the site is allocated for housing within the Kirklees Local Plan (site reference: HS136). The topography of the site and area slopes slightly downhill from south to north, with the site being bounded by a mixture of dry-stone walling and planting. Public Right of Way DEN/66/40 runs along the western boundary of the site.

2.3 It is also important to note that directly adjacent to the site (to the west), development is well underway for the erection of 34 dwellings which were approved under application 2019/91836, and form part of Housing Allocation HS141.

3.0 PROPOSAL

3.1 The application seeks planning permission for the erection of 30 residential dwellings, access, landscaping and associated works. The application site includes land allocated for housing in the Local Plan (allocation HS136) and a portion of Green Belt land.

3.2 The proposals comprise:

- 21x 5-bedroomed properties
- 3x 4-bedroomed properties
- 3x 3-bedroomed affordable properties
- 3x 2-bedroomed affordable properties

3.3 Units would be a mixture of detached (total of 24) and terraced (total of 6) properties. There would be seven house types across the site.

3.4 Six of the proposed dwellings would be affordable, provided as a mix of affordable/social rent homes, First Homes and other intermediate homes. These are proposed at plots 11, 12, 13, 20, 21 and 22.

3.5 The dwellinghouses would be predominantly detached in nature, although two rows of terraced properties are proposed within the site. All dwellinghouses are proposed to be 2-storeys in height with some properties providing additional living accommodation within the roof spaces.

3.6 The development would be predominantly faced in reconstituted stone, albeit plots 1 and 3 which front onto Barnsley Road would consist of natural stone. Roof materials would consist of grey concrete roof tile, with roof designs varying between hipped and pitched designs.

3.7 Each dwelling is to include private rear/side amenity space, with all properties excluding the row of terraced properties, also including front amenity spaces. Properties would be bounded by 1.8m high close boarded timber fences, apart from adjacent to the substation, and plots 1, 3, 17, 22, 25 & 26 which also include the use of 1.8m high screen walling. Plots 1 and 3 also benefit from 900mm dry stone wall to the front, to match the existing wall at the site.

3.8 All units would host dedicated off-street parking through either dedicated driveways or garaging. Those properties that do not benefit from either integral or detached garaging have been provided with a shed in the rear garden. 7 visitor parking spaces would be provided within the site. An electrical substation building is also to be located along the north-western boundary of the site adjacent to Plot 18.

- 3.9 The site's surface water attenuation tank is to be located towards the northern boundary of the site, adjacent Tanner Wood. A pumping station is also proposed to the south of the attenuation tank of which a turning head is proposed to be provided for access.
- 3.10 A single new vehicle access would be formed to serve the development, connecting from Barnsley Road. The access road would run along the buffer zone provided for Tanner Wood, with branching sections taking the road to the west and further north towards the pumping station. Dwellings would front onto the new road in a traditional fashion.
- 3.11 During the course of this application, a small portion of third-party land was included within the red line boundary of the site, this was to allow for better visibility when accessing the site. Notice has been served on the landowner and therefore this is deemed to be adequate for planning purposes. Although for the avoidance of doubt it remains a private legal matter for the applicant to resolve, should planning permission be granted.
- 3.12 Public Right of Way DEN/66/40 runs along the western boundary of the site. Pedestrian access to the PROW is to be provided from the north-western corner of the site, opposite to the proposed substation.
- 3.13 Groundworks are proposed across the site to enable a suitable access and road gradients, alongside the need to create developable plateaus and level plots. This would involve some areas being raised, and the provision of some low-level retaining walls. Retaining walls are proposed throughout the site, typically within the rear gardens of properties. Batters would be used along the eastern side of the main access (adjacent to Tanner Wood), and to the north of plots 23 and 30, and to the south of plots 16 and 17.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

2022/90821 – Advertisement Consent for erection of non-illuminated signs and flags. Granted 09/05/2022.

2021/94552 – Erection of 53 dwellings and associated works. Withdrawn 05/12/2022.

Enforcement

COMP/09/0233 – Display of advertisement. NFA breach regularised.

Adjacent Site – Land Adj, Inkerman Court

2023/92838 – Non-material amendment to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings. Approved 01/11/2023.

2023/92772 – Non material amendment to previous approval (ref: 2023/90066) of variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings. Approved 30/10/2023.

2023/90066 – Variation of conditions 2 (plans) and 6 (highway layout) of previous permission 2019/91836 for erection of 34 dwellings – variations to allow deletion of right-turn pocket and footway built-out. Approved 23/05/2023.

2022/90955 – Non material amendment to previous permission 2019/91836 for erection of 34 dwellings. Approved 11/05/2022.

2019/91836 – Erection of 34 dwellings. Approved 06/10/2021.

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

- 5.1 Prior to the submission of this application, application 2021/94552 for the erection of 53 dwellings and associated works, was submitted and subsequently withdrawn 05/12/2022. This was following the designation of Tanner Wood (located adjacent to the site), as Ancient Semi Natural Woodland. This designation led to a significant portion of the site being undevelopable as a 15m buffer zone was then required to be provided between the proposed development and Tanner Wood.
- 5.2 The current application was submitted in May 2023. The proposal was initially for 27 dwellings, whereby a Viability Assessment was undertaken to demonstrate that affordable housing on site could not be achieved. However, the viability response from Aspinall Verdi demonstrated that affordable housing could be provided. The number of units was then increased to 30, to provide 6 affordable units on site (20%).
- 5.3 On assessment, along with details provided via the formal consultation process and public representation, it was evident certain concerns, and technical matters were yet to be addressed. During the life of the application the applicant and officers have engaged in extensive negotiations to attempt to resolve the various outstanding matters. Negotiations have included various meetings and other methods of correspondence. The concerns related mostly to density, drainage, materials, impact on Tanner Wood, housing mix/affordable units, highways and access matters.
- 5.4 Based on the negotiations undertaken and the amendments made, along with the additional supporting documents provided, Officers are now in a position to recommend approval.

6.0 PLANNING POLICY

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

Kirklees Local Plan (2019)

- 6.2 The application site is allocated as a Housing Allocation (HS136) within the Kirklees Local Plan. The site is also located within a Bat Alert Area and the Strategic Green Infrastructure Network. A portion of the site is also located within the Green Belt, Ancient Woodland, Wildlife Habitat Network and a High Coal Risk Area. It is also important to note that Public Right of Way (PROW) DEN/66/40 runs along the western boundary of the site.

6.3 Relevant Local Plan Policies are:

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP3 – Location of New Development**
- **LP7 – Efficient and Effective Use of Land and Buildings**
- **LP11 – Housing Mix and Affordable Housing**
- **LP20 – Sustainable Travel**
- **LP21 – Highways and Access**
- **LP22 – Parking**
- **LP23 – Core Walking and Cycling Network**
- **LP24 – Design**
- **LP26 – Renewable and Low Carbon Energy**
- **LP27 – Flood Risk**
- **LP28 – Drainage**
- **LP30 – Biodiversity and Geodiversity**
- **LP31 – Strategic Green Infrastructure Network**
- **LP32 – Landscape**
- **LP33 – Trees**
- **LP35 – Historic Environment**
- **LP38 – Minerals Safeguarding**
- **LP47 – Healthy, Active and Safe Lifestyles**
- **LP49 – Education and Health Care Needs**
- **LP51 – Protection and Improvement of Local Air Quality**
- **LP52 – Protection and Improvement of Environmental Quality**
- **LP53 – Contaminated and Unstable Land**
- **LP63 – New Open Space**
- **LP65 – Housing Allocations**

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

Supplementary Planning Documents

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

Guidance Documents

- Biodiversity Net Gain in Kirklees Technical Advice Note (2021)
- Waste Management Design Guide for New Developments (Version 5, October 2020)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Planning Applications Climate Change Guidance (2021)
- First Homes Position Statement (2021)

National Planning Guidance

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published in December 2024 (updated February 2025) and the Planning Practice Guidance Suite (PPGS), first launched 06/03/2014, together with Circulars, Ministerial

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

- **Chapter 2** – Achieving sustainable development
- **Chapter 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes
- **Chapter 8** – Promoting healthy and safe communities
- **Chapter 9** – Promoting sustainable transport
- **Chapter 11** – Making efficient use of land
- **Chapter 12** – Achieving well-designed and beautiful 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 16** – Conserving and enhancing the historic environment
- **Chapter 17** – Facilitating the sustainable use of minerals

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:

7.1 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 was in line with the then-applicable Council’s Statement of Community Involvement.

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

7.3 The end date for public comments was 07/03/2025. In total 161 public comments were received, although it is noted that several of these comments were from the same 37 objectors. The following is a summary of the comments made:

Principle

- The site is located within the Green Belt.
- Housing Mix justification statement not acceptable.
- The village needs more affordable houses for young families and older people – not yet more 4/5-bedroom houses that a lot of people cannot afford.
- Development sites should not be judged in isolation, they should be looked at as a whole and Denby Dale has had more than its fair share of developments in recent years.
- There are enough brownfield sites to build on without encroaching further into green space.
- An updated SHMA is soon to be available, a decision on this development would be best made once the revised SHMA is available.

Officer note: Noted. The above is discussed in more detail within the principle of development section of this report.

Design

- The dwellings are out of keeping with surrounding properties.
- The properties appear to be built higher than any other properties in the area.
- The perimeter of the pumping station should be a 1.8m brick wall.
- The planting indicated around the pumping station will be deciduous and the metal fence will be visible for approximately half of the year.
- The pumping station perimeter fence has been omitted.
- The pumping station has not been indicated as stone to reflect the building materials and environment it is in. Plus, by building in stone it will assist in the restriction of the noise of the pump.
- The use of high close boarded wooden fencing is not acceptable and does not conform to the Council's Net Zero Carbon and Green Policies.
- On the new master plan datums for the new housing layout is omitted. Plans should not be approved without datums of each plot.
- The dwellings should not be finished with brick and should match those properties on Inkerman Court.

Officer note: Noted. The above is discussed in more detail within the urban design section of this report.

Residential Amenity

- We are rapidly running out of green spaces to enjoy spending our time in or to simply admire from a distance.
- Concerns in regard to the recommended separation distances of 21m (as outlined within the Housebuilders Design Guide SPD) not being met.

