
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 14-Oct-2020

Subject: Planning Application 2019/91467 Erection of 67 dwellings with associated access and parking land south of, Granny Lane, Mirfield

APPLICANT

Miller Homes Ltd

DATE VALID

02-May-2019

TARGET DATE

01-Aug-2019

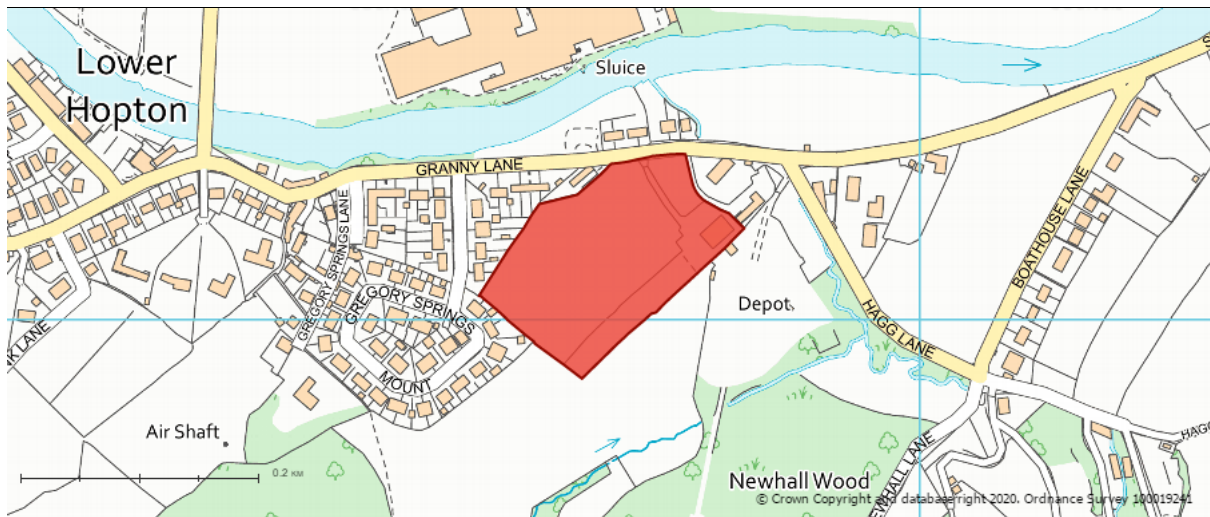
EXTENSION EXPIRY DATE

14-Jan-2020

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

Electoral wards affected: Mirfield

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 contained within this report and the sealing of the S106 Legal Agreement to secure the following:

- (i) The provision of 13 affordable houses: 56% social affordable & 46% intermediate;
- (ii) A contribution of £58,808.00 to address the shortfall in open space requirements;
- (iii) An educational contribution of £157,992;
- (iv) Measures to a value of £52,533.50 to encourage sustainable modes of transport, including a Travel Plan, monitoring and arrangement and fees comprising:
 - £33,533.50 for bus only Residential Metrocards
 - £10,000 for real time information display at bus stop 17564
 - £10,000 to fund the Travel Plan
- (v) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals, including a £3000 financial contribution towards the future upgrade of a piped watercourse at the southern end of the site.

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission for a residential development of 67 dwellings.
- 1.2 The application was originally brought to the Strategic Planning Committee on 19th December 2019 on the grounds that it related to a residential development of more than 60 units. The decision of that Committee was to support the Officer Recommendation to 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 set out within the Committee Report, and to secure a Section 106 Agreement.
- 1.3 In the time since that Strategic Committee, additional representations and correspondence have been received from local residents and also, from the Save Mirfield and Granny Lane Area Action Group (GLAAG). Furthermore, on 20 January 2020, the Council received notification that the Secretary of State (SoS) for Housing, Communities and Local Government had received a request to 'call-in' the application. The SoS responded by letter dated 29th January 2020 to confirm that the Secretary of State had decided not to call in the application. He was content that it should be determined by the Local Planning authority on the basis that the application does not involve issues of more than local importance justifying the Secretary of State's intervention.

- 1.4 Additionally, as a consequence of specific questions raised by the residents' groups (Save Mirfield and GLAAG) and, following flooding events that occurred in West Yorkshire earlier in the year, on 20th April 2020 the Council undertook some additional consultation with the Environment Agency, Yorkshire Water and the Lead Local Flood Authority. These are detailed in the report below but, in essence, these statutory consultations continued to raise no objection to the proposal subject to conditions.
- 1.5 In the meantime, Officers have continued to work with the applicant to complete the S106 Legal Agreement and to prepare a final list of conditions. The resolution of these matters was significantly delayed by the Covid pandemic and private sector furloughing but it is now close to completion. However, taking into account all the circumstances above, it is considered appropriate that the application be brought back to the Strategic Planning Committee for determination with the recommendation above.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site extends to 2.2 hectares in size, situated approximately 1km to the south of Mirfield Town Centre. It lies to the south of Granny Lane and essentially comprises two paddocks and agricultural buildings/stables. An existing vehicular access leads south from Granny Lane, providing access to these buildings and an area of hardstanding surrounding them. The largest paddock is generally rectangular in shape, with residential development on the northern, eastern and western sides. A smaller, narrow paddock runs along the south/south eastern boundary, separated from the main paddock by a hedgerow.
- 2.2 The immediate area surrounding the application site is semi-rural in character with residential properties concentrated to the east and open land extending to the south. The River Calder lies to the north of the site on the opposite side of Granny Lane.
- 2.3 Sheep Ings Farm is located to the east of the site, close to Granny Lane. The farm comprises a farmhouse and attached barn, which are Grade II Listed.
- 2.4 The site is allocated for residential development in the Local Plan (site allocation HS66). Biodiversity Opportunity Zones (Flood Plains and Pennine foothills) also cover the site and the northern part is located within Flood Zones 2 and 3. The remainder of the site is within Flood Zone 1. The majority of the land is within the Development High Risk Area as defined by the Coal Authority and a small area at the northern boundary of the site lies within the inner middle and outer consultation zones of a 'high pressure gas main', which is located in the immediate vicinity. The site is also within a minerals safeguarded area where potential sand and gravel and surface coal resources are located.

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 67 dwellings, comprising the following:

11 x 2-bedroomed dwellings
27 x 3-bedroomed dwellings
24 x 4-bedroomed dwellings
5 x 5-bedroomed dwellings

This would include 13 affordable homes, which would represent 20% of the dwellings on site.

- 3.2 A single access road is proposed from Granny Lane, utilising an existing entrance into the site, which would be widened to meet adoptable highway standards and create a new priority 'T' junction. The existing stone wall at the entrance would be taken down and re-built at the rear of the visibility splay and a widened footpath provided.
- 3.3 The road within the estate would be a loop road, providing access to houses both external and internal to the loop. A range of house types and sizes is proposed, providing 2, 3, 4 and 5 bedroom homes of mainly semi-detached (26) and detached (38) styles although a terrace (3) of town houses is also included.
- 3.4 Red brick and a mixture of red brick and render is proposed for the elevations of the dwellings with a mix concrete roof tiles.
- 3.5 A local play area (LEAP) and public open space measuring approximately 2,350m² is proposed at the front of the site, either side of the entrance.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 There is no recent planning history relating to the site. However, the following historic planning applications are relevant to this proposal.

88/05073 – Outline application for residential development
Withdrawn

88/05310 – Outline application for 10 houses with garage and new access road
Refused

98/90303 – Erection of farm store and building
Approved

2004/93159 - Demolition of Barn Store and Stables and erection of Workshop/Barns/Stables/Garage Building Ancillary to existing House at Sheep Ings Farm.

Refused: 26 August 2004

This application principally relates to development outside of the application site apart from a small area of overlap in the north-eastern corner. The application was refused because of the impact of the proposal on the setting of the adjacent Listed Building, the detrimental effect of its scale, design and appearance on the openness of the Green Belt and insufficient flood risk information.

- 4.2 The Council are investigating a current alleged material change of use of part of the site to a concrete processing plant. However, this land is not currently within the applicant's ownership and as such, it is not relevant to the consideration of this application.

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

- 5.1 The applicant sought pre-application advice with regard to the residential development of the site in 2018 in accordance with pre-app reference 2018/20301. Written pre-application advice was provided on 24/08/2018. This letter addressed key matters including policy considerations, design and layout, highway impacts, flood risk and drainage and residential amenity.
- 5.2 As set out in the applicant's Statement of Community Involvement (SCI), a community consultation exercise was undertaken in September 2018. The applicant delivered letters to the occupants of residential properties in the vicinity of the application site and the SCI confirmed the receipt of 15 responses. These raised issues including objection to loss of views, highways impact, possible flood risk and drainage issues and amenity considerations.
- 5.3 During the life of the application, the applicant has provided the following additional information:
- A revised Flood Risk Assessment and additional drainage information;
 - Revised layout to accommodate surface water drainage arrangements;
 - Supplementary highways information in the form of a Technical Note;
 - Revised landscape planting.

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 (Adopted 27 February 2019):

- 6.2 The site is allocated for residential development in the Local Plan (Reference HS66). It is identified as having a gross site area of 2.23 hectares and a net site area of 2.03 hectares, the latter being calculated by omitting the part of the site that lies within Flood Zone 3 and a heritage area of high significance adjacent to the adjoining Listed Building.
- 6.3 Based upon the net site area, the allocation sets out an indicative housing capacity of 70 dwellings. It also identifies the following constraints relevant to the site:
- Part of the site is within Flood Zone 2 & 3;
 - The site is close to Listed Buildings;
 - All of the site is within a high risk coal referral area;
 - The site is affected by hazardous installations / pipelines.
- 6.4 In addition, site allocation HS66 identifies several other site specific considerations, which are outlined below:
- No residential development to take place in flood zone 3
 - Adjacent to the Wildlife Habitat Network
 - Links required to the core cycling network
 - Proposals would identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment or any updated

Heritage Impact Assessment submitted by the applicant as part of the Planning application process.

- In order to safeguard the setting of the Grade II Listed Building known as Sheep Ings Farmhouse, no development shall take place on the field/area marked as high significance in council's HIA to the east of the track running south from Granny Lane across the site

6.5 Relevant Local Plan policies include the following:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage
- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP35 – Historic environment
- LP38 – Minerals safeguarding
- LP49 – Educational 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

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Strategic Housing Market Assessment (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Highways Design Guide

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2019) 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 include:

- 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

7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of four site notices, an advertisement in the local press (The Press – 24 May 2019) and by direct neighbour notification. This specified the statutory period of 21 days, expiring on 15th June 2019.
- 7.2 Although there is no statutory requirement under the DMPO to re-consult on planning applications, a further consultation on additional/amended details was undertaken by letter dated 4th December 2019 for a period of 10 days, expiring on 16th December 2019.
- 7.3 Taking both consultations into account, a total of 97 representations have been received from the occupants of neighbouring properties/members of the public. A petition containing 792 names was also received in the course of the application.
- 7.4 The following is a summary of the points raised. It is not a complete replication of the responses, which can be viewed in full on the Council's website.

