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**Report of the Head of Strategic Investment**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 22-Feb-2018**

**Subject: Planning Application 2017/93515 Erection of 16 dwellings with associated access and parking facilities. Land adj, Lower Gate, Paddock, Huddersfield**

**APPLICANT**

David Rasche, D2M3  
Yorkshire Ltd & Diocese  
of Leeds

**DATE VALID**

11-Oct-2017

**TARGET DATE**

10-Jan-2018

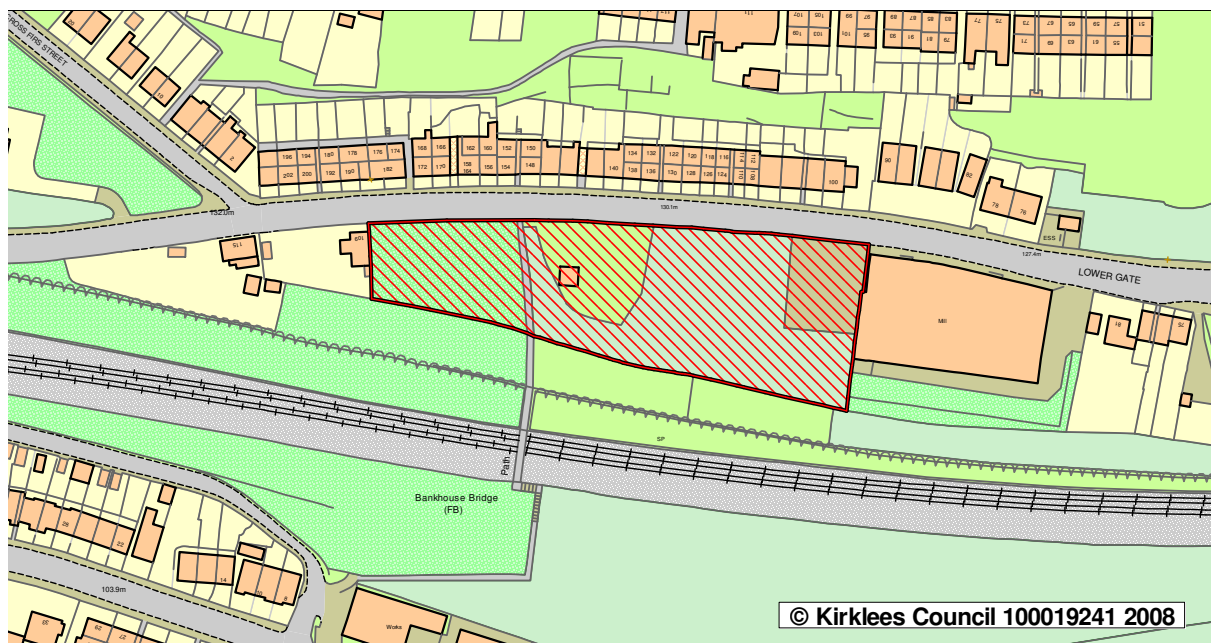
**EXTENSION EXPIRY DATE**

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

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



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

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**Electoral Wards Affected: Golcar**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

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

1. Public open space off site commuted sum of £84,350.
2. Two affordable rent and two intermediate units in the 2-bedroom maisonette block.
3. Provision of Metro cards for residents to a value of £8,349.55.

In the circumstances where the S106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Strategic Investment 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 Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 This is an application for full planning permission for residential development.
- 1.2 The application is presented to the Huddersfield Sub-Committee as the proposed development relates to a site larger than 0.5 hectares, and involves fewer than 60 units.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is 0.54 hectares in size, is trapezoid-shaped, and slopes downhill from north to south towards the Huddersfield-Manchester railway line, although parts of the site have been made up and levelled.
- 2.2 The site has been cleared of most buildings – a church (St Brigid's) and presbytery once stood on the site, however there are extensive hard surfaces and a double garage still exists at the centre of the site. Most of the site is previously-developed (brownfield) land. Parts of the site are overgrown with self-seeded trees and shrubs, however no trees on the site are the subjects of Tree Preservation Orders (TPOs).
- 2.3 A public footpath (HUD/316/10) runs through the site, connecting Lower Gate with a footbridge (Bankhouse Bridge) over the railway line. The footpath continues south to meet Armitage Road.

- 2.4 Surrounding uses include residential to the north and west and manufacturing to the east.
- 2.5 The Milnsbridge Conservation Area covers parts of the public footpath, footbridge, railway line and embankments to the southwest of the application site. There are no listed buildings immediately adjacent to the application site, however undesignated heritage assets in the area include the terraced properties opposite the application site to the north, the dry stone wall that runs along much of the site's street frontage, the dry stone wall at the rear of the site (adjacent to the railway embankment), and the surviving presbytery gate and stone gate posts.
- 2.6 There is a pavement on the north side, but not the south side, of this part of Lower Gate. A bus stop exists directly outside the site.
- 2.7 In the Kirklees Unitary Development Plan the site is within a Regeneration Area, and is adjacent to a Green Corridor. In the emerging Local Plan parts of the site fall within a Wildlife Habitat Network and all of the site is within a Biodiversity Opportunity Zone.

### **3.0 PROPOSAL:**

- 3.1 Full planning permission is sought for residential development of the site. The proposed 16 residential units would comprise:
- 4x 4-bedroom (type A) detached dwellings.
  - 2x 4-bedroom (type A) semi-detached dwellings.
  - 6x 4-bedroom (type B) detached dwellings.
  - 4x 2-bedroom (type C) maisonettes in a single block.
- 3.2 The type A and type B dwellings would have 2-storey front and 3-storey rear elevations, while the block of maisonettes would have a 2-storey front and 4-storey rear elevation. Pitched roofs are proposed.
- 3.3 Land regrading and levelling, and the provision of gabions to the rear of the site, is proposed. Levels would be altered either side of the public footpath, and these and other areas would be soft landscaped. All trees would be removed from the site to accommodate the proposed development, and replacement treeplanting is proposed. Proposed boundary treatments include dry stone walls along the new pavement and around bin stores, and 1.8m high close-boarded fencing to rear gardens.
- 3.4 48 car parking spaces are proposed. The applicant proposes two vehicular access points from Lower Gate. A new pavement would be created along the entire length of the site.
- 3.5 Four affordable housing units (the 2-bedroom maisonettes) are proposed.