- Concerns in regard to overlooking and the loss of privacy.
- Loss of views.
- The fencing proposed is ineffective at blocking intrusive sightlines except possibly views at ground floor levels.
- Rear gardens appear to be very small for 5 bed roomed houses, garden size does not comply with KMC planning policies.
- Some rear garden levels are reliant on a circa 1m high retaining wall built tight up against the boundary. This will not be achievable as access to the land for construction will not be granted.
- Evergreens should be planted along the hedge of Broomhouse Close at a suitable height in the interests of privacy.
- The proposed dwellings will appear overbearing.
- Loss of sunlight into neighbouring gardens.
- Concerns in regard to noise pollution.
- A condition should be imposed to ensure that no petrol hand tools are used.
- Concerns in regard to vibration during development.

Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

Ecology/Trees

- The local wildlife will be affected by the reduction of rural areas to live and feed, with a higher risk of death and injury on busier roads.
- Wildlife and plants are seriously impacted by artificial lighting.
- The submitted Arboricultural Method Statement and Arboricultural Report and impact assessment should provide absolute guidelines and a defined procedure/method statement with approvals protocol.
- Question why the site has to be re-engineered so extensively.
- Building a retaining wall on or close to the boundary will risk damaging the mature trees at the boundary of the Inkerman Way gardens.
- Neighbours object to any trees being planted within 20m of their properties.
- No fires should be allowed to protect Tanner Wood.
- Non-compliance with Natural England standing advice on buffer zones for developments potentially affecting Ancient Woodland.
- The pump station, attenuation tank and outflow structures are still in the Tanner Wood buffer zone.
- There is potential for long term deterioration of ancient woodland resulting from the development.
- No detailed lighting assessment has been submitted for the development.
- Trees are to be planted too close to pumped drain. No details of specific tree type.
- Evergreen hedgerow not specified for around pump station.
- The bat surveys carried out in 2021 are no longer valid and new surveys should be carried out.
- Wild birds are afforded no significance in the Preliminary Ecological Appraisal submitted.
- A significant number of trees to the rear of the pavement along Barnsley Road would need to be removed to achieve suitable sightlines.

- Concerns over the removal of the large spruce tree adjacent to Inkerman Way.
- Object against the inclusion of on/over roof tiling solar panels because there is a large flock of pigeons in and around the site and there are long term issues that occur on preventing nesting of these birds.
- How will TPO trees be protected during engineering works.

Officer note: Noted. The above is discussed in more detail within the ecology and trees sections of this report. Both the Council's Ecologist and Trees Officers have also been consulted.

Highways

- The entrance to the estate is on a very dangerous part of Barnsley Road. Serious traffic accidents are bound to happen when cars are entering and exiting this area.
- Parking areas are limited for houses of this size.
- The proposed visibility splays do not comply with the required design standard.
- Is there any intention of providing visitor or utility vehicle parking off the A635 for houses 195-201?
- The modelling used in the Transport Assessment uses unrepresentative data and filters giving inaccurate and unreliable results.
- The proposed ghost land may mean that residents may not have the ability to park outside their property on Barnsley Road.
- There are few parking spaces for visitors and so they will end up parking on a busy road where the sight lines are already poor.
- There will be four entrances close together on Barnsley Road making turning in and out difficult.
- The red line boundary is wrong and needs amending to gain suitable sight lines.
- The proposed garages are too small in size for a modern car.
- Driveways appear too narrow.
- Techwill Ltd has been granted outline planning 2022/91024 and it appears that the proposed entrance on Barnsley Road may compromise the already approved highway access.
- The entrance is opposite a property and piece of land that has outline planning permission for 3 houses.
- Parking in the village is already a serious problem.
- Traffic through the villages of Denby Dale, Scissett and Clayton West is at record level and allowing more developments adds to pollution, noise delays, standing traffic, lack of parking facilities etc.
- A long-term solution is needed for the Sovereign Junction as well as a more widespread speed reduction interventions on Barnsley Road, Cumberworth Road, Carr Hill Road and Cumberworth Lane.
- The increase of heavy machinery and Quarry lorries in the area is an accident waiting to happen.
- No details are provided on the number of lorry journeys to/from the site nor the number of daily contractors.
- The proposed development appears to completely landlock Jones Tool SSAS land to the rear of Inkerman Court which is the only way to access this land either by vehicle or foot.
- There is a bus stop in the middle of the proposed intersection.
- What bollards are in place to prevent access by motor vehicles to the grassed areas and the tanker access for flow control.

Officer note: Noted. This is discussed in more detail within the highway safety section of this report. The Council's Highways Development Management team have also been consulted, their comments can be found within the consultation responses section of this report.

Flooding/Drainage

- Water from the field already causes minor flooding to the gardens of properties located on Broomhouse Close both from run-off and hydrostatic pressure through the soil due to the height difference.
- The existing drainage and sewerage infrastructure is not sufficient to accommodate the increase in runoff water and sewerage output from the houses, currently the Denby Dale village floods with runoff water and sewerage in a heavy rainstorm.
- A French drain should be provided between the new development and the existing properties.
- Not one property is planned to use gravity discharge.
- The proposal increases the operating costs for Yorkshire Water for the pumping station and service load on the pumping station and total noise it generates.
- The plans for surface water drainage are unclear.
- Tarmac to the drives should be water absorbing to reduce the impact on flooding.
- There should be a planning condition imposed which states that no properties shall be occupied until there is a permanent power supply to the pumping station.
- The developer should have a planning condition to have a detailed construction plan that provides for the prevention of potential flood water running into adjacent properties and/or Haley Well Beck whilst the construction is underway.
- The flood water design is not adequate and needs to be revised.
- Concerns that drainage is to be shared with Inkerman Court as these are old and empty into an old system in the village.
- There is not enough detail on barriers or preventive measures to ensure that there is no potential contamination of Haley Well Beck.
- The proposed drain crosses a gas main which runs through the site.
- Concerns over the pump for sewage as this will be reliant on electricity.

Officer note: Noted. The above is discussed in more detail within the flooding and drainage section of this report. Both the Council's LLFA team and Yorkshire Water were consulted on the proposals.

Infrastructure

- Due to many recent developments in the area in a small village it will impact on local infrastructure such as roads, schools, transport services and doctors.

Officer note: Noted. The above is discussed in more detail within the contributions and sustainable development and climate change sections of this report.

Other

- There is no indication as to whether storage batteries are to be used in conjunction with the proposed solar panels, where will these be stored?

Officer note: Noted. However, this is not a material planning concern.

- Increased light pollution.

Officer note: Noted. In terms of light pollution during construction works, a CEMP would be conditioned should planning permission be granted. In regard to light pollution arising from the scheme itself, as this is a residential development, any light pollution arising from the site is not considered to detrimentally harm the amenity of adjacent neighbouring properties.

- The health assessment submitted is misleading.

Officer note: Noted. The submitted health assessment is provided for information purposes only. A full assessment of the scheme has been undertaken by officers within this report.

- Plans have not been updated to reflect the new layout.

Officer note: Plans have now been reflected to show the most up to date site layout plan.

- Many of the houses are unsuitable for disabled or mobility impaired people and families with young children.

Officer note: Noted.

- The submitted plans do not reflect the true building outlines of adjacent properties.

Officer note: Amended plans were received which sought to reflect the changes in the area.

- No information on the height of the silos, these should not be within 21m of any property and should have bunds to prevent contamination to Haley Well Beck.

Officer note: Noted. However, this would fall outside the remit of this planning application. In terms of drainage during the construction phase, a scheme shall be conditioned should planning permission be granted.

- No information is provided on the size of the welfare facilities, these should not be two storeys in size.

Officer note: Noted. However, this would fall outside the remit of this planning application.

- Denby Dale attracts walkers and tourism due to its history and rural environment which is at risk of reducing and affecting the local economy.

Officer note: Noted. However, the existing PROW to the west would be retained, with a pedestrian link provided from the development. The provision of residential dwellings in the area would also likely add to the local economy.

- The village is becoming a commuter village for wealthy people.

Officer note: Noted. However, this is not a material planning concern.

- Suitable public consultation has not been provided on amended plans.

Officer note: Whilst it is acknowledged that some amended reports/additional information has been received since the last period of consultation, these changes typically relate to updating existing plans with the revised site layout plan, whereby the actual content and assessment has not significantly changed.

- Concerns over the reliability and validity of the viability report submitted.

Officer note: Noted. The viability report has been independently assessed, and it was concluded that contributions towards affordable homes could be provided by the developer.

- Who are the management company who are to manage the pumping station and when do they become responsible for it.

Officer note: Management and maintenance arrangements would be secured via a Section 106 agreement should planning permission be granted.

7.4 Parish/Town Council

Denby Dale Parish Council – Comments received 28/06/2023 and 29/01/2025.

Objection due to: the Woodland Trust information provided, drainage issues, possibility of pollution, high density of housing and inappropriate design, lack of affordable housing, effect on infrastructure and inadequate access for emergency vehicles (only one point of access).

7.5 Local Ward Members

The site is within the Denby Dale ward where members are:

- Cllr Timothy Bamford
- Cllr Hannah McKerchar
- Cllr Will Simpson

Councillor McKerchar provided the below concerns:

- Lack of affordable homes on the site.
- Questions whether there is a secured discharge route for retained flood water.
- Ground source heating and cooling has been dismissed as not viable on this scale of development. The sustainability and climate change statement should be challenged.

- Concerns surrounding access and parking, Waste Collection Services have objected regarding visibility and turning room.
- The building design is not in keeping with the architectural heritage of the area and will feel very overpowering due to the height of the buildings and pitch of the roofs.