Flood Risk and Drainage

- The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.
- The river regularly floods and any occupants of these proposed development would be put at risk.
- Concern that comments from Yorkshire Water are based on surface water being drained to an existing water course and this has now changed.
- Concern that the sewer which would be used to drain surface water may not have adequate capacity.
- The site entrance is located within Flood Zone 3 but the supporting Flood Risk Assessment indicates that it is located within Flood Zone 2.
- Concern that the proposed surface water drainage channel on the southern boundary of the site would lead to flooding of existing properties to the south as the site is not suitable for a SuDS system.

- Concern that the surface water drainage channel should not be maintained by a private management company as maintenance may not be carried out.
- How has the £3000 requested to contribute towards the potential upgrade of the off-site water course been calculated.
- A sequential test has not been applied with regard to flood risk in connection with this proposal as required by the National Planning Policy framework.
- The Exception test has not been applied with regard to the use of this site for housing within a flood risk area.
- The proposed surface water attenuation tank may not be adequate to deal with surface water drainage from the site therefore exacerbating flood risk.
- The proposed attenuation tank associated with the surface water drainage regime for the site could be damaged if emergency vehicles use the proposed emergency access.
- A technical appraisal prepared on behalf of an objectors group of the applicant's supporting Flood Risk Assessment was submitted identifying 32 objections relating to this proposal with regard to its potential impact on Flood Risk (this is addressed in Paragraph 10.70).

Highways and Transport

- The proposal would lead to extra traffic which would detrimentally affect highway safety as Granny Lane and Steanard Lane are not adequate to deal with existing levels of traffic. Objectors have commissioned a traffic assessment to support this view a copy of which was passed to the Council's Highway Development Management Team for their consideration.
- Existing footways on Granny Lane and Steanard Lane are inadequate and additional traffic would increase the risk of pedestrians being injured.
- Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development.
- Insufficient car parking.

Wildlife/Environmental

- The proposal would have detrimental effect on local wildlife.
- The proposal would result in the loss of existing hedges which provide significant wildlife habitat.
- This development would result in the loss of Green belt.
- The loss of trees associated with this development is unacceptable.
- Trees and bushes have already been removed from the site without consent.

Heritage

- The development would have a detrimental impact on Sheep Ings farm which is a Grade II Listed Building;
- The field where development would take place is an archaeological site.

Local Amenity

- Allowing a further 67 dwellings in the area would lead to additional noise and air pollution.
- The development of the site would result in a loss of privacy for existing residents.
- There is no capacity at existing schools and doctor's surgeries to deal with this number of additional residents bearing in mind the number of other developments taking place in the area.
- The proposed location of the temporary compounds on site are unacceptable as they would lead to a loss of privacy for existing residents.

Miscellaneous

- Developing this land would affect existing house prices in the area.
- There are plenty of brownfield sites which should be developed before this site and this approach is encouraged by government.
- Coal mining has historically taken place in this area and houses built on this site may therefore be susceptible to subsidence.
- The development of this site is over development designed to maximise the profits of the developer.
- Previous planning applications to build on this site have been refused.
- The proposed houses are not in keeping with those existing in the area.
- The proposal does not include any significant measures to mitigate impacts on climate change.
- Banners and posters placed at the site by objectors have been removed without their consent.
- A concern that Officers had pre-determined the proposal before its report to the 19th December Committee because the recommendation indicated in the Committee Report was to delegate back to Officers to approve subject to the resolution of a Section 106 agreement and relevant Planning conditions, yet a further consultation period relating to amended information received did not expire until 16 December 2019.

7.5 Mirfield Town Council was consulted on this proposal and responded as follows:

“Cllr Bolt Proposed: MTC strongly opposes the development as it currently stands on the following grounds: impact on highways, sight lines, drainage & flooding, traffic, inadequate provision for infrastructure, over intensification of site, impact on Grade II listed building, coal workings, contaminated land, loss of green space & amenity, environmental impact and impact on local wildlife. The council requests, in addition, a full independent archaeological survey of the land. Cllr K Taylor Seconded Vote: All in favour”

7.6 Prior to the application being reported to the Planning Committee on 16th December 2019, comments were received from the Ward Councillors – Councillor Bolt and Cllr Lees-Hamilton. Whilst these relate to the timing of the previous Committee, they are set out below in full for completeness.

Cllr Bolt (December 2019)

“I note that you say the report on the Granny Lane Planning application was finalised last week. However I would point out that according to the Planning application on website, the public consultation doesn’t end until today. How can you have ensured that all matters raised in consultation have been considered and assessed?”

I once asked a question at committee and was told that all parties should have access to the same information on the agenda, in this case it may be that the applicant, a statutory consultee or residents may have made technical submissions which the others aren’t party to , and so this premise is not carried through. I am copying the MP for the Mirfield area into this as I know he has an interest in this matter and will be concerned at the process followed.

In the circumstances I suggest this matter is removed from this Thursday’s agenda and brought back when reports can be compiled in full for inclusion in the agenda”

Cllr Lees-Hamilton (December 2019)

“I am emailing in support of Martyn’s comments. It is not good enough to update the members of the Planning committee a few hours before the meeting, members should be allowed the time to correctly digest any new information regarding a Planning application. Just as importantly objectors and applicants should be given time to study new information that may come light and to have the appropriate time to prepare a response before committee.

I too suggest this matter be removed from the agenda and brought back at a more suitable date after all the results of the public consultation have been included into the report.”

7.7 In addition, since the report to Planning Committee, there has been on-going correspondence between the Council and the Granny Lane Area Action Group (GLAAG) and Save Mirfield. This included a ‘letter before claim’ in accordance with the Civil Procedures Rules (CPR) Protocol in a proposed claim for judicial review’ dated 24th August 2020. The purpose of a pre-action protocol letter is to identify the issues in dispute and establish whether they can be narrowed or litigation can be avoided. Taken together, their letters have raised a variety of issues, which can be broadly summarised as follows:

- The detailed report commissioned by GLAGG pursuant to the submitted FRA was not properly considered nor the significance of its findings conveyed to the Planning Committee;
- The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the Committee;
- Queried why the applicant was not required to correct the FRA in relation to part of the site access being within Flood Zone when they were told about it in October 2019 and details of the emergency access should be required as a consequence;
- Page 21 of the KRS report states that there is no route available for access to the west of the site. This alone should, in their view, make the site untenable given that the entrance is in Flood Zone 3;
- The Council have advised that finished levels of the site entrance will be raised but consider that it would not be significant. The consultant for GLAAG and Save Mirfield has looked at the contours and approximated this to actually be 1:35 at this point. They query why the Environment Agency was not made aware of this as their condition was no elevation of ground levels in Flood Zone 3?
- Query over the proposed method of drainage and any potential shortfall;
- Consider that drainage should be approved prior to any decision making and not subject to a condition;
- A concern that Yorkshire Water cannot guarantee that if sewerage levels raise, foul effluent will not run back into the storage tank;
- Assuming that the storage tank will be underground, will the land above it need to be raised?
- The large amount of deforestation on Hagg Lane, alongside Valance and Liley Clough Becks raises questions about the currency and accuracy of the Flood Risk Assessment;
- Still maintain that the Sequential Test has not been passed and requested evidence to clarify why the Exception Test was not necessary;
- Do not believe that the emergency route has been assessed with regard to its suitability to accommodate emergency vehicles such as Fire Engines, Ambulances or Police vans, particularly as they would be driven over the roof of the attenuation tank;
- Ground levels at the main site access/egress have been raised. This was in contravention of the EA's original conditions;
- The emergency access road is just a few yards away from Flood Zone 3 and its proposed route takes it perilously close to Flood Zone 3. What calculations regarding this have been made to plan for climate change?
- The elevations of the roads and development worry the residents. The concern is that water flows downhill and the velocity of flow depends not only on the rainfall but also on the slope of hard surfaces. They believe the additional problem of the steeper gradient at the emergency access should be drawn to the attention of the LLFA, Highways and the Environment Agency.
- The Council have acted illegally in allowing a development contravening its Local Plan;
- The Council was negligent in allowing the development in non-developable areas;
- The Council failed to advise the applicant in its pre-application advice on specific limitations on the site imposed in the Local Plan;
- The Council allowed errors to persist (such as the applicant stating the entrance is in Flood Zone 2 when it is in Flood Zone 3) and took no action to correct them;

- The Council failed to protect the area deemed to be of high significance in the Council's own heritage impact assessment;
- The Council unilaterally closed the public consultation period and prepared its final advice to the planning committee four days early;
- The update report to the last Committee was dismissive of additional matters raised;
- The advice to the planning committee, and on which it made its deliberations on 19th December 2020, was biased in favour of the applicant and throughout the planning process, the Council went out of its way to assist the applicant;
- Planning conditions are proposed for matters such as the emergency access which is contrary to all accepted planning practice.

7.8 Responses to all of the above comments are either addressed within the Assessment below or at Paragraphs 10.70 to 10.77 of this report.

8.0 CONSULTATION RESPONSES:

Statutory:

Coal Authority - No objection based upon the findings of the supporting Ground Conditions Assessment.

KC Highways – No objection subject to planning conditions, which require the following:

- Areas to be used by vehicles and/or pedestrians to be satisfactorily surfaced and drained
- The submission and approval of a scheme providing details of the adoptable estate roads
- The submission and approval of a construction management Plan
- The submission and approval of a scheme providing details of all new retaining walls adjacent to the public highway
- The submission and approval of a scheme detailing all new surface water attenuation measures

In addition it is requested that any Planning permission is subject to a section 106 agreement to secure measures to encourage sustainable modes of transport including travel Plan and arrangements fees. These financial contributions comprise:

- £33,533.50 for bus only Residential MCards.
- £10,000 for a real time information display at bus stop 17564
- £10,000 to fund the Travel Plan

KC Lead Local Flood Authority – No objection subject to the following Planning conditions/obligation:

1. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, connection to public sewer at a maximum of 5l/s, balancing works for the 1 in 100 + 30% climate change critical event, Plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained.
2. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:
 - (i) Phasing of the development and phasing of temporary drainage provision.
 - (ii) Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

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.