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

- 4.1 2017/90856 – Planning application for the erection of 23 dwellings withdrawn 12/05/2017.

4.2 2004/95070 – Outline planning permission for demolition of existing presbytery and residential development granted 02/02/2005 (smaller site).

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

5.1 During the life of the application, the applicant reduced the number of residential units from 17 to 16, increased on-site parking provision, and submitted amended drawings to reflect these changes. Revised proposals for refuse collection and storage, and an amended site layout plan showing refuse collection points, were also submitted. Supporting information relating to flood risk and drainage, and to the public footpath, was submitted in response to comments from officers.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The Examination in Public began in October 2017. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the Plan making process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

### Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

6.2 The site is within a Regeneration Area, is adjacent to a Green Corridor, and is close to the Milnsbridge Conservation Area.

6.3 Relevant policies are:

Paragraph 1.14 – Regeneration Area

G4 – High standard of design

G5 – Equality of opportunity

G6 – Land contamination

D6 – Green corridors

NE9 – Mature trees

BE1 – Design principles

BE2 – Quality of design

BE5 – Conservation areas

BE11 – Building materials

BE12 – Space about buildings

BE21 – Open space accessibility

BE22 – Accessible parking

BE23 – Crime prevention

EP3A – Culverting and canalisation  
EP4 – Noise sensitive development  
EP10 – Energy efficiency  
EP11 – Landscaping and ecology  
EP30 – Prolonged construction work  
T1 – Transport priorities  
T2 – Highway improvements  
T10 – Highway safety  
T14 – Pedestrian safety  
T16 – Pedestrian routes  
T17 – Cycling  
T18 – Strategic pedestrian and cyclist routes  
T19 – Parking standards  
DL1 – Derelict and neglected land  
DL2 – Derelict land reclamation  
H1 – Housing needs  
H10 – Affordable housing  
H12 – Affordable housing arrangements  
H18 – Open space provision  
R6 – Public open space  
R9 – Allotments  
R13 – Rights of way

Kirklees Draft Local Plan Strategies and Policies (2017):

The site is partly designated as Wildlife Habitat Network

6.4 Relevant policies are:

PLP1 – Presumption in favour of sustainable development  
PLP2 – Place shaping  
PLP3 – Location of new development  
PLP7 – Efficient and effective use of land and buildings  
PLP11 – Housing mix and affordable housing  
PLP20 – Sustainable travel  
PLP21 – Highway safety and access  
PLP22 – Parking  
PLP24 – Design  
PLP27 – Flood risk  
PLP28 – Drainage  
PLP30 – Biodiversity and geodiversity  
PLP32 – Landscape  
PLP33 – Trees  
PLP35 – Historic environment  
PLP47 – Healthy, active and safe lifestyles  
PLP48 – Community facilities and services  
PLP51 – Protection and improvement of local air quality  
PLP52 – Protection and improvement of environmental quality  
PLP63 – New open space

## Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents are:

- Providing for Educational Needs Generated by New Housing
- Kirklees Interim Affordable Housing Policy (2016)
- West Yorkshire Air Quality and Emissions Technical Planning Guidance
- Kirklees District Landscape Character Assessment (2015)
- Kirklees Housing Topic Paper (2017)
- Kirklees Council Housing Allocations Policy (2017)
- Accessibility Assessment (2015)
- Milnsbridge Conservation Area Character Appraisal

## National Planning Policy and Guidance:

6.6 The National Planning Policy Framework (2012) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Paragraph 17 – Core Planning Principles
- Chapter 4 – Promoting sustainable transport
- Chapter 6 – Delivering a wide choice of high quality homes
- Chapter 7 – Requiring a good design
- Chapter 8 – Promoting healthy communities
- Chapter 10 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 11 – Conserving and enhancing the natural environment
- Chapter 12 – Conserving and enhancing the historic environment

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

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

7.1 The application has been advertised via a site notice posted on 31/10/2017, a press notice published on 27/10/2017, and letters delivered to addresses abutting the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 21/11/2017.

7.2 To date, representations from occupants of 4 properties. The following is a summary of the concerns raised:

- Excessive density. Overdevelopment.
- Proposed dwelling sizes would not match local demand.
- Artificial stone and concrete roof tiles inappropriate to the area.
- Proposed dwellings too tall and without precedent.
- Lower Gate is heavily trafficked, experiences accidents, and effectively narrowed to 1.5 lanes due to on-street parking. Additional traffic and access to and from the development would be dangerous.
- Impacts on traffic flow during construction.

- Inadequate parking provision, including for visitors and tradespeople. Existing parking problem on Lower Gate would be exacerbated.
- New pavement would narrow the carriageway.
- New pavement would terminate without a crossing to the opposite pavement, however a crossing would further affect traffic flow.
- Objection to road closures to accommodate sewer connection works and releveling works to site.
- More detailed traffic survey required.
- Waste collection vehicles would not be able to swing into the development from the opposite side of the road, as existing residents park along the north kerb.
- Existing pollution problem would be exacerbated, and dispersal of pollution would be prevented.
- Loss of trees and vegetation which capture carbon dioxide and pollution and provide a sound barrier.
- Impacts on wildlife.
- Loss of light to neighbouring properties.
- Loss of views of the Colne Valley.
- Noise survey inadequate.
- Noise during construction works including piling.
- Dust and disruption during works.
- Increased flood risk.
- Site is filled ground, is unstable and may be contaminated.
- Issues raised by Network Rail have not been responded to.
- Dwellings should not be built so close to railway.
- Foul water would need to be pumped uphill from the lower ground floor kitchens, which may affect the development's financial viability, and would put pressure on existing infrastructure.
- Vibration caused by piling and compacting land would damage properties and infrastructure.