Councillor Bamford provided the below comments:

- Raises concerns over cumulative infrastructure demand and the long-term sustainability of our community's essential services.
- The development is expected to increase surface runoff, which the existing drainage system may not be able to accommodate, thereby elevating the risk of localized flooding. Upgrading the drainage infrastructure is critical to manage the increased runoff and prevent potential damage to properties and public spaces.
- The additional demand from the proposed development is likely to stress the current sewage system beyond its capacity, posing risks to public health and the environment. Without substantial improvements and proper planning for expansion, the sewage network may become a bottleneck, leading to service failures and additional maintenance challenges.
- LP11 clearly outlines the need for a housing mix that caters to the local community's requirements, including more 1, 2, and 3-bedroom homes. The current proposal predominantly offers 4 and 5-bedroom properties. This type of housing generally attracts affluent buyers from outside the area, which could displace local residents and transform the local character of the neighbourhood.
- The developer must reposition the attenuation tank and associated works outside the protected buffer zone. No construction, excavation, or clearance should take place within the buffer zone under any circumstances.
- Ancient woodlands are irreplaceable habitats, and buffer zones are essential to their protection. Government guidance (Natural England and Forestry Commission's Standing Advice) recommends a minimum 15-meter buffer zone to safeguard woodland from development impacts. Any work within this zone is unacceptable. Construction within the buffer zone risks soil disturbance, root damage, and disruption to wildlife habitats. Heavy machinery, excavation, and installation of infrastructure such as the attenuation tank could cause long-term ecological damage.
- Ancient woodlands rely on stable groundwater conditions. Installing an attenuation tank nearby could alter water flow, drainage patterns, and soil moisture, potentially harming the health of the woodland.
- No attenuation tank exceedance flow should enter Tanner Wood as this could be a source of pollution from weedkiller, car washing etc.
- There is also a sewage pumping station in the site which Cllr Bamford was lead to believe was against Yorkshire Water policy. Any breakdown will cause a major environmental issue.
- Barnsley Road is very heavily used especially by HGV traffic working from Naylor Clayware in Cawthorne and many firms working the local quarries amongst many others. Residents report many incidences of speeding along this stretch of road.
- With vehicles attempting to turn into both the development and existing properties opposite, there is a high likelihood of conflict between entering and exiting vehicles, potentially leading to accidents. This is particularly

dangerous if sightlines are restricted or if the road is already busy. Measures should be taken to ensure that land is made available for sightlines and that this land will remain free from any type of development.

- The applicant has cited abnormal costs associated with the development, yet there is a lack of clear, independently verified evidence to justify these claims. Without transparent and detailed financial assessments, there is no basis for allowing deviations from planning requirements, such as affordable housing contributions or infrastructure funding.

Officer note: The above concerns have been addressed within this committee report.

8.0 CONSULTATION RESPONSES

The Mining Remediation Authority: No objections subject to conditions.

KC Highways Development Management: No objections subject to conditions.

Natural England: No objections.

Yorkshire Water: No objections subject to conditions.

KC Lead Local Flood Authority: No objections subject to conditions.

KC Designing out Crime Officer: No objections, advice provided.

West Yorkshire Archaeology Advisory Service: No objections.

KC Conservation & Design: No objections however, it was noted that the main elevation materials should be natural stone opposed to composite, and concerns were raised in regard to the use of concrete interlocking roof tiles, although the judgement of this is deferred to Officers.

KC Environmental Health: No objections subject to conditions and informatives relating to details to be submitted for an acoustic barrier, implementation of agreed noise mitigation measures, imported materials, reporting of unexpected contamination, electric vehicle charging points, Construction Environmental Management Plan, and restricted construction hours.

KC Highway Structures: No objections subject to conditions.

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

KC Education: The proposal for 30 dwellings would necessitate an education contribution of £75,849.

KC Trees: No objection subject to conditions.

KC Strategic Housing: Provide advice on policy compliant Affordable Housing provision. This would be 6 units in total, consisting of 2 First Homes, 3 social/affordable rent and 1 other intermediate dwelling. Unit sizes should be in accordance with the Affordable Housing and Housing Supplementary Planning Document (SPD).

KC Ecology: No objection subject to conditions.

KC Landscape: No objection subject to S106 agreement for the delivery of the on-site Public Open Space, and an off-site contribution to local Public Open space of £43,692

The Woodland Trust: Object to the proposals on the basis of the deterioration of Tanner Wood, designated as Ancient Semi Natural Woodland. Woodland Trust welcome the commitment to provide a 20m buffer to the ancient woodland for the majority of the boundary, they are concerned that works are proposed within the 15m buffer zone, which includes the construction of the drainage channel to connect the attenuation tank to the outflow, in addition to the embankment. They also note that there is potential for root encroachment of ancient woodland trees adjacent to the site boundary, and that additional requirements for managing the woodland canopy where it overhangs the channel and hydrological impacts from construction of the earthworks.

9.0 MAIN ISSUES

- Principle of Development
- Urban Design and Historic Environment
- Residential Amenity
- Highway Safety
- Drainage and Flood Risk
- Ecology and Trees
- Planning Obligations
- Other Matters

10.0 APPRAISAL

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. Chapter 5 of the NPPF notes the Government's objective of significantly boosting the supply of homes. Applications for residential development should be considered in the context of the presumption in favour of sustainable development.

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

- 10.2 The 2023 update of the five-year housing land supply position for Kirklees shows 3.96 years supply of housing land, and the 2022 Housing Delivery Test (HDT) measurement which was published on 19th December 2023 demonstrated that Kirklees had achieved a 67% measurement against the required level of housing delivery over a rolling 3-year period (against a pass threshold of 75%).

- 10.3 As the Council is currently unable to demonstrate a five-year supply of deliverable housing sites, and delivery of housing has fallen below the 75% HDT requirement, it is necessary to consider planning applications for housing development in the context of NPPF paragraph 11 which triggers a presumption in favour of sustainable development. For decision making this means:

“Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (NPPF Footnote 8), granting permission unless:

*(i) the application of policies in this Framework that protect areas or assets of particular importance (NPPF Footnote 7) provides a strong reason for refusing the development proposed ; or
(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, 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 (NPPF Footnote 9).”*

- 10.4 The Council's inability to demonstrate a five-year supply of housing land, or pass the Housing Delivery Test, weighs in favour of housing development but this has to be balanced against any adverse impacts of granting the proposal. The judgement in this case is set out in the officer's assessment.

- 10.5 The site falls within a housing allocation, reference HS136, 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.

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

The Quantum of Development

- 10.7 Both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land. Policy LP7 requires development to achieve a net density of at least 35 dwellings per ha (dph), where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Policy LP11 of the Local Plan requires consideration of housing mixture. These requirements are built upon within the Council's Affordable Housing and Housing Mix SPD (March 2023).

10.8 First considering density, allocation HS136 has an indicative capacity of 72 dwellings, calculated at the net site area delivering 35 dwellings dph. However, since the allocation of this land it has become known that this level of density would be difficult to achieve due to local constraints which include the sloping topography of the site, and its awkward shape, but most specifically the requirement of a buffer to the adjacent ancient woodland Tanner Wood, thus resulting in the removal of a large portion of the developable area of the site, from 2.07 hectares to circa 1.49 hectares. The proposal therefore represents a development density of 20 dph within the allocation's identified developable area. Whilst this is not close to the Local Plan's expectation for 35 dph, given the above constraints 30 dwellinghouses is deemed to be reasonable for the site on this occasion.

10.9 Moving on to housing mix, LP11 seeks proposals to provide a representative mixture of house types for local needs. This is expanded upon and detailed within the Council's Affordable Housing and Housing Mix SPD (March 2023). The following is the SPD expectation for Kirklees Rural East area:

Kirklees Rural East	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2 beds	30-60%	60+%	40-79%
3 beds	25-45%	20-39%	40-59%
4+ beds	5-25%	0-19%	0-19%

The following sets out the proposal's offer:

	Market Housing	Affordable Rent	Affordable Intermediate
1 and 2 beds	0%	66%	33%
3 beds	0%	33%	66%
4+ beds	100%	0%	0%
Total	24	3	3

10.10 The proposal's affordable housing contribution is considered in full within paragraphs 10.101-10.113 of this report. In summary, the affordable housing's mixture element of the proposal is deemed acceptable.

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

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

- Amending the mix to provide smaller dwellings reduces floorspace and gross development profit. Of which margins on this site are reported to be tight, and the developer is at a point where further floorspace reductions would make the project unviable.

- The fixed costs of delivering the site (roads, drainage, ecological mitigation etc.) are better offset by larger homes. The fixed infrastructure costs make smaller unit delivery less viable.
- Research has been undertaken to research the shift in housing aspirations following the coronavirus pandemic, of which there is a rise in the demand of dwellings consisting of 4+ bedrooms given the home office working dynamic which has undoubtedly shifted for the foreseeable future.
- Strata have commenced early soft marketing and all early enquiries on this site are seeking family homes.
- LP11 of the Kirklees Local Plan was established having regard to the evidence base which is the 2016 Strategic Housing Market Assessment (SHMA) which is now almost 10 years out-of-date, as well as significantly being based on pre-pandemic data.
- The 2023 Affordable Housing and Housing Mix SPD still directs the reader back to the 2016 SHMA data.
- It is widely accepted that the Council is unable to demonstrate a 5-year supply of housing such that the NPPF paragraph 11 'tilted balance' is in play.
- In December 2024, the Government revised the Council's Housing Target through the standard method, increasing it from 1730 to 1840 dwellings per annum. There is no current Kirklees Housing Needs assessment to reflect this new higher target. There is however a new Government Statement that seeks to significantly increase housing delivery of all types.
- The character of dwellings proposed are in keeping with the existing mix and tenure of the Denby Dale area.
- The site is not only constrained by the woodland buffer but also the contour of the land which drops from the point of access. This fall in level when combined with the need to create a rural edge to respect the woodland automatically creates a series of detached dwellings with minor retaining walls between each thus avoiding larger blocks of development (semi-detached and terrace) that would reduce the gaps and require greater unnatural retaining features and a less natural design edge.

10.13 The weight Officers would afford to each of the above arguments would vary in a case-by-case argument. Nevertheless, as also identified by the applicant, this application must be considered with the presumption in favour of sustainable development, as noted in paragraphs 10.2-10.6, due to the Council's lack of a five-year housing land supply. This establishes that housing applications should only be refused (when outside of protected areas, such as this site) if *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*.