3. Development shall not commence until a scheme detailing the design, construction, operation, maintenance and management of emergency access roads and surface water flood route pathways to avoid curtilage flooding has been submitted and accepted in writing by the Local Planning authority. The scheme shall be installed and retained thereafter.

A financial contribution of £3,000 to contribute towards the future upgrade of a piped water course at the southern edge of the site.

Following the post-Committee consultation in April 2020, the LLFA confirmed that they did not have any additional comments to those given on 9th December 2019. However, in terms of monies set aside for drainage in a section 106 agreement, they advised that they would welcome additional funds, to that already requested for research and improvements to Valance Beck, which contributes to flooding of Granny Lane in the vicinity of the access to the proposed development.

The Environment Agency – In response to the original consultation, the EA objected to the application in October 2019 on the grounds that the FRA failed to demonstrate that there was no transfer of flood risk to others. Following the submission of an updated FRA in early November 2019, the EA subsequently confirmed that they had no objection subject to the following measures:

- (i) Finished floor levels shall be set no lower than 45.87 m above Ordnance Datum (AOD).
- (ii) No raising of ground levels in flood zone 3

The EA were re-consulted on the revised FRA (Version 7) on 21 April 2020 (post-Committee) and again confirmed that the development would meet the National Planning Policy Framework's requirements if a planning condition was included to secure the following:

- (i) Finished floor levels shall be set no lower than 45.87 m above Ordnance Datum (AOD).
- (ii) No raising of ground levels in in the area of public open space (POS) located within the flood zone 3 extent shown in drawing SK1 (rev 1) in Appendix D of the FRA.

Health and Safety Executive – No objection

Non-statutory:

KC Biodiversity Officer – No objection subject to planning conditions to secure proposed biodiversity enhancements and compensatory hedge planting.

KC Conservation and Design – No objection.

KC Education – £157,992 secondary education contribution required. No primary school contribution required.

KC Environmental Health – No objection subject to planning conditions which require:

- Further intrusive investigations and that any on site contamination is satisfactorily dealt with
- That a noise assessment is carried out to assess the potential impact of nearby noise generating uses on the occupants of the new dwellings
- The installation of electrical vehicle charging points
- The submission of a travel Plan which encourages the use of sustainable methods of transport
- The submission of a dust suppression scheme

KC Housing – No objection subject to an affordable housing tenure split of 54% social or affordable rent to 46% intermediate housing.

KC Landscape – No objection in principle. However, based on the number of dwellings, there is a shortfall of Public Open Space provision and a financial contribution of £58,808.00 is required in lieu of this shortfall. In addition, details of bin storage and collection must be agreed.

KC Trees – No objection.

WY Archaeology Advisory Service – Following the submission of a Trial Trench Evaluation for the site dated November 2019 and received 12 December 2019, WYAAS subsequently advised that there is sufficient archaeological at the site to warrant further targeted work. The trial trenching has established that a backfilled boundary ditch and several small pits and a post hole are present. Although undated, these are indicative of past human activity within the site. It is therefore proposed to require further archaeological work prior to development commencing via planning condition.

West Yorkshire Police Crime Prevention Design Advisor – No objection in principle, but has recommended that the development should include the following measures:

- 1800mm high walls or close boarded fences to the rear of plots and as dividing boundaries between rear gardens.
- The regular maintenance of trees and hedges to maximise natural surveillance
- Clearly defined front garden areas
- The installation of doors and windows to comply with approved document Q of the Building Regulations
- Vehicle parking should be within each the curtilage of dwellings or within the view of the car owner
- All garages should allow the parking of an average sized family vehicle
- Shed/cycle storage should be to solid silver standard
- Refuse bins should be stored within rear gardens
- Each dwellings should be fitted with an intruder alarm

West Yorkshire Fire Service – WY Fire Service were asked to review the application in June 2020 with specific regard to the proposed emergency access. They responded as follows:

The West Yorkshire Fire & Rescue Service's (WYFRS) comments on the emergency access to this proposed site are as follows:-

Minimum width of road between kerbs (m) 3.7. Minimum width of gateway (m) 3.1. Minimum carrying capacity (tonnes) 24. All access roads for WYFRS appliances should be kept clear of any obstructions. It may, however, be considered necessary to restrict unauthorised entry and either removable bollards or gate barriers are acceptable if they meet the following criteria:

They must be quickly and easily openable by WYFRS personnel. They must be only secured at one point by a padlock and chain which can be cut away by the WYFRS in an emergency.

Yorkshire Water – No objections providing separate systems for foul and surface water drainage are provided onsite and via existing sewer off site subject to the surface water discharge rate being restricted to less than five litres per second. YW confirmed in April 2020 that they had no further comments to make.

9.0 MAIN ISSUES

- Land use, sustainability and principle of development
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees, landscaping and ecological considerations
- Ground conditions
- Heritage issues
- Other matters
- Representations
- Planning obligations

10.0 APPRAISAL

Land use, sustainability and the principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 10.2 This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.3 Policy LP2 of the Local Plan refers to place making and advises that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Furthermore, Policy LP3 advises, amongst other matters, that development proposals will be required to reflect the Spatial Development Strategy and development will be permitted where it supports the delivery of housing in a sustainable way, taking account of matters such as the delivery of the housing requirements set out in the Plan.

- 10.4 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.5 The application site is identified as a housing allocation (HS66) within the Kirklees Local Plan Allocations and Designations (2019) document to which full weight can be given. Based upon the net site area, it is given an indicative capacity for 70 dwellings. In this case, 67 dwellings are proposed, which would make a significant and welcomed contribution towards meeting the housing delivery targets of the Local Plan.
- 10.6 The site is Greenfield land. However, allocation of this and other Greenfield sites was based upon a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing through the Local Plan examination process. It was found to be an appropriate basis for the planning of the Borough by the Planning Inspector. Whilst the Local Plan strongly encourages the use of Brownfield land, some development on Greenfield land was therefore demonstrated to be necessary in order to meet development needs. Furthermore, within the NPPF, the effective use of land by re-using brownfield land is encouraged but the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.7 The application site is in a sustainable location for residential development. It is relatively accessible and situated on the edge of an existing established settlement that is served by public transport and other facilities. Further reference to and assessment of the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations. In principle, however, the development of this site for residential use is consistent with Policies LP1, LP2 and LP3 of the KLP and therefore acceptable subject to an assessment against all other relevant policies within the Local Plan set out below.

Urban design and housing density

- 10.8 The proposed 67 residential units would be laid out around a loop access road, which would connect to Granny Lane on the northern edge of the site. Of these, 31 units are proposed adjacent to the internal boundary of the access loop, and 36 are proposed adjacent to its external boundary. The new residential units would be laid out in an appropriate arrangement, where back gardens would back onto other back gardens, existing back gardens or open land to the east and south of the site. It is considered that this layout would provide clear definition and enclosure. Consequently, ambiguous outdoor spaces would not be created and the layout provides for good natural surveillance to all areas of public realm.
- 10.9 An area of publicly-accessible open space is proposed along the site's northern edge adjacent to Granny Lane. It would be accessible to existing residents to the west, as well as to new residents. It is therefore considered to be an appropriate location as it would serve to integrate the proposed development within its surroundings. It would also help limit the visual impact of the development when seen from Granny Lane; the open space in this location would provide the wider site with a suitable entrance, which is considered important given that existing views across the site from this point on Granny

Lane are of open land. Furthermore, it would reduce the impact of the development on Sheep Ings Farm and its environs, which is immediately adjacent to the site to the east.

- 10.10 Car parking has been designed into the proposals, the majority of which is located within the curtilage of individual properties. Parking spaces that are not within domestic curtilages are overlooked from adjacent residential properties allowing an adequate level of surveillance.
- 10.11 To ensure the efficient use of land. Local Plan Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities would 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.
- 10.12 The Local Plan Site Allocation identifies the gross site area for the allocation (HS66) as 2.23 hectares. However, the net site area is recorded as 2.02 hectares. This takes account of the fact that the part of the site within Flood Zone 3 and a HIA (Heritage Impact Assessment) area of high significance has been removed from the developable area. With 67 units proposed on a site of approximately 2.23 hectares, a density of approximately 30 units per hectare would be achieved. However, this density figure is based upon the gross (red line boundary) site area figure. In this case, as noted above, a significant area of the site has been sacrificed to ensure dwellings are located in areas where flood risk is reduced away from the site entrance. Excluding this area results in a developable area of approximately 1.93 hectares. This would equate to the density of 35 units per hectare density specified (and applicable “where appropriate”) in Local Plan Policy LP7. Officers therefore consider that the proposed density of development would ensure that the site is efficiently used.
- 10.13 The proposed mix of house types is considered acceptable. The development comprises 38 detached dwellings, 13 blocks of semi-detached dwellings (26 individual units) and a block of 3 town houses. These provide a range of 2, 3, 4 and 5 bedroomed properties. This is reflective of much of the existing housing in the vicinity of this site. Existing house types in the vicinity exhibit a range of designs and it is considered that the proposed range of house types would assimilate well with those existing and are therefore considered acceptable in design terms.
- 10.14 The applicant proposes the use of red brick and a mixture of brick and render and concrete tiles across the site. Again, this reflects the variety of facing and roofing materials used in the vicinity of this site. In light of the above assessment, it is considered that the relevant requirements of Chapter 12 of the NPPF, and Local Plan policies LP2, LP3, LP7, LP24 and LP35, would be complied with.

Residential amenity and quality

- 10.15 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.

- 10.16 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties on Gregory Springs Road, Gregory Springs and Granny Lane and plots are oriented to ensure that direct views into habitable room windows are avoided. Levels on site are similar to those surrounding the site and it is considered that the proposed separation distances would ensure existing neighbours would not experience significant adverse effects in terms of reductions in natural light and privacy.
- 10.17 It should be noted, however, that whilst outlook is a material consideration relevant to this application, private views currently enjoyed by existing residents of Gregory Springs Road, Gregory Springs and Granny Lane across the green fields of the application site cannot be protected by the Council in its determination of planning applications.
- 10.18 In terms of noise, although residential development would increase activity and movements to and from the site, given the number of units proposed and that new residents would not directly pass the majority of existing residential properties in the vicinity of 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.
- 10.19 A condition requiring the submission and approval of a Construction Management Plan (CMP) is proposed. The details submitted for a future discharge of condition would need to sufficiently address the potential amenity impacts of construction work at this site. Details of temporary drainage arrangements would also need to be included in the CMP.
- 10.20 With regard to the West Yorkshire Low Emission Strategy, Environmental Health Officers have recommended a condition, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies will be secured via the Section 106 agreement.
- 10.21 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.22 Although the Government's Nationally Described Space Standards (March 2015) are not adopted Planning Policy in Kirklees, they provide useful guidance, which applicants are encouraged to meet and exceed. The proposed dwellings would meet the minimum unit size figures set out in this guidance.
- 10.23 All of the proposed houses would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.
- 10.24 All of the proposed houses would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents. An area of open space is also proposed next to the site's northern boundary, adjacent to Granny Lane. This would be 2350m² in size, and would include a Locally Equipped Area for Play (LEAP), which would be within 400m walking distance of all the homes it serves, and would be positioned to provide a buffer zone between it and the habitable room façade of adjacent dwellings. Further details of the LEAP would be required by condition.