7.3 Cllr Hilary Richards has commented, noting the proposed new pavement as a positive aspect of the development, but suggesting that single or double yellow lines may be needed along the south kerb due to the levels of traffic currently using Lower Gate.

7.4 Responses to these comments are set out later in this report.

7.5 As the proposed development has been amended since initial consultation was carried out, reconsultation letters were issued on 06/02/2018, with the end date for publicity set as 16/02/2018. To date, one further objection to the proposed development has been received, with the following points made:

- Revised plans do not address concerns previously raised.
- Likely loss of life caused by proposed access arrangements.
- Existing on-street parking would prohibit construction and access/egress for larger vehicles.
- Traffic calming required along Lower Gate.
- Proposed materials do not reflect those of existing buildings.
- Works needed to connect to sewer would impact upon traffic.

7.6 Any further responses received following the publication of this report will be reported to the Sub-Committee in an update or verbally.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

KC Highways – Proposed parking now acceptable, with sufficient provision for each dwelling including visitor parking. Adoption of the internal road is not necessary, and only the new pavement would be adopted. Access to the site would not be necessary for refuse collection vehicles, with bin collection points provided. £8,349.55 contribution towards bus-only residential Metro cards required. Conditions recommended regarding surfacing and drainage of parking areas, sight lines, and provision of new pavement prior to occupation. Informatives provided regarding works to the highway and approval for works near or abutting the highway and retaining structures.

KC Highways Structures – Conditions recommended relating to structures adjacent to existing and adoptable highways, and to all new surface water attenuation culverts and tanks.

KC Lead Local Flood Authority – Further work should be done to ascertain the feasibility of an off-site drainage connection that makes use of gravity. The provision and risk associated with a pumped surface water disposal solution would have greater costs than the initial costs of a longer connection route. If the case officer is minded to approve, conditions are recommended regarding surface water drainage, flood routing, management and maintenance and drawings of as-built drainage solutions.

Network Rail – No objection in principle, subject to details of excavations, earthworks being agreed with Network Rail, surface water and foul water drainage being directed away from Network Rail's land, no encroachment onto Network Rail land, soundproofing of new dwellings, selection of species in accordance with Network Rail advice, and other requirements relevant to the protection of Network Rail assets. Asset Protection Project Manager must be contacted (if planning permission is granted) at least six weeks prior to works commencing on site.

### 8.2 Non-statutory:

KC Trees – Many of the site's trees are scrub material grown since the site became disused. Established trees at the rear of the site are not significant or prominent enough to warrant a new Tree Preservation Order. No objection to proposed development. Proposed tree planting scheme and programme of aftercare maintenance is sufficient to mitigate for the loss of existing trees. Condition recommended.

KC Parks and Greenspace (Allotments Manager) – No evidence of the application site being a council-owned allotment site. Nearest council-owned allotment site is at Luck Lane, where there are currently three vacant plots and no waiting list. Broomfield Road and Jim Lane allotment sites also have vacant plots. Branch Street site has a waiting list of four.



KC Environmental Health – Submitted Geoenvironmental Appraisal is old and a new report is required. Conditions recommended regarding site contamination. Condition recommended regarding noise, requiring evidence that acceptable noise levels have been achieved prior to occupation. Regarding air quality, applicant has assessed the development in accordance with the West Yorkshire Low Emission Strategy Planning Guidance, and condition is recommended. Advice provided regarding hours of construction.

KC Landscape – Public open space contribution would be triggered, and a Local Area of Play would be required. Planting plan is acceptable, however native replacement planting area would need to be an appropriate distance from boundary walls to ensure no long-term problems. Details of management and maintenance of planting required. Landscape and ecological plan required. Details of monitoring and remedial measures required for planting that fails or becomes diseased within five years of completion. Details required of disposal of waste arisings from works.

Police Architectural Liaison Officer – Footpath already experiences problems – it is secluded, suffers from poor overlooking, and there is evidence of anti-social behaviour (graffiti) on the footbridge. Development of this site provides an opportunity to improve part of the footpath. Proposed opening up of land either side of the footpath at its north end (section H-H), and improving visibility, is welcomed, subject to details of the soft landscaping either side. Further along the path (southward), however, the proposals are problematic. At section G-G the footpath would be enclosed either side by largely blank elevations – windows (ideally serving kitchens and living rooms) should be introduced/enlarged to improve natural surveillance. At section F-F ground levels would be raised either side of the footpath, and 1.8m fences would be added, creating a heavily enclosed trench. This would lack natural surveillance, would be vulnerable to anti-social behaviour, and is unacceptable. Fewer changes to levels here, and different proposals for boundary treatments, would be necessary. Lighting of the footpath is also needed.

KC Strategic Housing – Application welcomed. Within Kirklees Rural (West) there is a significant need for affordable 1- and 2-bedroom units, as well as a need for affordable 1- and 2-bedroom housing specifically for older people. Kirklees Rural (West) is a popular location, with 15% of households planning to move home within Kirklees within the next 5 years citing it as their first choice destination. Kirklees's interim affordable housing policy seeks 20% affordable housing provision on sites where 11 units or more are proposed. On-site provision is preferred, however a financial contribution in lieu of on-site provision can be acceptable where appropriate. Applicant has stated that four 1- or 2-bedroom affordable rent units would be provided – this would best suit the affordable housing needs of the local area, and is suitable for an area with one of the lowest rates of affordable housing in Kirklees. Advice provided regarding Vacant Building Credit.

KC Ecology – Compared with previous scheme, proposed development provides much greater capacity to deliver a biodiversity net gain and retain the functions of the Wildlife Habitat Network. The recommendations in the applicant's report, however, are not sufficient to ensure that adequate biodiversity enhancement is provided at the site, post-development. Conditions are therefore recommended to secure appropriate detail of landscape design and future management, in addition to a condition relating to nesting birds. A

single tree (T22) with bat roost potential would be felled, but the presence or absence of bats has not been determined. This information should be submitted at application stage, alternatively a condition is recommended.