10.14 Notwithstanding the applicant's comments, the proposed housing mixture is considered a negative of the proposal, failing to deliver a diverse selection of house sizes and types, contrary to the aims of the SPD. Nevertheless, the proposal would provide dwellings of a reasonable density, given the local constraints of the site, at a time of housing need. As will be detailed throughout this report, the proposal is considered to be of a suitably high quality and is considered to comply with all policy requirements. Furthermore, it would provide all required contributions and obligations via Section 106. In this

context, the proposals departure from the SPD's housing mix target is considered a negative, albeit of limited harm on the planning balance. Also giving some weight to the arguments put forward by the applicant, is not deemed to be reasonable grounds for refusal.

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

Green Belt

- 10.16 A small section of the proposed access into the site from Barnsley Road is to consist of land which is allocated as Green Belt. For the avoidance of doubt, no dwellings are proposed within the Green Belt.
- 10.17 The NPPF identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within one of the categories set out in paragraph 154 of the NPPF, and as built upon within the Local Plan.
- 10.18 Criterion h) of paragraph 154 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Criterion h) specifies what types of development can be considered in this way, and the prescriptive list includes engineering operations. The widening of the footway to provide suitable visibility splays to the left onto Barnsley Road are accepted to be engineering operations. Therefore, an assessment must be made on the proposal's impact upon openness and the impact upon purpose of the Green Belt.
- 10.19 Considering impact on openness, the existing footway is to be widened to approximately 5m in width. Whilst this would result in the land being raised and grassland being replaced with hardstanding, the area to be widened is small in size and would be viewed against the existing footpath which runs along Barnsley Road. The impact on openness of the Green Belt would be negligible in this instance, and whilst there will be a minimal degree of movement on this amended footway, this is not expected to result in a material intensification of activity within the Green Belt. Therefore, there is expected to be no material harm to openness through the proposed works.
- 10.20 Progressing to the proposal's impact upon the purpose of the Green Belt, Paragraph 143 of the NPPF identifies five purposes of the Green Belt. These are:
- A) To check the unrestricted sprawl of large built-up areas;
 - B) The prevent neighbouring towns merging into one another;
 - C) To assist in safeguarding the countryside from encroachment;
 - D) To preserve the setting and special character of historic towns; and
 - E) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The proposed widening of the footway and regrading of the land is not considered to contradict any of the above.

- 10.21 Concluding on the above, whilst works are proposed within the Green Belt, they are deemed to be appropriate development within the Green Belt by virtue of Paragraph 154 h) of the NPPF. The works within the Green Belt are engineering operations that would neither harm the openness of the Green Belt, nor contradict the purpose of including land within it.

Sustainable Development and Climate Change

- 10.22 The site is located on the edge of an existing established settlement, 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 could be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

- 10.23 Specific to the development, the applicant has submitted a Sustainability & Climate Change Statement, which details the following design approach:

- It is proposed to install renewable technology in the form of Photovoltaic panels and appropriate Wastewater Heat Recovery Systems where feasible.
- Consideration has been given to the orientation and layout of the buildings to help maximise energy efficiency as part of the development.
- Strata are dedicated to taking pro-active measures to address issues surrounding the specification of building materials and the environmental impact of materials and responsible sourcing. They commit to obtaining responsible sourcing certification for at least 90% of the building elements of each dwelling.
- Robust procedures are in place to share materials such as soil and aggregate between sites and to sort waste on and off site to divert waste from landfill.
- All construction activities will be carried out to minimise dust, fumes, discharges and any other form of pollution on site, in line with best practice policies.
- Eco-sanitary ware and restricted flow rates are to be introduced into the design of each development to obtain the appropriate level of water efficiency.

- 10.24 Regarding the social infrastructure currently provided and available in Denby Dale (which is relevant to the sustainability of the proposed development), it is noted that residents have raised that local GP provision is limited. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and ageing population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.

- 10.25 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured via condition (referenced where relevant within this assessment). A development at this site which is 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 and Historic Environment

- 10.26 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'.
- 10.27 The site is not within or adjacent to a Conservation Area, and there are no Listed Buildings located within close proximity to the site. However, the site is within the setting of what would be considered a non-designated heritage asset, of Inkerman Farm, now known as Inkerman Court.
- 10.28 Policy LP35 states that proposals which would remove, harm, or undermine, the significance of a non-designated heritage assets, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm having regard to the scale of harm and the significance of the heritage asset. Proposals should also maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets. This is echoed by paragraph 216 of the NPPF.
- 10.29 Inkerman Court is located to the west of the application site, and whilst this is acknowledged, the application site is identified as a Housing Allocation, of which the above non-designated heritage asset was not identified as a constraint. Whilst the Council's Conservation & Design Officer has noted that the proposals would have a harmful impact on the setting of the non-designated asset, the harm is considered less than substantial. While its setting would be partly diminished, the heritage value of Inkerman Court would remain evident. The public benefits arising from the development of a Housing Allocation, at a time of housing need, is considered to outweigh the harm.
- 10.30 There is residential development to the north, south and west of the site, bounded to the east by Tanner Wood, thus the proposal would not appear as a rural extension (i.e., encroaching into open countryside), but would instead 'round off' the settlement. Nonetheless, the site is on the edge of the urban environment, where the built environment transitions into the open rural environment to the east (past Tanner Wood) and south (behind dwellings located to the south of Barnsley Road). As a housing allocation, it is accepted that the development of the site would lead to a notable change in the character of both the site and the wider area. The development of the site would need to respect the topography and character of the area, without being overly dominant. It is considered that proposed development sufficiently achieves this.

- 10.31 As noted previously, the land to the east is Green Belt. Consideration of engineering operations within the Green Belt is discussed in paragraphs 10.16-10.21. In terms of the main residential development, the proposal does benefit from a strong defensible boundary to the Green Belt through the location of Tanner Wood. This provides a clear boundary of where development would end, and given its designation as ancient woodland, Tanner Wood does offer a significant level of protection for the future. Therefore, Officers are satisfied that the proposed residential development would not prejudice the openness of the Green Belt nor its purpose.
- 10.32 The layout of the development has largely been determined by the natural features of the site, regarding its topography and the ancient woodland to the east. To assist in the provision of a 15m buffer zone to Tanner Wood, the majority of the proposed dwellings are located on the western side of the application site, with the access road into the site providing a further buffer between the dwellings and the woodland. Plots 1 and 2 are however provided on to the front of the site in the south-eastern corner, this allows for a more active frontage upon entering the estate.
- 10.33 Overall, the layout of the proposed development would reflect the established urban grain of the wider area, whilst also protecting the adjacent ancient woodland.
- 10.34 Progressing to the specifics of the proposed dwellings, as is set out in detail in the table of paragraphs 10.52-10.53, most of the proposed dwellinghouses are notably larger than the minimum standards set out in the Government's National-Described Space Standards. This in itself is not a cause for concern, as the standards are minimums, not maximums. Notwithstanding this, the proposed dwellings are not considered to be significantly larger than properties located to the north on Inkerman Way and Broomhouse Close, or dwellings constructed to the west on Ash Well Grove. As the surrounding area is defined by varied house types, the established character allows for variance between streets and including larger units alongside those existing would not affect the development's ability to integrate into the established character.
- 10.35 The site's existing ground level is set lower than the public highway (Barnsley Road) and adjacent neighbouring properties. However, to create a suitable access into the site, ground levels would be raised at the access point, with ground levels then filtered (with the use of retaining walls) down to the bottom of the site following the existing contours of the site. The proposed dwellinghouses are all to be two-storeys in height, with some dwellings providing additional living accommodation within the roof spaces. Dwellings are typically two-storey in height in the area, and therefore the proposed units are not considered to be so unduly large to appear incongruous when viewed within the context of the area.
- 10.36 Moving on to the design of the dwellings, architecturally they have a somewhat simple and contemporary vernacular. The architectural design of dwellings in the area is varied, however there is a strong element of 2-storey development, constructed in stone with a Pennine vernacular. Officers consider that the modern attractive vernacular of the proposed units would appear suitably harmonious. More generally, the character of the surrounding area largely comprise detached and terraced properties set within small/medium sized plots of a similar density. The proposal would accord to this.

- 10.37 Regarding facing materials, artificial stone is proposed as the predominant material throughout the site, with natural stone proposed to plots 1 & 3 which face onto Barnsley Road. This is considered a good compromise which will assist in harmonising the development with the surrounding area, however, it is imperative that the proposed materials are complimentary to the adjacent development at Ash Well Grove (to the west), and therefore this will be subject to an acceptable end product being used, and thus a condition shall be imposed, should planning permission be granted, which required samples of the materials to be provided to the Local Planning Authority prior to their use.
- 10.38 Roofing materials are proposed as grey concrete roof tiles. While Conservation and Design Officers would prefer to see the use of natural slate, it is considered in this instance that grey concrete tiles would be acceptable, subject to a suitable end product being used, again this should be complimentary to the adjacent development at Ash Well Grove, and will be securable via condition.
- 10.39 Retaining walls would feature throughout the site, ranging between 0.375-3m at the most extreme. Most of the walls are contained within rear gardens or within the site, and therefore less visible from wider public vistas. Officers are satisfied that the applicant has kept these to an operational minimum.
- 10.40 Regarding the retaining wall materiality, no details have been provided and therefore should planning permission be granted, these details would be conditioned.
- 10.41 A substation is to be located to the north-western corner of the site, adjacent to plot 18. The proposed location is considered suitable as it would be somewhat tucked away and wouldn't form a prominent feature of the housing estate. Nevertheless, it is considered reasonable, should planning permission be granted, to include a condition which requires further details on the design/materials of the substation to be submitted in the interests of visual amenity. Furthermore, such structures must be accessible from the highway and are often a necessary element of development, nowadays. Its inclusion is therefore considered acceptable.

Landscaping / Boundary Treatments

- 10.42 Boundary treatments include a mix of 1.8m high close boarded timber fencing, 1.8m high screen walling and 900mm dry stone walls. This is typical in the urban environment and is considered to be acceptable. However, 1.8m timber fencing would not be considered to be appropriate along the Barnsley Road frontage or public footpath DEN/66/40. Along the public footpath, if any boundary treatment is proposed, this should match the low dry-stone walling that is being provided at the adjacent development site (Ash Well Grove). Given the above, it is considered reasonable, should planning permission be granted, that details of the proposed boundary treatments to be used throughout the estate (including within the Public Open Space) be provided prior to their installation. This would also include boundary treatments proposed around the pumping station.
- 10.43 Moving on to proposed landscaping, the application is supported by a Landscape Masterplan of which soft landscaping is shown, with street trees planted throughout the estate. Natural & Semi Natural space is shown the east of the site and is to form the majority of the Public Open Space for the site.