10.25 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protect those of existing occupiers. It would therefore comply with the objectives of Policy LP24.

Affordable housing

10.26 Local Plan Policy LP11 requires 20% of units in market housing sites to be affordable. A 54% social or affordable rent / 46% intermediate tenure split would be required, although this can be flexible. 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 should be appropriately designed and located around the proposed development.

10.27 In this case, 13 of the proposed 67 units would be affordable. In terms of unit numbers, this represents a 20% provision, which meets the requirements of Local Plan Policy LP11, and is welcomed.

10.28 This proposed unit size mix (11 x 2 bed and 2 x 3 bed) would assist in meeting known need as set out in the 2016 Strategic Housing Market Assessment.

10.29 In terms of the tenure of the affordable housing units, 7 would be social rented units and 6 would be intermediate dwellings. The Council's preferred tenure mix is 54% social or affordable rent / 46% intermediate. This scheme would deliver a 54% social: 46% intermediate in accordance with the Council's requirements, which is secured within the Section 106 agreement.

10.30 The proposed locations of the affordable housing units are considered acceptable, as they would be distributed around the application site. Taking all these matters into account, the proposal is therefore compliant with Policy LP11.

Highway and transportation issues

10.31 The dwellings would be served by a single access off Granny Lane which would be 5.5m in width at the junction with a 2.0m footway on either side. The estate road then remains 5.5m wide apart from a small section measuring 6.0m. The 2.0m footways continue throughout the site barring the section of shared surface to the frontages of plots 21-36 and 51-66 where a 0.6m hard margin is provided. At the newly-formed junction, visibility splays of 2.4m x 50m and 2.4m x 46m have been demonstrated.

10.32 Initially Officers raised concerns regarding visibility at the junction of the site with Granny lane, off-street car parking, forward visibility on part of the estate road and anomalies in the supporting Transport Assessment.

10.33 This resulted in the submission of a Technical Note (TN) which addressed the issues raised in the original consultation response. The TN provides further justification for the achievable visibility splays at the junction with Granny Lane, the proposed visitor parking arrangements and demonstrates that the levels of resident parking are suitable for the site.

- 10.34 Furthermore the TN satisfactorily amended anomalies in the original Transport assessment with regard to existing buses and trains in the vicinity of the site and provides evidence that forward visibility at points of concern on the estate road can be adequately achieved.
- 10.35 Following the previous Committee, concerns were raised by local residents' groups about the gradients of the site access. Following discussions with the Council's Highways Officers, it is understood that the junction approach gradient is likely to be 1:33. The Highways SPD allows a maximum gradient of 1:25, so 1:33 is compliant with the SPD and the Council would have no issue with the adoption of the road at this gradient. Nevertheless, final details of site levels will be required prior to any development commencing by means of a planning condition.
- 10.36 Officers therefore consider that subject to conditions and the planning obligations detailed in this report, the proposal would accord with Kirklees Local Plan Policies LP21 and LP22 with regard to its potential impact on the Local Highway network.

Flood risk and drainage issues

- 10.37 Guidance within the NPPF advises at Paragraph 163 that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
- 10.38 This approach is reinforced in Policy LP27 of the KLP, which confirms, amongst other matters, that proposals must be supported by an appropriate site specific Flood Risk Assessment (FRA) in line with National Planning Policy. This must take account of all sources of flooding set out in the Strategic Flood Risk Assessment and demonstrate that the proposal will be safe throughout the lifetime of the development (taking account of climate change). Policy LP27 also notes that proposals for development that require a Sequential Test in accordance with national planning guidance will need to demonstrate that development has been directed to areas at the lowest probability of flooding, following a sequential risk based approach.
- 10.39 Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available or can be co-ordinated to meet the demand generated by the new development.
- 10.40 The application site lies within Flood Zones 1 (low probability), 2 (medium probability) and 3 (high probability). The majority is within Flood Zone 1. Approximately the northern third lies within Flood Zone 2 whilst an area around the existing entrance on Granny Lane is within Flood Zone 3. The northern parts of the site are also identified to be at a relatively high risk of surface water flooding.
- 10.41 The applicant has prepared a site specific Flood Risk Assessment to support the application as required by LP27. This has been subject to amendments in the course of the application with the last revision submitted on 11th December 2019. The findings of the FRA are detailed below.

- 10.42 A Sequential Test is not required for this application on the grounds that the site was allocated for housing through the Local Plan process for which a strategic flood risk assessment was undertaken (Technical Paper: Flood Risk – November 2016). This technical appraisal comprised a consideration of the site's potential flood risk issues. Whilst including some land within Flood Zones 2 and 3, it was nonetheless considered suitable for residential development and included as an allocation. This allocation was subject to thorough examination and was deemed to be sound and lawful by the Planning Inspectorate. Paragraph 162 of the Framework confirms that 'where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again'.
- 10.43 With regard to the Exception Test, this is a method to demonstrate and to help ensure that flood risk to people and property will be managed satisfactorily, whilst allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The Exception Test was applied at the Local Plan stage within the Technical Paper noted above. In respect of the site allocation at Granny Lane (Site Reference H40 at that time), it noted that an exception test was not required because the developable area had been reduced to remove the area at a high risk of flooding so that there would be no new housing in Flood Zone 3a.
- 10.44 Furthermore, the requirement for an Exception Test is set out in Planning Practice Guidance: Flood Risk and Coastal Change. Table 2 of the PPG outlines the flood risk vulnerability classification of specific types of development. Table 3 of the PPG then sets out flood risk and vulnerability and flood zone compatibility and clarifies when the exception test should be applied. Buildings used for dwellinghouses are classed as 'more vulnerable' in Table 2 whilst amenity open space is classed as 'water-compatible development'. For more vulnerable development, no exception test is required for development falling within Flood Zones 1 and 2 and no exception test is required for water compatible development. It is acknowledged that a small section of the access road at the point it adjoins Granny Lane falls within Flood Zone 3. However, Table 3 does not categorise residential estate roads, which are, in effect, engineering operations associated with the residential development of a site. In its scale, it is not the essential infrastructure of the type which is referred to in the Planning Practice Guidance. For these reasons, the Exception Test does need to be applied in this instance.
- 10.45 Furthermore, the submitted FRA considers how flood risk to people and property will be managed satisfactorily. It confirms that the site is within Flood Zones 1, 2 and 3 and considers the implications of the proposed residential development in relation to flood risk and surface water management. It determines the existing flood risk and estimates the likely impact associated with this proposal. The conclusions of the FRA can be summarised as follows:
- Dwellings are proposed in Flood Zones 1 & 2 with a minimum FFL of 45.87m AOD. This is 0.6m above the 100-year + 30% Climate Change flood level, and this would ensure that the properties remain safe during the critical flood level.
 - All other sources have been reviewed and deemed a low or manageable risk. The surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable.

- It is proposed to discharge surface water to the public combined sewer at a rate of 5.0 l/s as agreed with Yorkshire Water.

The revised FRA has been considered by the Environment Agency, Yorkshire Water and the LLFA on three occasions, all of whom now accept its findings in their latest responses and raise no objection to it subject to the imposition of relevant and appropriate conditions.

- 10.46 It is recognised that the access road intersects with Flood Zone 3 where it adjoins Granny Lane. This could lead to a situation whereby emergency vehicles trying to gain access to the site are obstructed during a severe flood event. Consequently, it is considered that an emergency access could be achieved via the public open space to the west of the access road. This lies within Flood Zone 2 and less likely to flood. The principle of this route as an emergency access has been discussed with West Yorkshire Fire and Rescue Service who raise no objection in principle subject to the access meeting minimum design specifications in terms of its width, carrying capacity and restrictions of unauthorised entry. The open space is of a sufficient size to accommodate the required width and details of the emergency access road, including its construction to ensure a specific tonne capacity and entry points will be secured via a planning condition as set out at Section 12 of this report.
- 10.47 In response to concerns from residents in relation to the effect of the gradient of the access road on flood risk, the LLFA have advised that roads will be drained into the attenuation tank and the flow control device will slow flows down to accepted rates during storms. This will be considered as part of the detailed design of the roads through the S38 Adoptions process.
- 10.48 With regard to drainage, initially, the applicant proposed to drain surface water from the developed site to an existing water course via an underground pumping station. However, the use of a pumping station was considered to be problematic by the LLFA as, in the event of the pump failing, it could exacerbate a flooding event. Following negotiations with Yorkshire Water, the applicant now proposes to drain surface water from the site directly to the existing public sewer located within Granny Lane via a gravity fed connection. This would be subject to limiting the discharge rate to 5l/s and would therefore require a satisfactory method of attenuation. Foul water would be drained via a separate system to the public sewer. Following confirmation from Yorkshire Water, The Environment Agency and the Local Lead Flood Authority, Officers consider that this would provide a suitable drainage regime for the site and detailed site drainage measures can be adequately dealt with via the planning conditions and obligations outlined in Section 12 of this report.
- 10.49 For the reasons set out above, it is considered that this proposal accords with Local Plan Policies LP27 and LP28 and Section 14 of the NPPF with regard to its potential impact on local flood risk and drainage, which is considered to be acceptable subject to conditions and the requirements set out in the planning obligation.

Trees, landscaping and ecological considerations

- 10.50 The application site is previously undeveloped (Greenfield) land and comprises two pastures used for grazing. Other than grass, the pastures are largely devoid of vegetation. However, they are bounded by established hedgerows to the east, which include some self-seeded trees. A mature tree is located at the northern edge of the site. No trees within or near to the site are protected by Tree Preservation Orders. Biodiversity Opportunity Zones (Flood Plains and

Pennine foothills) covers much of the site. However, as the site is grassed and used for grazing, its biodiversity interest is likely to be limited.