KC Public Rights of Way – Close-boarded fencing adjacent to the public footpath is problematic. Cross-sections through the footpath are needed, to clarify what works are proposed either side. The proposed steps (where the footpath would meet the new pavement) would need to be dedicated as public highway if the applicant intends to deviate from the footpath's current route. Queried if resurfacing to the footpath is proposed. A scheme for the protection of the footpath and users would be appropriate. Advice can be relayed to the applicant regarding obstruction of and interference with the footpath, and regarding the process for temporary closure through the use of a temporary Traffic Regulation Order.

West Yorkshire Archaeology Advisory Service – Site is close to the location of a Roman altar found on Lower Gate in 1881. Site may have been attractive to settlement in the Roman and other periods. Proposed development may uncover important archaeological evidence of past settlement from the Prehistoric, Roman and later periods. Site should be subject to archaeological observation and recording (an archaeological watching brief) during excavation of footings, access tracks, service runs and landscaping. This work can be secured by condition.

Yorkshire Water – Drainage / Foul Sewerage Assessment is acceptable. It states that foul water would discharge to the public combined sewer, and that in relation to surface water, sub-soil conditions do not support the use of soakaways and no watercourse is available. Surface water would therefore discharge to the public sewer via storage, with a restricted discharge of 6 litres/second (two connections of 3 litres/second each). Condition recommended requiring implementation in accordance with the submitted Drainage / Foul Sewerage Assessment.

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design and conservation issues
- Residential amenity
- Highway issues
- Flood risk and drainage issues
- Ecological considerations
- Trees and landscaping
- Representations
- Planning obligations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 10.2 The NPPF is a material consideration in planning decisions. The current situation regarding housing land supply in Kirklees (discussed below) is a material consideration relevant to applications for residential development. Weight can also be attached to the draft policies of the emerging Local Plan.
- 10.3 Outline planning permission for residential development on part of the site was granted in 2005 under application ref: 2004/95070. Officers are not aware of any evidence of implementation, therefore that permission is understood to have expired, however it remains a material consideration relevant to the consideration of the current application.
- 10.4 The starting point in assessing this planning application is to ascertain whether or not the proposal accords with the relevant provisions of the development plan, which in this case comprises the saved policies of the Kirklees UDP (1999). If a proposal does not accord with the development plan, regard should be had as to whether there are other material considerations, including the NPPF, which indicate that planning permission should be granted.
- 10.5 Paragraph 14 of the NPPF states that development proposals that accord with the development plan should be approved without delay. It also states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted for development proposals unless i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (when assessed against NPPF policies taken as a whole), or ii) specific policies in the NPPF indicate development should be restricted.
- 10.6 The NPPF seeks to boost significantly the supply of housing. Paragraph 47 of the NPPF sets out how local planning authorities should meet the full objectively-assessed needs for market and affordable housing. This requires a range of measures including identifying a deliverable five-year supply of land for housing. Paragraph 49 adds that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 10.7 As noted in recent appeal decisions, Kirklees is not currently meeting – by a substantial margin – the requirement to identify a five-year supply of housing land.
- 10.8 As the council is unable to demonstrate a five-year housing land supply as required by paragraph 49 of the NPPF, relevant UDP policies relating to housing are considered to be out-of-date. The housing land supply shortfall is not marginal – it falls below three years and is therefore considered substantial. Whilst the council has prepared a Local Plan that, for housing purposes, is predicated on the basis of a five-year housing land supply, it is currently undergoing examination, and has not been adopted. Therefore, it remains the case that the council is unable to identify a five-year supply of specific deliverable housing sites against the relevant NPPF requirement.
- 10.9 The borough's housing supply record of recent years is also a relevant consideration. This is set out in the council's Housing Supply Topic Paper (2017), where Kirklees's persistent under-delivery is detailed.

- 10.10 The emerging Local Plan is a material consideration. It sets out a housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.11 Given Kirklees's situation regarding housing land supply, with regard to this application and the presumption in favour of sustainable development, the NPPF states that planning permission should only be refused where there are adverse impacts which would significantly and demonstrably outweigh the benefits.
- 10.12 No relevant adopted or emerging policies or allocations prohibit residential development at this site.
- 10.13 Ordnance Survey maps from 1955 onwards annotate part of the site as "Allotment Gardens", however that use appears to have now ceased. UDP policy R9 states that proposals involving development on allotments, or land last used as allotments, will not be permitted unless replacement allotments of equivalent community benefit are provided or it can be demonstrated that there is no unsatisfied local demand for allotments. The council's Allotments Manager has confirmed that the nearest council-owned allotment site is at Luck Lane, where there are currently three vacant plots and no waiting list. Given that local demand for allotments appears to be satisfied, and given that the site is not council-owned, it is not considered necessary to withhold permission on the grounds that a previous allotment site would be lost. It is also noted that, if planning permission was refused, the council would have no authority to insist that allotments be reopened at this site.
- 10.14 There is similarly no reason to withhold planning permission on planning policy and land use grounds in relation to the site's other previous uses (a place of worship and presbytery).
- 10.15 In conclusion regarding the principle of development, given the pressing need for housing, the current situation regarding housing land supply in Kirklees, the relevant paragraphs of the NPPF detailed above, and the absence of any relevant and prohibitive adopted or emerging policies or allocations, it is considered that the principle of residential development at this site can be accepted.
- 10.16 With reference to NPPF paragraph 14, the adverse impacts and benefits of the proposed development are assessed throughout this report, and further conclusions on the balance of planning considerations are drawn in its closing paragraphs.
- 10.17 The above conclusion is supported by the fact that the application site is a suitable location for residential development in relation to sustainability, being located at the edge of an existing settlement, relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.