This would consist of, but is not limited to, a native mix of hedgerow around retaining walls to Plots 1 and 2, bands of native scrub which will include hawthorn, holly and blackthorn, and a mix of larger and more mature sized trees on the eastern side of the spine road to provide an attractive street scene and value to wildlife. In addition to this, 347sqm of amenity green space is also proposed along the western boundary of the site. Both of the Public Open Spaces will contribute to the setting of the development.

- 10.44 In terms of hard landscaping, estate roads would consist of tarmacadam, and 450x450x50mm PCC buff paving slabs around the dwellinghouses themselves. These materials are considered to be suitable.

Design and conservation summary

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

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

Residential Amenity

- 10.47 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.48 All separation distances to third party dwellings notably meet/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).
- 10.49 Whilst it is acknowledged that the site slopes from south to north and with the slight changes to ground levels to create developable plateaus and level plots, dwellings proposed towards the northern boundary of the site are set at a slightly higher ground level than those dwellings on Inkerman Way and Broomhouse Close. However, this arrangement is not uncommon within the area given the sloped topography of the area in general. Given that the recommended separation distances have been met/exceeded and the orientation of dwellings to adjacent residential properties, Officers consider that there are no significant concerns in respect to overlooking, overshadowing, or the proposals appearing overbearing in nature. However, it is considered reasonable and necessary to remove permitted development rights for extensions and outbuildings within the properties to avoid any loss of residential amenity in the future.

- 10.50 Furthermore, it has been raised in representations that these dwellings currently have a clear view over the site, which is currently greenfield. While note, there is no right to a view in planning and the loss of an attractive view is not a material consideration. The material consideration is the impact of their amenity, through matters such as overbearing, overshadowing, and overlooking, which has been discussed above.
- 10.51 In summary, subject to the recommended condition, Officers are satisfied that the development would not materially prejudice the amenity of existing neighbouring dwellings. Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.52 The size (in sqm) of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

House Type	No. of Beds	No. of units	Proposed (GIA,m²)	NDSS (GIA m²)
Copenhagen	4	3	124.30sqm	106sqm
Florence	5	3	166.17sqm	119sqm
Valencia	5	2	217.22sqm	128sqm
Naples	5	11	218.09sqm	128sqm
Siena	5	5	210.94sqm	128sqm
T1	3	3	70.06sqm	70sqm
T2	3	3	85.50sqm	84sqm

- 10.53 All of the proposed units meet/exceed the NDSS minimums, which is welcomed. All units would have well-proportioned habitable rooms that are served by good sized windows.
- 10.54 The internal spacing and separation distances between the units are acceptable and will not result in overbearing, overshadowing, or overlooking between the new units.
- 10.55 All of the dwellinghouses would have outdoor amenity space, including private gardens of a size commensurate to the host dwelling. However, by virtue of the site's sloped topography, retaining walls would be in many unit's gardens. This does mean that in some instances gardens are subdivided reducing their effective size. Nevertheless, tiered gardens are not unusual across Kirklees, nor in Denby Dale itself, due to the steep topography typical for parts of the region. Officers consider that the majority of the retaining walls are proposed to be in rear gardens or within the centre of the estate and therefore would not result in material harm to the amenity of future occupiers. Of note, representations have been received which state that in some instances 1m high retaining walls which are built tight up against the boundary will not be achievable as access to the land for construction will not be granted. This is acknowledged and would be a civil matter that would need to be agreed outside of this planning application.

- 10.56 Policy LP47 of the KLP refers to healthy, active, and safe lifestyles and recognises that these will be enabled by a number of criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being.
- 10.57 Sizeable areas of Public Open Space would be provided on site and would contribute to the amenity of future and existing nearby residents. This would include 8,533sqm of on-site Public Open Space. Of this, 8,186sqm is proposed to be of natural & semi natural space and would be located along the eastern boundary of the site, with 347sqm of amenity green space, located along the western boundary of the site adjacent to the PROW. An off-site contribution of £43,692 is also to be provided towards existing facilities in the vicinity of the development, potentially including Sunnybank Rec or other public open space typologies in the vicinity.
- 10.58 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise and is not incompatible with existing surrounding uses.
- 10.59 Further to the above, the applicant has submitted a Noise Impact Assessment (NIA), this report concludes that the application was observed to be dominated by road traffic on the A635 Barnsley Road. No other significant noise sources were noted. The NIA recommends that plots 1 and 3 which front Barnsley Road are provided with a fully ducted mechanical ventilation system with heat recover. A specification is also given for the glazing and ventilation for the front facing rooms of these plots, along with a specification for a room in roof bedrooms. A further specification is given for the glazing and ventilation to all remaining plots across the site. External amenity areas will require mitigation to meet with external requirements of BS8233 and a specification is given for 1.8m high solid timber fencing to be installed. KC Environmental Health request that should planning permission be granted, mitigation measures recommended within the report shall be implemented and be retained thereafter.
- 10.60 A condition requiring the submission of and approval of a Construction Environmental Management Plan (CEMP) 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 being developed at the same time. Details in relation to temporary artificial lighting, noise and dust suppression and the locations of wheel washing, stockpiles, welfare cabins and the height and type of site fencing/dust screening would need to be included within the CEMP. An informative regarding hours of noisy construction work is recommended.
- 10.61 To conclude, the proposed development is considered not to be detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with Policies LP24 and LP52 of the Kirklees Local Plan.

Highway Safety

- 10.62 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.63 The NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. The NPPF continues that that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.

Traffic generation and the local network

- 10.64 First considering traffic generation, a proposal of 30 dwellings is expected to generate the following movements:

	Arrival	Departure	Two-way
AM Peak	7	16	23
PM Peak	15	10	25

- 10.65 This is deemed to be a reasonably low level of traffic, which would not have a detrimental impact upon the capacity of the local network or nearby junctions.
- 10.66 Reviewing collision records, the submitted Transport Statement highlights that Personal Injury Collision (PIC) data demonstrates that no slight collisions have occurred within the vicinity of the proposed development. The study area includes the proposed site access on Barnsley Road extending 400m to the east and west. The Transport Statement concludes that *'Given there have been no recorded PIC's; it is considered that there are no existing road safety issues within proximity to the sit[e] and no further analysis of collisions is required. Therefore, it is considered that additional collision data is not required to be requested from KC given there are no clusters or hotspots identified that require more in-depth analysis'*.

Point of access

- 10.67 Regarding access into the site, access is to be from the A635 Barnsley Road by a simple priority junction as shown on drawing no. AMA/21154/SK018 Rev P03. This includes a pedestrian refuge island to the east of the site access and the formation of a kerbed and surfaced footway adjacent to the informal crossing to the south side of A635 Barnsley Road, to be carried out within a S278 agreement. A visibility splay to the left of 120m is to be provided and shall remain unobstructed with the wall set behind the sightlines and the full splay offered for adoption within a S38 agreement, this is to be secured via condition. An independent Stage 1 RSA and designers' response has been provided regarding the access arrangements associated with the site, which have been considered and addressed accordingly.

- 10.68 It is also important to note that the speed limit on Barnsley Road has recently been reduced to 40mph following a TRO paid for by the developer of the adjacent site (Ash Well Grove).

Internal highway layout and parking

- 10.69 Regarding the internal road arrangements, the submitted details and Stage 1 Road Safety Audit have been reviewed by KC Highways Development Management, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. However, for the avoidance of doubt, it is the applicant's prerogative as to whether they'll seek adoption of the road by the local Highway Authority as it is outside the remit of the Local Planning Authority to require adoption of roads.
- 10.70 All dwellings would have a level of dedicated off-road parking in accordance with the Council's Highway Design Guide SPD, including suitably sized garages (measuring 3m x 6.1m internally). In terms of visitor parking, the Highways Design Guide SPD recommends one per four dwellings. This amounts to 7.5 dedicated spaces, of which the proposal falls slightly below, as just 7 spaces are proposed. Nevertheless, these spaces are shown to be spaced throughout the site and are deemed to be reasonably well located. KC Highways Officers have raised no objection to the visitor spaces but do note that 4 of the spaces would be within the adoptable highway, with the remaining 3 adjacent to plot 2 are at 90 degrees to the highway and therefore would require independent maintenance. Furthermore, the visitor parking spaces to the rear of the turning head adjacent to plots 17 and 18 should have a minimum of 1m footway running behind them to allow vehicle occupants to exit their vehicles on hardstanding, rather than a grass verge. This can be controlled via condition.
- 10.71 All dwellinghouses are shown to have adequate space for the storage of three waste bins in either their side or rear gardens, which is welcomed. KC Waste Strategy raise no objections to this.
- 10.72 Given the scale of the development, which is likely to be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is due to refuse collection facilities not accessing roads prior to adoption or while construction work continues, therefore appropriate arrangements must be considered and implemented.
- 10.73 Officers also recommend that a Construction Access Management Plan be secured via condition (this may be combined into the Construction Environmental Management Plan recommended in paragraph 10.60). This is to ensure that the development does not cause harm to the local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works.