- 10.51 The applicant has provided an Arboricultural Impact Assessment, which indicates that two trees and two tree groups would need to be removed to accommodate the development. The proposals would see the retention of the existing mature ash at the northern edge of the site and the existing hedge along the site's eastern boundary, as well as some vegetation along the southern boundary of the site.
- 10.52 The applicant has submitted an Ecological Impact Assessment (EclA) in support of the proposed development. This concludes that the application site is of low ecological value as it primarily comprises grassland and hard standing with limited species and biodiversity could be enhanced via landscape planting as part of the development.
- 10.53 Officers considered that whilst the submitted EclA generally addressed the potential impact of the development on local ecology, the loss of existing hedgerow needed further consideration. A revised landscaping scheme to indicate additional hedge planting to the south of the development and adjacent to the public open space was therefore submitted.
- 10.54 Consequently, Officers consider that, subject to additional hedge planting being carried out in order to offset the loss of established hedges on site and the implementation of mitigation measures detailed in the EclA to be secured by condition, this proposal accords with Kirklees Local Plan policies LP33 and LP30 with regard to its potential impact on the Local biodiversity.

Ground conditions

- 10.55 Regarding potential site contamination, the findings of the applicant's contaminated land report are, in the main, accepted. However, recommendations made in the report indicate that further intrusive site investigations should be carried out in order that the site can be fully characterised. Officers consider that conditions regarding site contamination investigation and remediation can be included on a subsequent grant of planning permission and this would be a satisfactory way of dealing with this issue.
- 10.56 Much of the site falls within the high risk area with regard to coal mining legacy issues. The applicant has provided a supporting geo-environmental assessment based on intrusive site investigations. This assessment concludes that the site is not considered to be at risk of subsidence from shallow mine workings and therefore, no mitigation measures (e.g. consolidation by drilling & grouting) would be required. This document has been reviewed by the Coal Authority and its findings accepted.
- 10.57 The application site falls within an area designed as a Mineral Safeguarded Area (sand and gravel/surface coal resource) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. The applicant has indicated that it would not be feasible to work these minerals due to the proximity of the existing dwellings, which abut the site to the east, west and south.

- 10.58 Officers consider that, whilst it is likely that sand and gravel would be present at this site, local constraints would be such that mineral extraction in this location would not be viable. It would not be possible to allow adequate stand-off areas to provide an amenity buffer between the existing residential properties surrounding this site and allow a sufficient area to work the mineral resources. Consequently officers agree with the applicant's conclusions that it would not be feasible to extract mineral from this site.
- 10.59 It is therefore considered that this proposal accords with Kirklees Local Plan Policies LP38 and LP53 with regard to potential contaminated and unstable land and minerals safeguarding issues.

Heritage Issues

- 10.60 Whilst there are no known heritage assets within the application site itself, it is immediately adjacent to Sheep Ings Farm which is a Grade II listed building. The farm comprises a farm house and attached barn, part of which dates from the 17th century. The Listing Description highlights the physical attributes of the building including construction details and fenestration treatment.
- 10.61 Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. It is therefore important that any development in the vicinity respects the character and setting of this building. This approach is consistent with the objectives of Policy LP35 of the KLP.
- 10.62 The importance of this heritage asset was identified as a site specific consideration when the application site was included in the Local Plan as a housing allocation. The 'Other Site Specific Considerations' section of the Site Allocation notes that 'proposals will identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment (HIA) or any updated Heritage Impact Assessment submitted by the applicant as part of the planning application process'.
- 10.63 The Council's HIA was undertaken during the Local Plan process in response to questions raised by Historic England at that time. Paragraph 5.3 of the HIA refers to the high significance area as 'field boundaries and associated land to north of allocated site. It noted that 'this strip of land has significance as a historic field boundary and it also provides a buffer zone between the development and the remaining land'. The HIA suggests that the loss of the area of open land identified as High Significance in the HIA would result in substantial harm and should be retained as open land.
- 10.64 Nevertheless, the applicant has submitted a supporting Heritage Statement, which considers the historical context of the farm and the likely impacts associated with this proposal. The assessment concludes that:
- The heritage significance of the grade II listed Sheep Ings Farmhouse and Attached Barn would be preserved.

- The heritage significance of the row of late nineteenth century cottages to the northwest of the site would also be preserved.
- The narrow field, although lacking any particular heritage significance, would be referenced slightly by the layout of the proposed development.
- The proposed development of the site complies with national planning policy (as outlined in the NPPF) and is in accord with the Planning (Listed Buildings and Conservation Areas) Act 1990 (section 66(1)).

10.65 Officers have reviewed this document and, bearing in mind a buffer would be created between the farm and the new dwellings, agree with the conclusions outlined above. In their consultation response to the application, the Council's Conservation Officer advises that the area of high significance is, in the main, retained as per the requirement of the HIA albeit that there is a settling tank and POS situated within in it. It would, nonetheless, be open. The Conservation Officer notes that it is unclear that the whole of the high significance area as defined in the HIA is retained but, due to the lack of firm field boundaries on site, the actual boundary of the high significance area is difficult to assess. Nevertheless, it is determined that the premise of the high significance area is kept and there is no objection to the proposal from a heritage point of view. It is therefore considered that the proposal would preserve the setting of the listed building and would not harm its significance

10.66 West Yorkshire Archaeology Advisory Service has indicated that due to previous finds in the vicinity, the site may contain unrecorded archaeological remains and has advised that an intrusive survey should be carried out to investigate this prior to this application being determined. However, officers consider that this matter can be satisfactorily dealt with via a planning condition which requires the completion of such a survey prior to any development commencing on site.

10.67 Subject to the inclusion of a condition requiring the completion of an archaeological survey, it is considered that this proposal accords with Kirklees Local Plan Policy LP35 and Section 16 of the NPPF with regard to its impact on the historic environment.

Other Matters

10.68 Chapter 12 of the Local Plan relates to climate change and states that: "Effective spatial Planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use Planning principle. The NPPF emphasis that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore encouraging the use of more sustainable methods of transport such as the inclusion of electric vehicle charging points contributes positively to the aims of climate change.

10.69 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant. 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 LP24 (e).

10.70 Representations

10.71 A total of 97 were received in connection with this proposal as well as a petition. A summary of the issues raised and associated responses are provided as follows:

10.72 Flood Risk and Drainage

(i) The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.

Response: Whilst it is acknowledged that the northern part of this site has a history of flooding, it is considered that the proposed surface water drainage regime at the site would be capable of dealing with surface water generated during flood conditions and would not result in local flood risk being increased.

(ii) The river regularly floods and any occupants of these proposed development would be put at risk.

Response: The majority of the residential properties would be located in Flood Zone 1 with the remainder falling within Flood Zone 2. Consequently the risk of these properties flooding is reduced. The Environment Agency has requested that the floor level of all residential properties be sited above 45.87 A.O.D to mitigate any impact associated with flooding in the area.

(iii) Concern that comments from Yorkshire Water are based on surface water being drained to an existing water course and this has now changed.

Response: Following amendments to surface water drainage proposals, Yorkshire Water have been re-consulted. YW confirm that subject to the planning conditions outlined in Section 12 of this report, the proposed arrangements are acceptable.

(iv) Concern that the sewer which would be used to drain surface water may not have adequate capacity.

Response: Yorkshire Water have indicated that subject to flow rates being reduced to 5l/s the existing sewer is adequate to drain the site.

(v) The site entrance is located within Flood Zone 3 but the supporting Flood risk Assessment indicates it is located within Flood Zone 2.

Response: This matter has been addressed in the Flood Risk and drainage section of this report.

(vi) Concern that the proposed surface water drainage channel on the southern boundary of the site would lead to flooding of existing properties to the south as the site is not suitable for a SuDs system.

Response: The proposed surface water drainage channel is designed to direct any flood water which accumulates adjacent to this part of the site to be directed towards the site. The water can then be drained via the site's surface water drainage regime. Additionally, the S106 includes a £3000 financial contribution towards the future upgrade of a piped watercourse at the southern end of the site.

(vii) Concern that the surface water drainage channel should not be maintained by a private management company as maintenance may not be carried out.

Response: The use of private management companies to maintain areas such as public open space and surface water drainage regimes is not unusual. It is proposed to secure this method of maintenance via the Section 106 agreement.

(viii) How has the £3000 requested to contribute towards the potential upgrade of the off-site water course been calculated.

Response: This contribution has been requested by the Lead Local Flood Authority as a proportionate figure to potentially fund such works should they be needed in the future.

(ix and x) A sequential test has not been applied with regard to flood risk in connection with this proposal as required by the National Planning Policy framework and the Exception test has not been applied with regard to the use of this site for housing within a flood risk area.

Response: These matters are addressed in the report above at Paragraphs 10.42 and 10.43

(xi) The proposed surface water attenuation tank may not be adequate to deal with surface water drainage from the site therefore exacerbating flood risk.

Response: Following consultation with relevant consultees it is considered that the proposed surface water drainage regime is satisfactory for this development. It is proposed to require full technical details of the drainage scheme via planning condition prior to development commencing.

(xii) The proposed attenuation tank associated with the surface water drainage regime for the site could be damaged if emergency vehicles use the proposed emergency access.

Response: The condition pursuant to the attenuation tank requires its design to take into account the emergency access above. These details will be secured at condition discharge stage.

(xiii) A technical appraisal prepared by KRS on behalf of an objectors group of the applicant's supporting Flood Risk Assessment was submitted identifying 32 objections relating to this proposal with regard to its potential impact on Flood Risk. A full copy of the document can be viewed on the Council's website (Comment section received 16 December 2019 id 785061) with the main issues summarised and addressed below. The report was sent to both the applicant and the LLFA for comment:

- Do not believe an appropriate assessment of flood risk has been undertaken with regard to historic flood events (including those in December 2015 and November 2019).

Response: The FRA has been considered by both Council Officers and the Environment Agency, who are in agreement with its findings. Moreover, the LLFA also comment that the report includes a selection of various pictures of flooding, which confirm the LLFA's understanding of the situation at Granny Lane. The LLFA further note that Kirklees has a pool of information to draw on from its databases, for example, EA flooding outlines for December 2015, and flooding reports to the Council. They confirm that these have been taken into account in their discussions with the applicant even if they have not been presented within the FRA.

- Without incorporating all this data, do not believe that consultation was appropriately undertaken with the EA, Kirklees Council and local residents.

Response: The applicant has advised that all publicly available photos and videos demonstrate that the EA modelling is accurate. They have also commented that not all discussions/meetings with EA/LA were included within the EA and only relevant information was incorporated, as is the normal case for such documents. Once again, the FRA has been found acceptable by both Council Officers and the Environment Agency.