#### Urban design and conservation issues

- 10.18 Relevant design and conservation policies include Chapters 7 and 12 of the NPPF, UDP policies G4, BE2 and BE5, and emerging Local Plan policies PLP2, PLP24 and PLP35.

- 10.19 The application site is located on the edge of a relatively densely built-up part of the borough, adjacent to a heavily vegetated stretch of railway line corridor. The long terrace of 2-storey residential properties on the north side of Lower Gate, set back approximately 3.5m behind the back of the pavement and front garden walls, provide a consistent and clear definition to this part of the road.
- 10.20 The proposed development responds positively to this context with mostly 2-storey front elevations. Although the new dwellings would be set significantly further back from the pavement than existing properties opposite (and those at 109 and 115 Lower Gate), this would not appear incongruous in the site's context, given that other properties further to the east are similarly set further back. The proposed layout would result in large hard surfaced areas and parked vehicles being visible from the public realm (rather than located discreetly behind the new buildings), however with appropriate landscaping the adverse visual impacts of this upon the street scene can be minimised. It is also noted that locating the new dwellings away from the pavement would provide new residents with a greater level of residential amenity in some respects.
- 10.21 Spacing between the proposed dwellings would not reflect the continuous terrace opposite, however other nearby properties are detached and/or well-spaced, therefore this aspect of the proposed layout is not considered problematic. The proposed spaces between the dwellings, and the variations in their front building lines, would in fact assist in breaking up the proposed development's massing, and would provide glimpsed views of the dense vegetation behind the site to the south.
- 10.22 With 16 residential units proposed in a site of 0.54 hectares, a density of 30 units per hectare would be achieved. While this would be significantly below the 35 units per hectare minimum set out in draft policy PLP7, and below the densities of parts of Paddock, it is noted that this minimum is applied "where appropriate", and it is considered that, in order to provide an adequate quality of residential amenity and to accommodate off-street parking, the proposed quantum of development is acceptable.
- 10.23 The elevational treatments and proportions of the proposed blocks are considered acceptable. Although the type B and C blocks would have front elevations, string courses and window apertures that would give much of the development a horizontal emphasis, the front elevations and window apertures of the type A blocks, and other elevational details of the proposed development, would provide a vertical emphasis that appropriately reflects the existing buildings opposite.
- 10.24 The submitted drawings indicate that artificial stone would be used in the external walls of the new dwellings. This is considered unacceptable in the site's context and having regard to UDP policy BE11. Natural stone should be used at this site. This, and the submission of details and samples of all other materials, is required by a recommended condition.
- 10.25 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act places a duty on the council to pay special attention to the desirability of preserving or enhancing the character and appearance of the nearby Milnsbridge Conservation Area when determining this application.

- 10.26 The relevant Conservation Area character appraisal defines Milnsbridge as a valley floor settlement tightly defined by the Huddersfield-Manchester railway line. This definition is enhanced by the greenery and topography around the railway line, and the green corridor helps to prevent the settlements of Milnsbridge and Paddock from merging. Loss or erosion of this green corridor could undermine the character and definition of Milnsbridge as a valley floor settlement, however the proposed development would not result in buildings reaching the railway lines (or even the site's southern boundary), and substantial greenery would be maintained between Milnsbridge and Paddock. It is therefore considered that the positive and defining characteristics of the Milnsbridge Conservation Area would not be adversely affected by the proposed development. It is also noted that the application site is not readily visible in street-level views from public vantagepoints within the conservation area.
- 10.27 The West Yorkshire Archaeology Advisory Service has advised that the application site is close to the location of a Roman altar found on Lower Gate in 1881, and that the site may have been attractive to settlement in the Roman and other periods. Given that the proposed development may uncover important archaeological evidence of past settlement from the Prehistoric, Roman and later periods, it is considered appropriate to require the implementation of an archaeological watching brief during works, and an appropriate condition is recommended.
- 10.28 The dry stone wall that runs along much of the site's street frontage is an undesignated heritage asset, but it is in a poor condition in places, and its reconstruction in a new location (to accommodate the new pavement) is acceptable. The site's rear dry stone wall would be retained in its current position, and a stepped line of gabions (approximately 2m high) is proposed along approximately half the width of the site at its rear. Other proposed boundary treatments include dry stone walls around bin stores (these would need to be of natural stone), and 1.8m high close-boarded fencing to rear gardens. A condition is recommended requiring details of these boundary treatments for consideration alongside details of hard and soft landscaping. The surviving presbytery gate and stone gate posts should be reused in the development's new boundary treatments, if their condition allows. Any fencing to rear gardens would need to be carefully designed and located, given the surrounding topography and the potential visibility of a fence line that would extend some 130m across the rear of the site. Similarly, fencing adjacent to the public footpath would need to be designed to ensure visual enhancement to and natural surveillance of the footpath. At conditions stage details of alternative boundary treatments to the rear gardens of units 10 and 11 (where they abut the public footpath) would be necessary to help address the concerns of the Police Architectural Liaison Officer.
- 10.29 Some regrading of, and changing levels within, the application site is considered acceptable in design and conservation terms, provided that appropriate soft landscaping is implemented, and subject to details of the gabions proposed along the rear of part of the site. Some amendments to the levels proposed at the south edge of the site (around the point where the public footpath meets the site boundary) would be necessary to help address the concerns of the Police Architectural Liaison Officer. Appropriate conditions are recommended.