Sustainable Travel

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

- 10.75 The site is allocated in the Local Plan for residential development. The accessibility of the site was assessed as part of this process and is considered a sustainable location, being on the edge of an existing settlement. The supporting Transport Statement includes a review of the facilities that are within walking and cycling distance of the site – this confirms that there is a range of local facilities that are accessible by foot and by cycle.
- 10.76 PROW DEN/66/40 runs along the western boundary of the site. The application seeks to incorporate a link from the site onto the PROW via the north-western corner of the site, adjacent to the substation. It is proposed to link the site to the PROW with a footpath to allow for pedestrian access to and from the PROW. This connection would serve as a useful traffic-free route between the development and the centre of Denby Dale, which includes several shops, bus stops and the railway station, and would help reduce the need for car trips. The access could also form part of a walking-to-school route. The safety of this pedestrian access has been considered and would be well overlooked by the proposed new dwellings. The join between the proposed footway and the PROW is to be agreed by the Kirklees PROW team and no unauthorised changes to the width and surfacing of the PROW should take place.
- 10.77 Regarding public transport, the site is within walking distance to bus stops on Wakefield Road, circa 0.48km walk. The stops are served by D1, D2, D3, 94a, 99, and X1 services, which provide frequent services between Huddersfield and Holmfirth. A school bus stop is also located close to the site access on A635 Barnsley Road.
- 10.78 The site is below the threshold for the requirement of a Travel Plan however, sustainable travel should still be promoted at the site and therefore a S106 contribution for a Sustainable Travel Fund (STF) should be provided. Based on the 30 dwellings that are proposed, the STF would be £15,600. It should be noted that the developer would be responsible for the administration of the Residential Metro card Scheme, and this should be done at the point of occupation.
- 10.79 Overall, it is concluded that the proposal is acceptable with regard to the matters of access and highway impact. Subject to relevant conditions and the planning obligations specified, it has been demonstrated that the proposed development can accommodate sustainable modes of transport and be accessed effectively and safely by all users and that any significant impacts from the development on the transport network can be appropriately mitigated. It would therefore comply with Policies LP20 and LP21 of the Kirklees Local Plan and guidance contained within the National Planning Policy Framework.

Drainage/Flood Risk

- 10.80 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach. Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.
- 10.81 The application is supported by a Flood Risk Assessment which has been reviewed by KC Lead Local Flood Authority (LLFA). Comments have also been received from Yorkshire Water.

- 10.82 First considering flood risk from fluvial sources, the site is wholly within Flood Zone 1. Haley Well Beck is located along the eastern boundary of the site but would be circa 30m away from the nearest proposed residential dwellings. Given the minor scale of the Beck, separation distances, and the location of Tanner Wood, the risk of flooding to the site due to this watercourse is negligible.
- 10.83 Considering surface water arrangements, within the submitted Flood Risk Assessment it is noted that surface water run-off from the site is currently greenfield run-off which is discharging to Haley Well Beck. The applicant has also undertaken an assessment in accordance with Building Regulations H3 and the NPPF in regard to the disposal of surface water, following best practice and the drainage hierarchy when reaching their proposed discharge point. Due to the clay soils, it is not suitable for the disposal of surface water from the site via infiltration, therefore discharge to a watercourse is the preferred method of surface water disposal. Given the proximity of the existing watercourse (Haley Well Beck) and allowable discharge rate outfall to the watercourse this is the preferred method. However, due to the sensitivity of the adjacent woodland, detailed consideration of the outfall design is required.
- 10.84 Attenuation is to be provided via an attenuation tank, located within the green space north-east of the development site. The outfall to the beck is proposed to be via a headwall and stone filled channel through the woodland (Tanner Wood). The tank will have the capacity and features designed for up to the 1 in 100-year event plus climate change. The drainage design is to allow for 375 cubic metres of attenuation with a discharge of 9l/s to the watercourse. KC LLFA deem this to be acceptable. Initial flood routing shows the proposed properties to be safe from blockage scenarios and exceedance events. KC LLFA have noted that the design of the tank will need to be conditioned as will the maintenance and management thereof. LLFA recommend that crate storage is not used on housing estates unless it can be clearly demonstrated that Yorkshire Water or a NAV will give official technical approval to a stated manufacturers design. This is due to the management/maintenance and renewal of such products is more difficult than alternative designs coupled with the Local Planning Authorities obligation to ensure maintenance and management of attenuation features for the lifetime of the site. Furthermore, an assessment of the downstream trash screen is required as the development will produce more litter and debris, an upgrade can be decided via condition.
- 10.85 The maintenance and management of the approved SUDs/surface water infrastructure (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.
- 10.86 In regard to foul water drainage, foul drainage is to connect into new foul drains and the pumping station under Section 104 of the Water Industry Act. Flows will connect into the existing 255mm diameter combined sewer at the west of the development towards PROW DEN/66/40. This proposal has not attracted an objection from Yorkshire Water and is considered acceptable.
- 10.87 Considering the above, subject to the proposed conditions and securing the 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 and Trees

- 10.88 Policy LP30 of the Kirklees Local Plan states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.89 The application is supported by an Ecological Impact Assessment which has been reviewed by KC Ecology. The habitats to be lost at the site are considered to be of minimal ecological value, comprising of poor modified grassland. Areas of woodland and more species diverse grassland on the eastern boundary of the site provide increased value for ecological receptors however, these areas would be retained and enhanced as part of the scheme. The submitted EclA and Bat Activity report detail that the proposed development is unlikely to have a significant impact on local bat population however, mitigation measures with regards to low impact lighting at the site have been outlined. KC Ecology deem these measures to be sufficient and that they should be adopted as part of the scheme.
- 10.90 Furthermore, 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 Whilst the application was submitted before the mandatory 10% Biodiversity Net Gain requirement in England under the Environmental Act 2021 came into force. A 10% net biodiversity gain was already required to be demonstrated in accordance with Chapter 15 of the NPPF, Local Plan Policy LP30, and the council's Biodiversity Technical Advice Note. The applicant has therefore submitted a Biodiversity Net Gain calculation, which has been undertaken using the DEFRA Metric. This sets out that the development would result in an overall gain of 5.62 Habitat Units (equivalent to a 62.13% increase), a net gain of 0.38 Hedgerow Units (equivalent to a 238.97% increase). The watercourse that runs along the eastern boundary of the site is to be retained and will be untouched during the development. As such, no change in ecological value is anticipated. The submitted information is considered to provide an exemplar scheme, where areas of greenspace within the site have been sufficiently utilised to achieve the required level of net gain.
- 10.92 In addition to the above, the landscape banking where the woodland buffer exists has been created to allow for a significant uplift in biodiversity value and long term, will allow a greater succession of habitats, along the eastern boundary of the site. The enhancement and management measures to secure the above-mentioned units at the site have been provided within a Biodiversity Management Plan (BMP) however, the BMP fails to adequately address the long term (over a 30-year period) management and maintenance of habitats at the site and therefore should planning permission be granted, this should be secured by a S106 agreement. It is also noted that following receipt of amended plans the Biodiversity Management Plan now contains superseded plans and therefore a condition requiring the re-submission of a revised BMP shall be imposed, should planning permission be granted.

- 10.93 Small amounts of *Crocsmia* (*montbretia*) which is an invasive plant, have been identified within the submitted Ecological Impact Assessment. It is noted that standard precautions would apply regarding the clearance of this vegetation.
- 10.94 In summary the proposal would not result in the loss or result in material deterioration of the adjacent Tanner Wood ancient woodland and subject to the given conditions and S106 agreement, the proposal is considered to comply with the aims and objectives of LP30 of the Kirklees Local Plan.
- 10.95 A small portion of the site includes and relates to Tanner Wood which is located along the eastern boundary of the site, and is identified as ancient woodland, comprising of several protected trees. Protected trees can also be found on the western boundary of the site and include 2 Ash Trees (05/22/T1 & 05/22/T2).
- 10.96 Policy LP33 of the Kirklees Local Plan states:

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

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

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

- 10.97 Given the above, it is recommended that a protective 15m buffer zone be created between the edge of the ancient woodland and the proposed development to preserve this irreplaceable habitat.
- 10.98 Nevertheless, the proposed removal of G34, T35 and G43 (which are not within the Ancient Woodland) are deemed to be acceptable with the condition of 1:1 replacement planting within the site. These should be of similar species to the removed trees and be maintained for a minimum of 2 years to ensure their successful establishment. Further tree removals are also proposed to T29, T30, G31, T32 and T33, with access facilitation pruning/partial removal of G2 and G8. The Council's Trees Officers raised no objections to the above.
- 10.99 To the west of the proposed substation hardstanding is shown to be within the root protection area of T1, therefore a no-dig methodology for the construction of hardstanding around surrounding the structure should be imposed, and should be suitable to reduce tree impacts, as outlined within Section 5 of the submitted Arboricultural Method Statement. A water run-off channel is also proposed to be constructed through a portion of the ancient woodland buffer zone, excavation works are proposed to be carried out using hand tools and the project Arboriculturist is to advise on the precise course of the run-off to avoid felling trees with good long-term potential within G10. The excavation works shall also be superseded by the project arboriculturist and a written record kept. No trees within the ancient woodland would be removed or damaged in any way. Tree protective fencing shall be installed and remain in

place throughout the whole development and will only be temporarily breached to construct the outfall. The Council's Trees Officer considers the proposals to be acceptable subject to a condition requiring 1:1 tree replacement planting and its management/maintenance.

10.100 Regarding the risk of deterioration or indirect loss, the principal consideration is the increase in human habitation (brought about by the proposed development) close to the woodland. Greater habitation may mean more footfall and access into the woodland, with human interaction in the woodland being a potential concern. It is therefore considered reasonable if planning permission is granted, to impose a condition which requires details of boundary treatments to be submitted prior their installation, and this shall include, where appropriate, a perimeter fence along the eastern boundary of the site, adjacent to Tanner Wood, to help deter the public from entering the woodland.

Planning obligations

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

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

10.102 Should planning permission be granted, Officers recommend that this permission should be subject to a Section 106 agreement. This has been formally agreed with the applicant and includes the following:

Affordable Housing

10.103 Policy LP11 of the Local Plan and the council's Affordable Housing and Housing Mix SPD requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 30 units would be 6 units.

10.104 It is noted that the applicant has provided a Viability Assessment seeking to demonstrate that a full 20% contribution towards affordable housing could not be provided, and that the scheme would not be viable should these obligations be 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’.

10.105 The applicant’s Viability Assessment has been reviewed by an independent viability assessor (Aspinall Verdi) appointed by the Council, to advise Officers on this specialist subject.

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

10.107 Taking the above into account, Aspinall Verdi did conclude that the scheme is capable of supporting affordable housing at a policy compliant level, whilst still providing a suitable profit level for the developer. It was therefore agreed with the applicant that a 20% contribution of on-site affordable homes would be provided, resulting in 6 units.