- The omission of the above local data from the FRA does not adequately equip Kirklees Council (or any of their consultees) to give appropriate considerations to local flood risks as required by NPPF. No evidence that the LLFA have been consulted to inform and assist the FRA.

Response: It is the Environment Agency who, as statutory consultees, comment on aspects of main river flooding rather than the LLFA and the EA have no objection to the FRA subject to condition. Furthermore, the LLFA have confirmed that Kirklees has a pool of information to draw on from its databases, for example, EA flooding outlines for December 2015, and flooding reports to the Council. The LLFA confirm that these have been taken into account.

- The FRA demonstrates the presence of watercourses within the vicinity of the site which may pose a fluvial flood risk to the site. The FRA does not undertake a detailed assessment of fluvial flood risk posed to the site for the lifetime of the development.

Response: The applicant confirms that topography has been reviewed along with known physical features documented within the FRA and agreed with the LLFA. As the flows would not discharge towards the river, site mitigation would not be required.

- The FRA does not undertake a detailed assessment of surface water flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

Response: Within the FRA, the surface water has been reviewed against the topography as noted above.

- The FRA does not undertake a detailed assessment of reservoir flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

Response: It is the case that on the Government's Flood Risk maps, the northern part of the site is identified to be at risk of flooding from reservoirs in the area. However, it also notes that flooding from reservoirs is extremely unlikely. An area is considered at risk if peoples' lives could be threatened by an uncontrolled release of water from a reservoir. The applicant has advised that in their discussions with the EA, reservoir flooding was not identified as a risk. Furthermore, the EA have raised no objection to the development subject to a planning condition and it is their responsibility to manage the risk of flooding from main rivers and reservoirs. Lead local flood authorities (LLFAs) are responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses.

- The FRA does not undertake a detailed assessment of the manhole and culvert flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

Response: The applicant has advised that the culvert does not flow towards the site. The route of flows have been confirmed based on the incident in November with the flow rate maintained as agreed with the LLFA.

- An assessment of the impact of climate change has not been included.

Response: Climate change is calculated in agreement with the EA. The FRA includes a recommendation that Finished Floor Levels are raised 600mm above the 100- year plus 30% climate change event, which is a demonstration that climate change has been considered.

- The measures proposed by the FRA to avoid, manage and mitigate flood risk have not been appropriately secured for the lifetime of the development (this section refers back to paragraph 38 of the NPPF in relation to flood defence infrastructure)

Response: Surface Water Drainage corridor with Management Company to maintain as agreed with LLFA is secured through the S106 Legal Agreement.

- The effect of the development on flood risk has not been assessed

Response: The FRA assesses the effect of the development on flood risk, which has been deemed acceptable by the EA subject to a condition relating to FFL and no level changes within the POS in Flood Zone 3.

- A detailed drainage scheme has not been submitted as part of the planning application.

Response: A detailed drainage scheme will be required by condition. This approach accords with National Planning Practice Guidance, which confirms that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. It further states that it is important to ensure that conditions are tailored to tackle specific problems, such as a detailed drainage scheme.

- The surface water drainage strategy is inadequate for the proposed development

Response: The LLFA has found the principle to be acceptable subject to conditions. Moreover, the LLFA comment that the KRS report does not go into detail regarding the source of surface water flooding. Furthermore, it does not take into account how an undeveloped field does and does not drain or the source of flowing water to the south or how this would change post development when a positive drainage system is introduced and off-site improvements made. The LLFA comment that they do appreciate that there may be an expectation that a document such as the FRA may wish to make such conclusions as visible as possible. Nevertheless, the LLFA confirm that they discussed at length the local issues with the developer and they endeavoured to provide a clear synopsis around their recommendation and a more detailed response on specific issues, which benefits consultants where amendments are required and transparency to other interested parties. To that effect, the LLFA remain of the view that surface water issues and concepts have been addressed to a satisfactory level with, as is usual, minor changes to be monitored through the use of conditions.

- Appropriate proposed minimum operation standards have not been proposed within the FRA and evidence to support this has not been presented within the FRA.

Response: The LLFA have considered the proposals and consider them to be acceptable subject to conditions and arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals within the S106 Agreement.

- SuDS have not been assessed correctly and should be incorporated into the proposed site layout.

Response: The LLFA confirmed in their consultation response that LPA has an obligation to ensure SUDS are maintained and managed for the lifetime of the site. The use of a management company, secured under section 106, is the accepted Kirklees approach. All obligations can be discharged upon adoption by Yorkshire Water.

- No maintenance arrangements for the surface water drainage.

Response: As above.

- No maintenance arrangements are proposed to ensure an acceptable standard of operation for the lifetime of the development

Response: As above.

- The FRA proposes the use of storage tank to attenuate the surface water runoff from the site. None of the above will provide multifunctional benefits.

Response: The guidance within the NPPF advises that sustainable drainage systems should, *where possible*, provide multi-functional benefits. In any event, in this case, there will be an area of POS above the storage tank, which could be considered a multi-functional benefit.

- The exceedance routes have not been assessed.

Response: Exceedance routes are shown within Appendix K of the FRA. Moreover, whilst the consultant employed by the residents' groups may disagree with the findings of the FRA, it has been found to be acceptable by technical experts both at the LLFA and the EA. The LLFA also confirm that exceedance events have been considered for surface water. The tank cover levels are lower and to the north of all the new properties. Where knowledge tells us the LLFA that a problem from the south affects the site, monies have been secured to carry out repairs to a system on 3rd party land. As a belt and bases approach, a channel has been lowered between houses to let water safely through the estate should this occur in the future.

- The voluntary and free movement of people during a 'design flood' has not been demonstrated in the FRA as required by Paragraph 39 of the NPPF.

Response: Paragraphs 39 and 40 of the PPG are written under a sub-heading of 'Developers to demonstrate that development will be safe to satisfy the second part of the Exception Test'. As set out in the report, an Exception Test is not required in this instance nor does the PPG state that this must be demonstrated in an FRA. However, the PPG does state that vehicular access to allow emergency services to safely reach the development during design flood conditions will also normally be required. The proposal includes an emergency access as detailed in the report. This would also provide a means for pedestrians and cyclists to access/egress the site safely in flood conditions.

- Vehicular access to allow the emergency services to safely reach the development during design flood conditions has not been adequately demonstrated in the FRA.

Response: Paragraph 39 of the PPG does not say that it must be demonstrated in the FRA. The emergency access is, however, addressed in the report above.

- Safe access routes during design flood conditions has not been demonstrated in the FRA in accordance with Paragraph 40 of the NPPF.

Response: As above.

- The additional burden on the emergency services in a flood event has not been given due consideration in the FRA in accordance with Paragraph 58 of the NPPF and there is no evidence of consultation with either the Emergency Planning departments, Emergency Services or Local Resilience Forum as recommended in NPPF.

Response: Consultation with West Yorkshire Fire Service is summarised in Section 8.0 above.

- The Sequential Test has not been passed.

Response: This is addressed in the report above.

- The Exception Test has not been passed

Response: This is addressed in the report above.

10.73 Highways and Transport

(i) The proposal would lead to extra traffic which would detrimentally affect highway safety as Granny Lane and Steanard Lane are not adequate to deal with existing levels of traffic. Objectors have commissioned a traffic assessment to support this view a copy of which was passed to the Council's Highway Development Management Team for their consideration.

Response: This matter has been considered in the "Highways and transportation issues" section of this report

(ii) Existing footways on Granny Lane and Steanard Lane are inadequate and additional traffic would increase the risk of pedestrians being injured.

Response: Whilst it is acknowledged that existing arrangements are limited, it is considered that they are sufficient to accommodate the additional traffic associated with this development.

(iii) Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development. **Response:** This matter has been considered in the "Highways and transportation issues" section of this report

10.74 Wildlife/Environmental

(i) The proposal would have detrimental effect on local wildlife.

Response: This matter has been considered in the "Trees, landscaping and ecological considerations" section of this report

(ii) The proposal would result in the loss of existing hedges which provide significant wildlife habitat.

Response: This matter has been considered in the “Trees, landscaping and ecological considerations” section of this report”

(iii) This development would result in the loss of Green belt.

Response: The site does not fall within the Green belt.

(iv) The loss of trees associated with this development is unacceptable.

Response: This matter has been considered in the “Trees, landscaping and ecological considerations” section of this report.

(v) Trees and bushes have already been removed from the site without consent.

Response: There are no Tree Preservation Orders affecting this site. Consequently the past removal of trees and shrubs would not have required consent from the Council.

10.75 Heritage

(i) The development would have a detrimental impact on Sheep Ings farm which is a grade II listed building.

Response: This matter has been considered in the “Heritage Issues” section of this report.

(ii) The field where development would take place is an archaeological site.

Response: This matter has been considered in the “Heritage Issues” section of this report.

10.76 Local Amenity

(i) Allowing a further 67 dwellings in the area would lead to additional noise and air pollution.

Response: These matters have been considered in the ‘residential amenity and quality’ section of this report.

(ii) The development of the site would result in a loss of privacy for existing residents.

Response: It is considered that the temporary compound and parking arrangement arrangements are unlikely to lead to significant problems with regard to the privacy of existing residents. However, the use of temporary screen fencing could mitigate any impact.

(iii) There is no capacity at existing schools and doctor’s surgeries to deal with his number of additional residents bearing in mind the number of other developments taking place in the area.

Response: There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also

weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Long-term funding of health facilities is being considered as part of the Local Plan via Community Infrastructure Levy (CIL). With regard to schools, it is considered that primary provision is adequate and a financial contribution is required towards secondary provision.

(iv) The proposed location of the temporary compounds on site are unacceptable as they would lead to a loss of privacy for existing residents.

Response: It is considered that the temporary compound and parking arrangement arrangements are unlikely to lead to significant problems with regard to the privacy of existing residents. However, the use of temporary screen fencing could mitigate any impact.

10.77 Miscellaneous

(i) Developing this land would affect existing house prices in the area.

Response: The effect that new development has on existing property values is not a material Planning consideration and cannot therefore affect the assessment of this proposal/

(ii) There are plenty of brownfield sites which should be developed before this site and this approach is encouraged by government.

Response: Whilst Government Policy is to seek to develop Brownfield sites ahead of Greenfield Sites, it is recognised that Greenfield sites would also be required to deliver the country's housing needs.

(iii) Coal mining has historically taken place in this area and houses built on this site may therefore be susceptible to subsidence.

Response: This matter has been considered in the "Ground conditions" section of this report.

(iv) The development of this site is over development designed to maximise the profits of the developer.