## Residential amenity

- 10.30 The minimum distances set out under UDP policy BE12 would be achieved. Of particular note, more than the required 21m would be maintained between the habitable room windows of existing properties on the north side of Lower Gate and those of the proposed new dwellings, thereby protecting the privacy of those existing residents.
- 10.31 The proposed blocks would be positioned far enough away from neighbouring properties to not adversely affect the outlook or natural light currently enjoyed by existing residents.
- 10.32 Private views of a particular landmark or feature of interest, and long views over land not in the ownership of the viewer, are not protected under planning.
- 10.33 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the scale of development proposed, and existing levels of activity and traffic noise, 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.
- 10.34 The proposed development would involve the removal of trees and an increase in vehicle movements to and from the site, however air quality is not expected to be significantly affected. To encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with a recommended condition. 16 charging points are shown on the applicant's drawings, however one charging point per unit (where dedicated parking is provided), and one point per 10 spaces (in unallocated parking) would be required in accordance with relevant guidance on air quality mitigation, draft policies PLP21, PLP24 and PLP51 of the emerging Local Plan, the West Yorkshire Low Emissions Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.
- 10.35 The quality of the proposed residential accommodation must also be considered.
- 10.36 Sizes of the proposed residential units, and the habitable rooms within them, are considered adequate.
- 10.37 The proposed type A and B dwellings, and two of the type C maisonettes, would have bedrooms and bathrooms at entrance level, providing flexible accommodation and ensuring that a household member with certain disabilities could live in these units. All ground floor entrance doors would have level access. Although not annotated as such, spaces adjacent to some of the proposed parking bays indicate provision has been made for residents and visitors with disabilities.
- 10.38 Each of the type A and B dwellings would be provided with adequate outdoor private amenity space, bearing in mind the size of the units (all would be family-sized) and garden sizes typically found in the area. For the maisonettes in the type C block, two communal outdoor amenity spaces (each shared by two households) are proposed. The amenity space proposed for units 15 and 16 is small, however given that an off-site public open space contribution is also required (as detailed later in this report), it is recommended that this provision be accepted.

- 10.39 All units would benefit from dual aspect, and would have adequate outlook. The proposed fenestration would ensure habitable rooms would receive adequate natural light, and although lower ground floor kitchens in the type A units would not have north windows (as this floor would be set into the hillside), this is not a reason for refusal of permission.
- 10.40 All units would benefit from adequate privacy. Where side windows are proposed, these would be small, would serve bathrooms or would be secondary kitchen windows in the type A units. The additional or enlarged side windows (required by a recommended condition to improve overlooking of the public footpath) can be designed to ensure the private spaces of adjacent residential properties are not overlooked.
- 10.41 As confirmed by the applicant's noise survey (Druk, June 2017), the site is exposed to noise mainly from road traffic, but also from other sources including the nearby railway. The applicant has, however, concluded that acceptable internal noise levels would be achieved within the new residential units without the need for additional sound attenuation measures, and that the noise climate in the proposed outdoor amenity spaces would also be acceptable. To ensure that this proves correct, a condition is recommended, requiring evidence that acceptable noise levels have been achieved prior to occupation.

#### Highway issues

- 10.42 UDP policy T10 states that new development will not normally be permitted if it will create or materially add to highways safety problems. Policy PLP21 of the emerging Local Plan requires development proposals to be accessed effectively and safely by all users, and states that new development will not be permitted if it adds to highway safety problems. Paragraph 32 of the NPPF states that decisions on planning applications should take account of opportunities for sustainable transport modes, and the safety of site access.
- 10.43 It is noted that significant volumes of traffic make use of Lower Gate, particularly at peak times, and that on-street parking along the street's north kerb effectively limits the width of the carriageway. The site currently generates little or no traffic.
- 10.44 The applicant proposes two vehicular access points from Lower Gate. Both would be appropriately located away from the northeast and northwest corners of the site, and would have adequate visibility splays, ensuring that highways safety would not be unacceptably affected. A condition, requiring provision and maintenance of sightlines at these entrances, is recommended. The proposed new pavement would be formed from part of the application site along its entire length, and would not reduce the width of the carriageway. A condition, requiring the provision of the new pavement prior to occupation, is recommended.
- 10.45 The applicant's Transport Statement, although written for a development of 17 units, predicts a total of 10 additional vehicle movements in the a.m. peak, and eight in the p.m. peak. The statement refers to the predicted traffic generation as "minimal", and states that the proposed development would not have a material adverse impact on the local highway network in terms of capacity or safety. Existing residents' comments regarding congestion and highways



safety are noted, particularly in relation to the number of vehicles already using Lower Gate. The proposed development, however, has not attracted objections from the council's Highways Development Management officers on safety or congestion grounds, and does not trigger the need for any highways improvement works, other than the proposed new pavement.

- 10.46 48 car parking spaces are proposed. 14 of these would be accessed from the western vehicular access point and would serve two houses and four maisonettes. The other 34 would be accessed from the eastern vehicular access point and would serve 10 houses. This total provision would meet the council's current car parking standards of two spaces per 2- or 3-bedroom unit, three spaces per 4-bedroom unit, and one visitor space per four residential units. With this provision, existing pressure for on-street spaces along this part of Lower Gate is not expected to increase.
- 10.47 Cllr Hilary Richards has suggested that single or double yellow lines be provided along the new south kerb of Lower Gate in connection with the proposed development, however given that on-site parking provision would be adequate, and given the width and two-way traffic of Lower Gate, it is not considered likely that drivers would begin parking on this side of the road, post-development. It is therefore not considered necessary to require the applicant to provide single or double yellow lines outside the site.
- 10.48 One cycle parking space per residential unit would be required, and an appropriate condition is recommended to secure this.
- 10.49 In relation to refuse collection, the refuse vehicle swept path diagrams shown on now-superseded drawing 1071-01-01 rev A would not have been achievable due to the presence of parked vehicles along the north kerb of Lower Gate. The applicant therefore now proposes bin collection points, enclosed by dry stone walls, adjacent to the new pavement. Most of the new residential units would be provided with their own bin storage points close to their homes, and the applicant has suggested that residents would move their bins to the collection points on collection days. Refuse vehicles would not enter the site, and would instead pull up against the south kerb of Lower Gate to collect refuse.
- 10.50 Although it is considered unlikely that all residents would move their bins to and from the bin collection points every week, the proposed arrangement is considered acceptable. The dry stone walls to the bin collection points would provide adequate visual screening of the bins when viewed from the public realm.
- 10.51 The proposed new pavement would not connect to existing, adopted or formal pavements to the east or west, but is nonetheless of public benefit, not least as it would give bus passengers a safer waiting area on the south side of Lower Gate.
- 10.52 Some of the proposed improvements to the public footpath that bisects the site would also be of public benefit. Although steps (rather than an accessible ramp) are proposed where the path would meet the new pavement, this is considered acceptable given that there are damaged steps in this location already, and given that steps outside the site to the south already render the footpath inaccessible to people using wheelchairs and buggies. Subject to details