10.108 The Council seeks the tenure of affordable dwellings to be 50% affordable rent and 50% intermediate, which the applicant has offered. Whilst national policy no longer requires that at least 25% of affordable homes are First Homes (a type of immediate tenure), Kirklees guidance does still refer to their provision, and in this case 2 units would be provided as First Homes. The number and tenure of the affordable homes is therefore acceptable.

10.109 Notwithstanding the above, the Council’s Affordable Housing and Housing Mix SPD sets our expectation for affordable housing unit size and mixture. Falling within the Kirklees Rural East sub-area, the SPD seeks the following mix of affordable units:

Kirklees Rural East	Affordable Rent	Affordable Intermediate
1 and 2 beds	60+%	40-79%
3 beds	20-39%	40-59%
4+ beds	0-19%	0-19%

10.110 The following sets out the proposals offer:

	Affordable Rent	Affordable Intermediate
1 and 2 beds	66% (2 units)	33% (1 unit)

3 beds	33% (1 unit)	66% (2 units)
4+ beds	0%	0%
Total	3	3

10.111 Whilst the above shows a slight overprovision in the proportion of 3 bed affordable intermediate units and a slight under provision of 1 and 2 bed affordable intermediate units, it is a modest departure and not a cause of concern. Thus, the sizes of affordable units are accepted.

10.112 Policy seeks to ensure that the affordable units are indistinguishable from market homes. Whilst it is acknowledged that the affordable units would be visually distinguishable from the private market housing, as all the affordable homes would be grouped across two sets of terraced properties of which all the market homes would be detached units. Officers are satisfied that the quality of the buildings and accommodation, with the use of the same materials and elevational detailing as the market housing would assist in helping the properties blend in within the overall estate, and would be constructed to the same standard of the market homes. Furthermore, Officers have noted in paragraph 10.12 matters relating to the housing mixture of the site and the applicant's opposition to providing a mix of 1,2 and 3 bed market homes. There is also a clear need for small affordable units (as per the first table above which identifies a need for 60% affordable rent and 40-79% affordable intermediate 1 and 2 bed units). It is therefore considered, that on balance the proposed offer is the best outcome for the current proposal.

10.113 Relevant planning policy also seeks to ensure affordable units are spread through the site. Officers consider that given the restricted nature of the site the terrace rows have been spread sufficiently within the site.

10.114 Overall, on balance, the proposed affordable housing offer is considered acceptable and would meet the expectations of Policy LP11 and the Council's Affordable Housing and Housing Mix SPD.

Public Open Space

10.115 In accordance with Policy LP63 of the Kirklees Local Plan new housing developments are required to provide public open space or contribute towards the improvement of existing provision in the area.

10.116 The application proposes 8,533sqm of on-site Public Open Space (comprising of 8,186sqm of natural & semi natural space and 347sqm of amenity green space), with an off-site contribution of £43,692 towards existing facilities in the vicinity of the development, including but not limited to Sunnybank Rec or other public open space typologies in the vicinity. This is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the Section 106 agreement. This is considered appropriate to comply with Policy LP63 of the Kirklees Local Plan.

Education

10.117 Applications proposing over 25 dwellings require consideration as to whether education contributions are required. The construction is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local

Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Constructions would only be sought where the new housing would generate a need which cannot be met by existing local facilities. This would be determined through examination of current and forecast school rolls of relevant primary and secondary schools, their accommodation capabilities and consideration of the type of housing to be provided. This provides a consistent approach to securing the education contribution within the planning application process.

10.118 KC Education have considered local primary provision (Denby Dale F & N School) and secondary provision (Scissett Middle and Shelley College) and concluded that no contribution was required towards Denby Dale F & N School, but that 2.10 and 2.178 additional places were required at Scissett Middle and Shelley College respectively, resulting in an overall contribution of £75,849.

10.119 The provision of this contribution is considered to comply with the aims of Policy LP49 of the Local Plan.

Highways and Sustainable Travel

10.120 As detailed within the highway section of this report, it is recommended that the following contributions towards highways and sustainable travel be secured:

- Sustainable Transport Fund (STF) £15,600 (based on 30 dwellings)

10.121 The provision of the above is considered to comply with the aims of Policy LP20 of the Kirklees Local Plan.

Management and Maintenance

10.122 Clauses are required to ensure appropriate arrangements are in place for the ongoing management and maintenance of certain features on site, such as the management and maintenance of drainage infrastructure (prior to its adoption by a statutory undertaker), the estate road (until it is adopted), Public Open space on site in perpetuity, and any on-site Ecological Net Gain features for a minimum of 30 years.

Other Matters

Coal Mining Legacy

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

- 10.124 In summary, the CMRA outlines that it would be prudent to inspect the surface following the Topsoil strip to check for any evidence of any mining related features, specifically beneath plots 17 to 27, including gardens and highways within the High-Risk Area.
- 10.125 The submitted CMRA has been reviewed by the Mining Remediation Authority, who advise that the coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on site. These investigation works would be secured via condition, should planning permission be granted.

Contaminated Land

- 10.126 In accordance with Local Plan Policy LP53, as a major residential development consideration of ground contamination is required.
- 10.127 The application is supported by a Geoenvironmental Appraisal by Lithos, dated August 2021 (ref: 4112/1B). The Phase 1 aspect of the report assesses the potential source pollutant linkages, and a preliminary conceptual site model is presented in drawing 4112/5 in Appendix B.
- 10.128 The site has been agricultural fields since 1851. Potential sources include those associated with agricultural activities. The site is not believed to be affected by sources of hazardous gas generation.
- 10.129 KC Environmental Health have reviewed the above document and whilst they accept the Geoenvironmental Appraisal, they do require additional clarification concerning the specification for any imported materials as this appears to be missing from the report and significant regrading is needed in the southern area of the site. KC Environmental Health therefore request that contaminated land conditions relating to any unexpected contamination that may be encountered during the groundworks and for any imported soil be imposed should planning permission be given.
- 10.130 The above recommended conditions are deemed to be sufficient mitigation, and to accord with LP53 of the Kirklees Local Plan.

Crime Mitigation

- 10.131 The West Yorkshire Police Designing Out Crime 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 are advisory and have been referred to the applicant.
- 10.132 It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan Policy LP24(e).

Minerals

- 10.133 The site is within a wider mineral safeguarding area relating to shallow coal with sandstone and/or clay and shale. Local Plan Policy LP38 therefore applies.

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

11 CONCLUSION

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

11.2 The proposal seeks the residential development of a housing allocation. The proposed density, whilst significantly lower than the recommended housing allocation density, given the constraints identified throughout the planning process, the proposed density of 30 dwellings is considered to comply with the expectations of the Local Plan on this occasion. The housing mixture (i.e. sizes) proposed departs from the expectations of the Council's Affordable Housing and Housing Mix SPD, which is a negative of the proposal. However, the departure from expectations is considered to have been justified by the applicant within the submitted Housing Mix Report, and the harm caused is not considered to outweigh the presumption in favour of sustainable development, established by the Council's lack of a five-year housing land supply. Accordingly, the principle of development is concluded to be acceptable.

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

11.4 A full policy-compliant Section 106 package has been agreed with the applicant.

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

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

1. Three years to commence development
2. Development to be carried out in accordance with the approved plans and specifications
3. External material samples to be submitted and approved
4. Boundary wall materials, sections and levels (including retaining walls) to be submitted and approved (including around POS)
5. Submission of details of an acoustic barrier

6. Works forming part of the sound attenuation scheme specified in the Noise Impact Assessment shall be completed and should demonstrate that specified noise levels have been achieved.
7. Details of imported soil
8. Unexpected land contamination
9. Provision of electric vehicle charging facilities
10. Submission of a Construction Environmental Management Plan (CEMP)
11. Submission of external lighting strategy (biodiversity)
12. Submission of a Construction Environmental Management Plan (biodiversity)
13. Details of cycle storage for all dwellings
14. Removal of pd rights for outbuildings and extensions on all dwellings
15. Replacement 1:1 tree planting
16. Temporary surface water drainage
17. Developed carried out in accordance with Flood Risk Assessment and Drainage Strategy
18. Submission of a scheme restricting the rate of surface water discharge
19. Temporary arrangements for the storage and collection of wastes
20. Coal legacy investigation and/or remediation to be undertaken
21. Submission of a signed statement/declaration that the site is, or has been made safe and stable
22. Location and cross-sectional information, design and construction details for all new retaining walls/building retaining walls adjacent to the existing/proposed adoptable highway
23. Submission of a structural dilapidation survey of the existing retaining wall supporting Barnsley Road
24. Location and cross-sectional information, design and construction for all new surface water attenuation tanks/pipes/manholes located within the highway footprint or influence zone of highway loading
25. Surfacing and drainage of approved vehicle parking areas and pedestrian spaces
26. Access to be in accordance with the preliminary access design shown
27. Submission of estate street phasing and completion plan
28. Submission of preliminary street design details
29. Off street highway works
30. Elevational accretions
31. Substation design
32. Submission of a Biodiversity Management Plan

Background Papers:

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2023/91564>

Certificate of Ownership

Certificate B signed.

Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 15-May-2025

Subject: Planning Application 2024/91503 Modification of Section 106 agreement relating to previous permission 2015/92227 for erection of 19 dwellings (as amended by permission 2023/91259) - deletion of affordable housing requirement 1, Row Street, Crosland Moor, Huddersfield, HD4 5BB

APPLICANT

Paul Hargreaves,
Parkview Property
(Lancashire) Ltd

DATE VALID

02-Aug-2024

TARGET DATE

27-Sep-2024

EXTENSION EXPIRY DATE

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

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Crosland Moor and Netherton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION

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

1.0 INTRODUCTION

1.1 This application is not an application for planning permission. It is an application to modify a legal agreement made under Section 106 of the Town and Country Planning Act (as amended). Section 106A of the 1990 Act and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended) provide the legislation to consider modifications to planning obligations.

1.2 The application seeks to remove the obligation to provide 2 affordable housing units, secured via a Section 106 agreement, on the previously approved planning application referenced 2015/92227. The application approved the erection of 19 single storey dwellings, at land to the rear of Row Street at Crossland Moor.