Response: This site is an allocated housing site in the Local Plan which has an estimated capacity of 70 dwellings. This proposal seeks permission for 67 dwellings, which is considered to be appropriate bearing in mind the area of land that must be left undeveloped to address flood risk concerns.

(v) Previous planning applications to build on this site have been refused.

Response: A previous planning refusal does not set a precedent. Each planning application must be considered on its own merits and in this case it is considered that the proposal is acceptable for the reasons outlined in this report.

(vi) The proposed houses are not in keeping with those existing in the area.

Response: This matter has been considered in the "Urban design" section of this report.

(vii) The proposal does not include any significant measures to mitigate impacts on climate change.

Response: This matter has been considered in the "Other Matters" section of this report.

(viii) Banners and posters placed at the site by objectors have been removed without their consent.

Response: This issue is not a material Planning consideration and would be a matter for the interested parties to resolve.

(ix) A concern that Officers had pre-determined the proposal before its report to the 19th December Committee because the recommendation indicated in the Committee Report was to delegate back to Officers to approve subject to the resolution of a Section 106 agreement and relevant Planning conditions, yet a further consultation period relating to amended information received did not expire until 16 December 2019.

Response: As stated within the update to the 16 December 2019 Planning Committee, there is a requirement to prepare Committee reports in advance of committee in order that it can be published on the Council's website. At the time the final publication draft was prepared, Officers considered that all relevant matters had been satisfactorily resolved. If issues arise via the consultation exercise, between the publication of the committee report and the committee meeting, this is reported to Members in a committee update and any change to the officer recommendation can be amended if required. Officers consider that the consultation exercise carried out last December was proportionate and that that additional comments were reported to Members at that time.

(x) The detailed report commissioned by GLAGG pursuant to the submitted FRA was not properly considered nor the significance of its findings conveyed to the Planning Committee.

Response: This is address above.

(xi) The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the 19th December 2020 Committee.

Response: Members were made aware of the KRS report within the Committee update report, where it was clarified that it had been passed to both the LLFA and the applicant upon receipt. This matter is addressed further in the report above.

(xii) Queries why the applicant was not required to correct the FRA in relation to part of the site access being within Flood Zone when they were told about it in October 2019 and details of the emergency access should be required as a consequence.

Response: The Council have previously acknowledged that the application erroneously indicated that the only part of the site falling within Flood Zone 3 was the Public Open Space (POS) when in fact part of the proposed access road also lies within Flood Zone 3. Furthermore, this matter was drawn to the attention of the members of the 19th December 2019 Strategic Committee in paragraph 10.43 of the committee report and the associated Committee Update. Details of the emergency access can reasonably be required by planning condition as set out in this report.

(xiii) Page 21 of the KRS report states that there is no route available for access to the west of the site. This alone should, in the residents' view, make the site untenable now given that the entrance is in Flood Zone 3;

Response: There is sufficient space within the POS to the west of the access road to provide an emergency access as detailed in the report above. Details of the emergency access route will be secured by planning condition.

(xiv) The Council have advised that finished levels of the site entrance will be raised but consider that it would not be significant. The consultant for GLAAG and Save Mirfield has looked at the contours and approximated this to actually be 1:35 at this point. They query why the Environment Agency was not made aware of this as their condition was no elevation of ground levels in Flood Zone 3?

Response: The EA confirmed in their consultation response dated 21st April 2020 that they had updated their comments to take account of the latest version of the FRA (Version 7 dated 10.12.2019) and they still had no objections subject to the imposition of a condition in relation to finished floor levels and no raising of ground levels in the area of public open space (POS) located within the Flood Zone 3. They note that the proposed site access route is located within the extent of flood zone 3 and the EA were aware that the LPA had referred to land raising of the access road in flood zone 3, stating "Whilst it is acknowledged that the finished levels of that part of the access falling within Flood Zone 3 would be raised slightly, these would not be significant". On this basis, the EA were satisfied that this minimal amount of land raising should not have any adverse impact on flooding to the site or elsewhere and have no objection to this. Whilst it is acknowledged that the consultation employed by GLAAG and Save Mirfield has looked at the contours and approximated the gradient of the access road to be 1:35, it is noted that this is an approximation. The Granny Lane site is not as topographically challenge as other site allocations within Kirklees and it is still considered that the finished levels of the part of the access falling within Flood Zone 3 would only be raised slightly. In any event, finished site levels are subject to a planning condition and the Council has confirmed that in this instance, they are willing to consult the established residents groups (GLAAG and Save Mirfield) on the details of these conditions when submitted to give them the opportunity to review the technical data.

(xv) Query over the proposed method of drainage and any potential shortfall.

Response: A satisfactory drainage method has been submitted in principle, the details of which will be secured by condition.

(xvi) Consider that drainage should be approved prior to any decision making and not a condition;

Response: This is addressed in the report above.

(xvii) A concern that if Yorkshire Water (YW) cannot guarantee that if sewerage levels raise that foul effluent will not run back into the storage tank. (Note: It is understood that this comment arises from a response made to GLAAG from Yorkshire Water, which stated that the backflow of foul water into the attenuation tank would need to be discussed with the developer on how he will stop this happening.

Response: Yorkshire Water raise no objection to the proposal. Furthermore, in the response from YW to GLAAG, YW note that for adoption purposes *if* this was felt to be an issue it would be addressed by YW for additional protection measures with the developer before an adoption agreement was reached.

(xviii) Assuming that the storage tank will be underground, with the land above it need to be raised?

Response: It is considered that land levels will not need to be raised by final ground levels will be secured by means of a planning condition.

(xix) The large amount of deforestation on Hagg Lane, alongside Valance and Liley Clough Becks raises questions about the currency and accuracy of the Flood Risk Assessment.

Response: No evidence is provided as to why the deforestation on Hagg Lane should bring the accuracy of the entire FRA into question and the FRA did assess overland flood routes in the event of water escaping from the Valance Beck in consultation with the LLFA.

(xx) Still maintain that the Sequential Test has not been passed and requested evidence that to clarify why the Exception Test was not necessary;

Response: This is addressed at Paragraphs 10.42 and 10.43 of this report.

(xxii) Do not believe the emergency route has been assessed as to its suitability to accommodate emergency vehicles such as Fire Engines, Ambulances or Police vans, particularly as they would be driven over the roof of the attenuation tank.

Response: This is addressed at Paragraph 10.46.

(xxiii) Ground levels at the main site access/egress have been raised. This was in contravention of the EA's original conditions.

Response: This is addressed at (x) above.

(xxiv) The emergency access road is just a few yards away from Flood Zone 3 and its proposed route takes it perilously close to Flood Zone 3.

Response: For the purposes of assessing a planning application in accordance with National and Local Planning Policy, the emergency access road lies within Flood Zone 2 and not Flood Zone 3.

(xxv) What calculations regarding this have been made to plan for climate change?

Response: Climate change is calculated in agreement with the EA. The FRA includes a recommendation that Finished Floor Levels are raised 600mm above the 100- year plus 30% climate change event.

(xxvi) The elevations of the roads and development worry the residents. The concern is that water flows downhill and the velocity of flow depends not only on the rainfall but also on the slope of hard surfaces. Consider that the additional problem of the steeper gradient at the emergency access should be drawn to the attention of the LLFA, Highways and the Environment Agency.

Response: The LLFA confirm that roads will be drained into the attenuation tank and the flow control device will slow flows down to accepted rates during storms. These details will be secured by condition.

(xxvii) The Council have acted illegally in allowing a development contravening its Local Plan.

Response: This report sets out the Council's assessment of the proposal against relevant policies in the Local Plan.

(xxviii) The Council was negligent in allowing the development in non-developable areas.

Response: If the Council have understood GLAAG and Save Mirfield correctly, it is their assertion that the Council have recommended approval for development (POS and road infrastructure) in non-developable areas. It appears that they have assumed the definition of a non-developable area to

mean an area where 'development' is not permitted in the Local Plan. On this site, this would mean the area within Flood Zone 3 and the HIA (heritage) area of high significance. The Allocations and Designations document (February 2019) does identify the gross site area for the allocation (HS66) as 2.23 hectares with the net site area being 2.02 hectares, taking into account the flood zone and HIA, which are thereby removed from the 'developable area'. However, there is no definition of 'developable' and 'non-developable' within the Local Plan. The net and gross site areas for residential sites are identified within the Site Allocations document in order to assign a realistic housing capacity to them. This is based upon the developable area and excludes the non-developable area. The HS66 Site Allocation does not state that there can be no development within the non-developable area nor does it preclude the inclusion of non-developable areas within the red line boundary of a planning application. Read as a whole, the Site Allocation document refers to various constraints and site specific considerations for HS66. These include the proximity of the site to Listed Buildings and that part of it lies within Flood Zone 3 where it confirms 'no residential development to take place in Flood Zone 3'. The issue of the HIA area of high significance is addressed above but in summary, within this proposal it is POS/highway and therefore, it is sufficiently retained as open land in compliance with the identified constraint. The planning application is also compliant with regard to flood risk as no houses are proposed within Flood Zone 3. Consequently, whilst the road infrastructure and POS constitute development, the Local Plan does not prohibit these from the non-developable area for the reasons stated above.

(xxix) The Council failed to advise the applicant in its pre-application advice on specific limitations on the site imposed in the Local Plan, with particular regard to the point about 'developable' and 'non-developable'.

Response: The pre-application letter is clear that no residential development should take place in Flood Zone 3 and that the site is close to Listed Buildings. These limitations were subsequently identified as the constraints within the Adopted Local Plan. Proximity to listed buildings and Flood Zone 3 are both material considerations telling against development in national policy, irrespective of the Local Plan policy. The pre-application letter clearly advises on both points.

(xxx) The Council allowed errors to persist (such as the applicant stating the entrance is in Flood Zone 2 when it is in Flood Zone 3) and took no action to correct them.

Response: Please refer to (x) above.

(xxxi) The Council failed to protect the area deemed to be of high significance in the Council's own heritage impact assessment.

Response: This is addressed in the heritage section of the report.

(xxxii) The Council unilaterally closed the public consultation period and prepared its final advice to the planning committee four days early.

Response: This is addressed at Paragraph 7.2.

(xxxiii) The update report to the last Committee was dismissive of additional matters raised.

Response: It is standard practice for a Council to prepare a Committee Update report to address any matters that have emerged between the publication of the Committee Report and the day of the Planning Committee. Late representations to applications are common and the Update report

process allowed the Committee to be informed of such representations and in this respect, it was neither unusual nor untoward.