submitted at conditions stage, the proposed lowering of levels and soft landscaping at the north end of the footpath could improve its attractiveness and safety, making it more likely to be used. Natural surveillance of the footpath from the front and rear windows of units 10 and 11 could also improve its safety, and conditions are recommended to ensure this surveillance would be achieved. This aspect of the proposed development is considered compliant with UDP policies T16 (which requires new development to make provision for convenient pedestrian routes) and R13 (which promotes the development of new links in the public right of way network).

#### Drainage issues

- 10.53 The site is within Flood Zone 1, but is less than 1 hectare in size, therefore a site-specific Flood Risk Assessment did not need to be submitted. A Drainage / Foul Sewerage Assessment (Furness Partnership, October 2017) was, however, submitted.
- 10.54 The applicant does not propose to dispose of surface water through the use of soakaways and infiltration, and this is accepted given the risk of water re-merging further down the hillside and possibly affecting railway infrastructure. Discharge to the River Colne is also considered unfeasible, given the distance involved, and the intervening third party land and railway infrastructure. It is therefore accepted that discharge into the combined sewer of Lower Gate would be the appropriate surface water drainage solution for the proposed development. The applicant, however, proposes to pump water up to this sewer, and this proposal has attracted an objection from the Lead Local Flood Authority (LLFA), who have argued that a gravity solution is preferable and possible. This would involve laying pipework that would chase the sewer as it descends along Lower Gate to a point where a connection can be made without the need for pumping. The applicant has argued that this is unreasonable, as a lengthy section of pipework would need to be installed beneath the public highway. The LLFA, however, have stated that further work should be done to ascertain the feasibility of such a solution, and have added that the provision and risk associated with a pumped surface water disposal solution would have greater costs than the initial costs of a longer connection route. As such a solution has not yet been fully explored and costed by the applicant, the advice of the LLFA is considered valid, however it is not considered necessary to withhold planning permission until this further information is provided by the applicant. A condition, requiring the submission of the necessary information, is recommended. If, at conditions stage, the applicant demonstrates (with complete and convincing evidence) that a gravity solution is genuinely not feasible, a pumped solution could be accepted, however this would not be the preferred solution.
- 10.55 Other conditions referred to by the LLFA regarding flood routing, management and maintenance, and the submission of drawings of as-built drainage solutions, are recommended.
- 10.56 Yorkshire Water have raised no objection to the proposed development, subject to a condition being applied.

### Ecological considerations

- 10.57 The application site is adjacent to a Green Corridor. In the emerging Local Plan parts of the site fall within a Wildlife Habitat Network and all of the site is within a Biodiversity Opportunity Zone. The proposed Wildlife Habitat Network connects designated sites of biodiversity and geological importance and notable habitat links, and any development within or close to the network will need to support and enhance these links.
- 10.58 Planning policies relevant to ecological considerations include UDP policy EP11, policy PLP30 of the emerging Local Plan and chapter 11 of the NPPF.
- 10.59 Some residents have objected to the proposed development on wildlife impact grounds.
- 10.60 The applicant's Ecological Impact Assessment (JCA, August 2017) found habitats of low to moderate ecological value, notes that overgrowth has increased the site's biodiversity, but that the site's hardstanding has prevented growth, and that the double garage on the site is unsuitable for supporting any protected species, including bats.
- 10.61 The council's Biodiversity Officer has noted that, compared with development previously proposed at this site, the development currently proposed provides much greater capacity to deliver a biodiversity net gain and retain the functions of the Wildlife Habitat Network. It is noted, however, that the recommendations in the applicant's Ecological Impact Assessment are not sufficient to ensure that adequate biodiversity enhancement would be provided at the site, post-development. Conditions are therefore recommended to secure appropriate detail of landscape design and future management, in addition to a condition relating to the avoidance of criminal offences in respect of nesting birds.
- 10.62 A single tree (T22) with bat roost potential would be felled, however the presence or absence of bats has not been determined. Although this information should have been submitted during the life of the application, it can be required by a condition (interrelated with other conditions) which would ensure the proposed development has the capacity to mitigate against the loss of any roost.

### Trees and landscaping

- 10.63 No Tree Preservation Orders or conservation area designations protect existing trees within the site. UDP policy NE9, however, states that mature trees should normally be retained, while policy PLP33 in the emerging Local Plan states that the council will not grant planning permission for development which directly or indirectly threaten trees or woodlands of significant amenity, and that development 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.

- 10.64 Much of the site has tree and shrub cover, which is apparently self-seeded, and is dense in places. Many of the site's trees and shrubs are young, although three trees are identified by the applicant (in the submitted Arboricultural Report, ref: 13293/AJB) as mature. No trees were found by the applicant to be of good individual value, however the applicant noted that the trees on site collectively contribute to the surrounding area's visual amenity.
- 10.65 All of the site's trees and shrubs would be removed to accommodate the proposed development.
- 10.66 Objections have been raised by local residents in relation to the loss of trees, however the council's Tree Officer has raised no objection, noting that the site's trees are not worthy of TPO protection, and noting that the applicant's proposed tree planting scheme and programme of aftercare maintenance is sufficient to mitigate for the loss of the site's existing trees. This conclusion, however, is subject to a recommended condition relating to treeplanting, which is considered necessary to ensure compliance with UDP policy NE9 and policy PLP33 of the emerging Local Plan.
- 10.67 The proposed landscaping measures are considered acceptable in principle, however full details, including details of maintenance, monitoring and remedial measures (required in the event of failure or planting becoming diseased), and species (in accordance with guidance from Network Rail) are required by recommended condition.
- 10.68 A further condition is recommended, requiring details of the disposal of any waste arising from works.