2.0 SITE AND SURROUNDINGS

2.1 The application site is land located to the rear of Row Street at Crossland Moor. The site is approximately 0.7 ha and was previously occupied by Paddock Field Mill but has since been cleared.

2.2 Development for the erection of 19 single storey dwellings has commenced, approved via 2015/92227, and is substantially progressed. It has been confirmed via a Certificate of Lawfulness application (referenced 2021/93457) that permission 2015/92227 was lawfully commenced.

2.3 The site is bounded by closely spaced terrace properties to the north and a railway line/footbridge to the east. The west of the site is immediately adjoined by an area of unallocated land (former garage site) which itself is then bounded by a tree belt separating it from the adjacent recreational open space further west.

2.4 The site is currently accessed from between No.3 Row Street and No.17 Row Street, to the north-eastern corner of the application site. A hard surfaced track then separates the application site from the gardens to the rear of the terraced properties (known as Row Street) and exits back onto Mill Street adjacent to No.43 Row Street.

2.5 The surrounding area is predominately residential, and the site is unallocated as part of the Kirklees Local Plan (2019)

3.0 PROPOSAL

- 3.1 The application seeks to remove the obligation to provide 2 affordable housing units on the site (10% provision) that was secured via the section 106 agreement from application 2015/92227. The applicant has provided a Viability Assessment as evidence in support of their request.
- 3.2 At the time 2015/92227 was determined under planning policy which required that, for brownfield sites, 15% of the total floor space be provided as affordable housing. A 15% floor space contribution equated to three units at the time. However, 2015/92227 was subject to a Viability Review which resulted in a reduced provision of two units (affordable rent tenure) being agreed.
- 3.3 Application 2015/92227 also included a Public Open Space contribution of £5,638. This has already been paid to the Council and, given its limited value in the context of the proposal, is not considered further as part of the assessment. Beyond the Affordable Housing and Public Open Space contributions, the original S106 had no other pertinent obligations.

4.0 RELEVANT PLANNING HISTORY (including enforcement history)

- 4.1 2015/92227 – Erection of 19 single storey dwellings including development of associated access and hard and soft landscaping – Section 106 Full Permission

2019/92171 – Discharge of Conditions 10, 11, 12, 16, 18 on previous permission 2015/92227 for erection of 19 single-storey dwellings including development of associated access and hard and soft landscaping – Spilt Decision

2019/92793 – Discharge of conditions 7 (traffic management) and 21 (landscape) on previous permission 2015/92227 for erection of 19 single-storey dwellings including development of associated access and hard and soft landscaping – Spilt Decision

2019/93651 – Discharge of conditions 6 (highway works) and 9 (estate road) of previous permission 2015/92227 for erection of 19 single-storey dwellings including development of associated access and hard and soft landscaping – Refused

2021/93457 – Certificate of Lawfulness to confirm valid commencement of development approved under 2015/92227 for erection of 19 single storey dwellings including development of associated access and hard and soft landscaping within the 3 year time limit given in condition 1 - Granted

2022/90672 - Erection of 19 single storey dwellings, associated access, and hard and soft landscaping, including demolition of 1 Row Street – Refused

Note: Reasons for refusal; on failure to meet housing density, no affordable housing provision, unacceptable layout and appearance, poor standard of amenity for future occupiers, lack of adequate provision of visitor parking spaces, failure to demonstrate access and egress for emergency services and refuse collection, failure to demonstrate 10% biodiversity net gain, to provide green infrastructure, to demonstrate adequate space or provisions for surface water and foul waste drainage, and meaningful open space.

2023/91259 - Variation condition 2 (plans) and 3 (facing and roofing materials) on previous permission 2015/92227 for erection of 19 single storey dwellings including development of associated access and hard and soft landscaping – Granted

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

5.1 Officers secured the agreement for the applicant to fund an independent review of the Financial Viability Assessment.

6.0 PLANNING POLICY

Kirklees Local Plan (2019)

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

6.2 The site is unallocated within the Kirklees Local Plan. The Local Plan policies relevant to this application are:

- **LP1** – Presumption in favour of sustainable development
- **LP11** – Housing Mix and Affordable Housing

Supplementary Planning Guidance / Documents:

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

- Affordable Housing and Housing Mix SPD

National Planning Guidance:

6.4 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 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 4** – Decision-making
- **Chapter 5** – Delivering a sufficient supply of homes

7.0 PUBLIC/LOCAL RESPONSE

7.1 This application has been advertised as an application to modify or discharge a planning obligation. The application was advertised by site notice, press notice and neighbour letter.

7.2 The public consultation period ended on the 11th of October 2024.

7.3 No representations have been received as a result of this publicity.

8.0 CONSULTATION RESPONSES

None required.

9.0 MAIN ISSUES

- Modification of a legal agreement made under Section 106 of the Town and Country Planning Act

10.0 APPRAISAL

Overview

10.1 This application is not an application for planning permission. It is an application to modify a legal agreement made under Section 106 of the Town and Country Planning Act (as amended). Section 106A of the 1990 Act and the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended) provide the legislation to consider modifications to planning obligations.

10.2 Section 106A allows a planning authority by whom a planning obligation is enforceable to agree, modify, or discharge an obligation either by agreement OR after an application, pursuant to Section 106A(3), has been made for modification or discharge. Most modifications, because of the complexity of Section 106 obligations, are concluded by agreement, the precise terms being authorised under the appropriate Scheme of Delegation, but in this case, Members are advised to determine it as a simple application. When considering an application under Sec 106A(3), the range of options available to the Council are (Section 106A(6)) to decide:

- a) that the planning obligation shall continue to have effect without modification;
- b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
- c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modification

If the recommendation is approved, a decision notice will be issued, pursuant to b) above, discharging the obligation to provide affordable housing

10.3 The Section 106 to the original planning application secured the delivery of 2 units (a 10% provision) as affordable dwellings. The applicant has submitted a Viability Appraisal which asserts that the delivery of 2 affordable units would result in a negative profit on GDV and that, in their view, only a 0% affordable provision would make the scheme viable.

Viability Assessment

10.4 The applicant has provided a Viability Assessment seeking to demonstrate that the proposal would not be viable if the previously secured 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.

- 10.5 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 matter of dispute identified by Align is as follows:

Sales Values: The applicant identified a blended sale price £155,000 per unit (£329.52 per sqft). Following a review of comparable data, the council's assessor concluded a net sale price of £160,000 per unit (equating to £340 per sqft). This resulted in a 5.75% increase in the Gross Development Value (GDV).

- 10.6 The council's assessor has accepted all other parameters of the appraisal as set out below:

Developer Costs: The council's assessor concludes the build costs and abnormal costs are appropriate and have adopted them within their own appraisal. They are also satisfied with the contingency allowance adopted. In terms of professional fees, the council's assessor has adopted a similar figure, (although they used a percentage approached based on 8% GDV instead of individual costs). They also agree with the adopted methodology of a 6% finance rated based on 100% debt finance and the timescale is in line with industry standards.

Developer's Profit: The applicant has shown an appraisal resulting in a negative 3.46% profit (i.e., a loss to build and sell the units). The council's assessor concludes to provide a pragmatic approach to viability and delivery of affordable homes, they have adopted 15% profit on GDV as a baseline.

Land Value: The council's assessor is satisfied with this figure and have adopted this within their appraisal.

- 10.7 Utilising their amended sales values, a summary of the council's assessor's findings is as follows:
- The applicant's profit level for 2 affordable units would be 2.57%.
 - The applicant's profit level for 0 affordable units would be 9.54%.
- 10.8 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 of 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.
- 10.8 As noted above, the council's assessor recommended a pragmatic approach to viability and delivery of affordable homes and therefore advise the LPA to consider a 15% profit on GDV as a baseline. They go on to conclude a 2.57% profit is too low and would be notably beneath the range established within the NPPF.
- 10.9 The council's assessor concludes that the applicant cannot viably deliver any affordable housing with the scheme. Furthermore, without delivering any affordable housing provision, the profit level for a zero housing contribution (9.54%) is still beneath the range established within the NPPF (although this is a commercial decision for the applicant). Officers concur with the assessment undertaken by the independent assessor and accept that the previously required provision of two affordable units would result in an unacceptable profit level and represent an unviable scheme.
- 10.10 In accordance with Section 106A of the Act, the evidence has demonstrated that the obligation no longer serves a useful purpose, and officers recommend that it be discharged.
- 10.11 Officers acknowledge that a viability assessment was reviewed as part of the recent planning application referenced 2022/90672, at the same site. Application 2022/90672 sought permission for a similar scheme of 19 single storey dwellings, associated access, and hard and soft landscaping, including demolition of 1 Row Street. At the time of the previous application's decision, the committee report outlined that the independent assessment undertaken at that time had concluded that the proposal would be viable – able to achieve a profit of 19.8% on sales – with the inclusion of the 2 affordable dwellings.
- 10.12 Whilst officers are mindful of the recent timeframe of 2022/90672 and the current proposal, each application must be assessed on its own merits. The principal difference between the viability assessments of 2022/90672 and the current application is the abnormal costs (i.e., costs other than those typically encountered). In 2022/90672, the applicant claimed an abnormal costs of £881,897. This was disputed by the independent assessor at the time, who concluded on a figure of £275,000. These were, however, largely based on professional judgement and speculation (which is typical, for a development yet to commence). Given that the development has now progressed, many of the actual values of the abnormal costs are known. The applicant has now identified abnormal costs of £440,993, which the independent assessor has accepted, given the more developed understanding of the site.

Representations

10.13 No public representations were received.

11.0 Summary and Recommendation

11.1 The applicant has gone through the independently assessed formal process to demonstrate viability issues with the development. Based on the details provided and the advice of the independent assessors, officers accept that the originally secured provision of two (10%) affordable housing units on this site would result in unreasonable viability issues.

11.2 Given the findings of the viability assessment process undertaken, officers recommend that the previously secured the obligation no longer serves a useful purpose, that it should be discharged, resulting in a zero affordable housing provision.

Background Papers

Application and history files, available at:

[Planning application details | Kirklees Council](#)

Certificate of Ownership: Certificate A signed.