(xxxiv) The advice to the planning committee, and on which it made its deliberations on 19th December 2020, was biased in favour of the applicant and throughout the planning process, the Council went out of its way to assist the applicant.

Response: This is an opinion on the Council's handling of the application rather than a matter to be addressed.

(xxxv) Planning conditions are proposed for matters such as the emergency access which is contrary to all accepted planning practice.

Response: National Planning Practice Guidance confirms that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. It further states that it is important to ensure that conditions are tailored to tackle specific problems, which in this particular example, is the details of the emergency access.

Planning obligations

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

- Affordable housing – As noted above, to accord with Local Plan Policy LP11, the applicant proposes 13 affordable housing units. Arrangements shall cover the number, type, layout, disposition, timescale and mechanism for provision, and shall confirm the units are to be provided in perpetuity.
- Open space – Off-site contribution of £58,808.00 to address shortfalls in specific open space typologies. Arrangements shall cover the layout, disposition, timescale and mechanism for provision, and shall confirm the open space is to be publicly-accessible in perpetuity.
- Education – Officers have confirmed that a £157,992 contribution towards secondary school provision is necessary to serve the needs of the proposed development.
- Sustainable transport – Measures to encourage the use of sustainable modes of transport, including Travel Plan monitoring arrangements and fees involving a financial contribution of £53,533.50.
- Drainage – Arrangements to secure long-term maintenance and management of the applicant's surface water drainage proposals including a £3,000 financial contribution to contribute towards the future upgrade of a piped water course at the southern edge of the site.

10.79 In the final consultation response from the Local Lead Flood Authority (LLFA) dated April 2020, the LLFA noted that it would welcome additional funds to that already requested for research and improvements to Valance Beck, which contributes to the flooding of Granny Lane in the vicinity of the access to the proposed development. The LLFA have confirmed these funds were the subject of a direct discussion between the LLFA and the applicant, Miller

Homes. The LLFA have also confirmed that these improvements are not considered necessary to make the development acceptable in planning terms. A financial contribution in this regard would not, therefore, meet the tests established in the National Planning Policy Framework noted above for inclusion within a Section 106 planning obligation. Nevertheless, the LLFA do understandably look to take any opportunity to work with adjacent landowners to improve watercourses and it is within this context that the funds would be negotiated, outside of the planning process. These funds could contribute to items such as measures to stop debris flowing downstream reducing the risk of blockages, although neither the nature of the improvements nor the estimated costs have been confirmed at this time.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS66, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, the site's coal mining legacy, and other matters relevant to planning. These constraints have been addressed by the applicant, and the proposed development includes good quality housing (at an appropriate density, and including sufficient affordable housing) and adequate open space. Approval of full planning permission is recommended, subject to planning conditions and obligations via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development Plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and it is therefore recommended for approval.

12.0 CONDITIONS (Draft list – any amendments/ additions, to be delegated to the Head of Planning and Development)

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by 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 listed 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 so as to ensure the satisfactory appearance of the development on completion.

3. No development (excluding demolition) above ground level shall commence until manufacturers details of the facing and roofing materials (including samples if requested) in broad accordance with the External Finishes' plan ref: GRY/EX FIN/001 received 17 April 2019 has been submitted to and approved in writing. The development shall then be implemented in strict accordance with the approved details and thereafter retained.

Reason: To ensure a satisfactory quality of development on completion.

4. The site shall be developed with separate systems of drainage for foul and surface water on site, with combined off site. Surface water shall not exceed a maximum discharge rate of 5 (five) litres per second.

Reason: In the interest of satisfactory and sustainable drainage.

5. No development (excluding demolition) shall commence until a scheme detailing foul, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a. Details of off-site works;
- b. Connection to a public sewer at a maximum of 5l/s;
- c. Balancing works for the 1 in 100 + 30% climate change critical event, Plans and longitudinal sections;
- d. Hydraulic calculations;
- e. Phasing of drainage provision;
- f. Details of existing drainage to be maintained/diverted/abandoned and;
- g. Details of the underground storage tank(s) to include written confirmation that it can accommodate the emergency access road above it.

None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained.

Reason: To ensure the provision of adequate and sustainable systems of drainage so as to avoid an increase in flood risk. This is a pre-commencement condition

6. No development shall commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been 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 how flooding of adjacent land is prevented. 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 avoid an increase in flood risk during the construction phase.

7. The development shall be carried out in accordance with the submitted flood risk assessment (by RWO Associates ref RO/FRA/17224.1 version 7 dated 10.12.2019) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 45.87m above Ordnance Datum (AOD).
- There shall be no raising of ground levels in the area of public open space (POS) located within the flood zone 3 extent shown in drawing SK1 (rev 1) in Appendix D of the FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere.

8. No development (excluding demolition) shall commence until a scheme detailing the design, construction, operation, maintenance and management of the emergency access road and surface water flood route pathways to avoid curtilage flooding has been submitted to and approved in writing by the Local Planning Authority. The details of the emergency access shall include the following:

- Details of the road width (to be minimum of 3.7m between kerbs);
- Details of the gateway width (to be a minimum of 3.1m) and visibility splay;
- Details of carrying capacity (to be a minimum of 24 tonnes);
- Details of any removable bollards or gate barriers.

The approved scheme shall be fully implemented prior to the occupation of any dwellings and retained thereafter.

Reason: In order to maintain an emergency access into the site at all times.

9. The buildings hereby approved shall not be occupied until the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details and thereafter retained.

Reason: In the interests of the free and safe use of the highway and to ensure an acceptable layout for pedestrians in accordance with Policies LP21 of the Kirklees Local Plan.

10. No works shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Management Plan shall include full details of:

- a) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
- b) Measures to control the emissions of dust and dirt during construction;
- c) Location of site compound, plant equipment/storage and car parking for on-site employees; and
- d) Hours of site working.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site.

Reason: To protect the living conditions of adjoining occupiers during the construction phase.

11. No development (excluding demolition) shall commence until a scheme detailing the location and cross sectional information together with the proposed design and construction for all new retaining walls/building walls adjacent to the existing/proposed adoptable highways shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be fully implemented in accordance with the approved design and retained during the life of the development. Each plot shall have its respective retaining/building walls completed prior to occupation.

Reason: In the interests of the free and safe use of the highway.

12. No development (excluding demolition) shall commence until a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new surface water attenuation culverts/ tanks located within the proposed adoptable highway footprint shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented prior to the occupation of the development.

Reason: To ensure the provision of adequate and sustainable systems of drainage and to avoid an increase in flood risk, in accordance with Policy LP28 of the Kirklees Local Plan.

13. Other than demolition works, no development shall commence on Plots 33-36 (in the location of the demolished building) until a further Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The extent and scope of the intrusive survey shall be agreed with the Local Planning Authority prior to its implementation.

Reason: To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

14. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 13, development shall not commence on Plots 33-36 until a Remediation Strategy has been 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 identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 14. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 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 identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

16. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation 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 Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

Reason: To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

17. No development shall commence above damp proof course level until a report specifying the measures to be taken to protect the development from noise from nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To protect the residential amenity of future residents with regards to noise disturbance in accordance with the Policies LP24 and LP52 of the Kirklees Local Plan.

18. The development hereby approved shall include the installation of 1 electric vehicle charging point per unit (dwelling with dedicated parking) or 1 charging point per 10 spaces (unallocated parking). These shall meet at least the following minimum standard for numbers and power output: a Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW).

Reason: In the interest of improving the local air quality and promoting ultra-low emission vehicles and to accord with policy LP 51 of the Kirklees Local Plan.

19. No development shall commence above damp proof course level until a detailed landscape and bio-diversity scheme has been submitted to and approved in writing by the Local Planning Authority which elaborates on the landscape concept shown on plan 3158 101 Rev C. The scheme shall include:

- i) Details of species of trees/shrubs to be planted;
- ii) Methods of planting and spacing;
- iii) Size of planting;
- iv) Protection of planted species;
- v) Weed prevention;
- vi) Boundary details and means of enclosure between and around dwellings and around the site;
- vii) Details of how the scheme will enhance local biodiversity to reflect the priority habitats and species found within the relevant Flood Plains and Riverine Habitats Biodiversity Opportunity Zone and to include the installation of 6 bird boxes and 6 bat boxes and having regard to the recommendations set out in the Whitcher Wildlife Ltd. Ecological Consultants Extended Phase 1 Habitat Survey (Jan 2018) (Ref: 180110);
- viii) An implementation plan detailing the timescales for the landscape and bio-diversity schemes;
- ix) A management plan, including long term design objectives, management responsibilities and maintenance schedules.

All hard and soft landscaping works shall be carried out in accordance with the approved details and the approved implementation programme. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme.

Reason: To ensure the provision and establishment of an acceptable landscape and bio-diversity scheme and successful aftercare of landscaping.

20. Before any materials are brought onto site or development commences, the developer shall erect protective chestnut paling or similar fencing around all trees, shrubs or hedges to be retained, to the branch spread of individual trees or groups of trees/shrubs. The applicant shall obtain the Local Planning Authority written confirmation that the fence is satisfactory and shall maintain such fencing unaltered until the development is complete.

Reason: To ensure the protection and preservation of trees, shrubs or hedges and other natural features during the construction works.

21. No development shall commence until a written scheme of archaeological investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & 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 that appropriate archaeological recording is undertaken.

22. No dwellings shall be occupied until a scheme providing details of the play equipment to be installed within the proposed play area has been submitted to and approved in writing by the Local Planning Authority. The details shall include a timescale for the implementation of the play equipment. The approved scheme shall be fully implemented and retained/maintained thereafter.

Reason: To ensure that satisfactory provision of play equipment having regard to the living conditions of future occupiers.

23. Excluding the ground levels in the area of public open space (POS) that are subject to Condition 7, no development (excluding demolition) shall commence on the remainder of the site until final details of existing and proposed ground levels (to include cross-sections) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure works are carried out at suitable levels in relation to adjoining properties, flood risk and highways.

24. Prior to the commencement of the development hereby approved (excluding demolition), details of a scheme for the eradication and/or control of Himalayan Balsam and other invasive species on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to prevent the spread of a non-native invasive species.

25. No development shall commence above damp proof course level until details of adequate security measures for the dwellings hereby approved have been submitted having regard to 'Secured by Design' and the guidelines set out in Crime Prevention Through Environmental Design (CPTED). The scheme shall then be implemented in accordance with the approved details and thereafter retained.

Reason: In the interests of crime prevention and creating safer places.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/Planning-applications/search-for-Planning-applications/detail.aspx?id=2019%2f91467>

Certificate of Ownership – Certificate B completed