#### Representations

- 10.69 To date, representations from occupants of 4 properties. Issues raised in these representations have been addressed earlier in this report.

#### Planning obligations

- 10.70 In accordance with paragraph 204 of the NPPF, planning obligations should only be sought where they are:
- 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.
- 10.71 To accord with policy H10 of the UDP, emerging Local Plan policy PLP11 and the Kirklees Interim Affordable Housing Policy (which requires that 20% of residential units are secured as affordable housing), an on-site affordable housing provision is required. The applicant's Design and Access Statement states that the proposed development includes a block of four 1- or 2-bedroom affordable housing units would be provided. In a development of 16 units, this would represent a 25% provision based on unit numbers. The tenure of these units has not been confirmed by the applicant, however the Kirklees Interim Affordable Housing Policy sets out a preferred 54% affordable rent / 46% intermediate tenure split, therefore it is considered appropriate to require two units of each of these tenures. The applicant has submitted no financial viability or Vacant Building Credit evidence, and has not asked if the required affordable housing could be provided off-site.

- 10.72 Under policy H18 of the UDP sites of 0.4ha require public open space to be provided on-site. This requirement is normally applied at a minimum rate of 30sqm per dwelling. The application site is 0.54 hectares in size, therefore the public open space requirement is triggered. With 12x 4-bed houses and 4x 2-bed maisonettes proposed, with the reduced rates for maisonettes taken into account, an on-site provision of 450sqm (including playspace) would be required. Given the dimensions and topography of the site, however, it is considered that a contribution towards an off-site provision can instead be accepted in this particular case. The 450sqm public open space requirement would be equivalent to a commuted sum of £40,250. Within the 450sqm provision a Local Area of Play would normally be required, with its own commuted sum of £44,100. The total public open space contribution would therefore be £84,350. This would most likely be spent locally at the Douglas Avenue recreation and play space.
- 10.73 The submitted Design and Access Statement confirms that the applicant agrees to make a contribution towards sustainable transport initiatives. A £8,349.55 contribution towards the provision of Metro cards for residents of the proposed development is considered appropriate in this case. This provision would enable and encourage residents to make use of sustainable modes of transport.
- 10.74 Given the number of units proposed, no contribution towards education would be triggered.
- 10.75 No contributions towards local transport infrastructure mitigation and improvements are required.

#### Other planning matters

- 10.76 With regard to ground contamination, the applicant's Geoenvironmental Appraisal (Sirius, April 2004) is somewhat dated, therefore appropriate conditions have been recommended by officers to ensure compliance with UDP policy G6 policy and PLP53 in the emerging Local Plan.
- 10.77 Some residents have stated that the site comprises filled ground and is unstable. The applicant's Geoenvironmental Appraisal found made ground at depths of between 0.3 metres and 2.8 metres (deepest along the southern edge of the site) beneath tarmac surfaces, but found competent bedrock at depths of 3.5m and 4.7m. Section 10.2 of the Geoenvironmental Appraisal makes recommendations regarding foundation depths and design.
- 10.78 The site is not within a Coal Authority referral or advice area.
- 10.79 Matters raised by Network Rail in relation to their nearby assets are to be resolved between the applicant/developer and Network Rail. The comments of Network Rail have been relayed to the applicant.
- 10.80 A condition removing permitted development rights from the new dwellinghouses is recommended, to ensure that changes to boundary treatments, and extensions and alterations (which may adversely affect neighbour and visual amenity) cannot be carried out without the need for planning permission.

## 11.0 CONCLUSION

- 11.1 The application site is not subject to any adopted or emerging policies or allocations that would prohibit residential development in this location. Given the pressing need for housing, the current situation regarding housing land supply in Kirklees, and the relevant paragraphs of the NPPF, it is considered that the principle of residential development at this site can be accepted.
- 11.2 The proposed development is of an acceptable design, and would not adversely affect the character or appearance of the nearby Milnsbridge Conservation Area. Other heritage assets would not be unacceptably affected.
- 11.3 The impacts of the proposed development upon the local highway network, including in terms of highways safety and congestion, are considered acceptable. The proposed car parking provision is adequate and policy-compliant. The proposed new pavement and improvements to a public footpath weigh positively in the balance of planning considerations.
- 11.4 Other matters relevant to planning have been successfully addressed by the applicant, and/or would be secured or controlled via the recommended conditions.
- 11.5 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.6 The proposed development has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development (with reference to paragraph 14 of the NPPF) and is therefore recommended for approval.

## 12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Strategic Investment)

1. Three years to commence development.
2. Approved plans and documents.
3. Details and samples of materials (natural stone to be used).
4. Archaeology.
5. Car and cycle parking to be provided prior to occupation.
6. Bats.
7. Nesting birds.
8. Landscaping details (incorporating ecological design strategy, ecological management plan and works around/to public footpath) to be provided and implemented. Planting to be replaced if any trees or shrubs fail within five years.
9. Tree planting.
10. Boundary treatments and gabions.
11. Lighting strategy.
12. Crime prevention (including details of windows overlooking public footpath).
13. Removal of permitted development rights.
14. Evidence of noise levels.

15. Site contamination.
16. Waste arisings.
17. Construction method statement.
18. Structures adjacent to highways.
19. Sight lines.
20. Provision of new pavement prior to occupation.
21. Provision of refuse collection arrangements prior to occupation.
22. Electric/hybrid vehicle charging points.
23. Surfacing and drainage of parking areas.
24. Flood risk / drainage (four conditions).
25. Yorkshire Water condition re: surface water discharge rate and compliance with drainage strategy.

### **Background Papers:**

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f93515>

Certificate of Ownership – Certificate A signed