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**Report of the Head of Planning and Development**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 04-Nov-2020**

**Subject: Planning Application 2019/91534 Erection of 13 dwellings and associated works Land off, Heathfield Lane, Birkenshaw, BD11 2HW**

**APPLICANT**

Moonfleet Ltd

**DATE VALID**

17-May-2019

**TARGET DATE**

16-Aug-2019

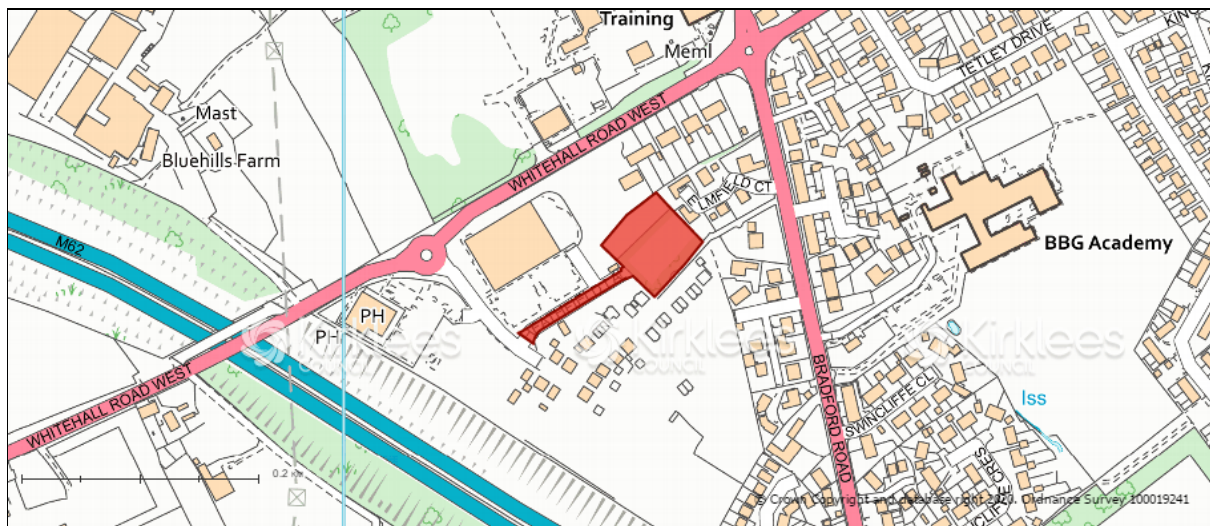
**EXTENSION EXPIRY DATE**

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

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

**LOCATION PLAN**



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

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**Electoral wards affected: Birstall and Birkenshaw**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

1. Public open space provisions including off site commuted sum (£24,501.00) and future maintenance and management responsibilities of open space within the site
2. 20% of total number of dwellings to be affordable – 3 intermediate units to be provided on site.
3. Financial contribution towards Ecology (£41,912.00)

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

**1.0 INTRODUCTION:**

- 1.1 The application has been brought to Heavy Woollen Sub Committee due to the significant number of representations that have been received.
- 1.2 The reason for the application being decided by Members of the Heavy Woollen Planning Sub Committee has been confirmed by the Chair of the Planning Sub Committee as acceptable.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site at Heathfield Lane is an area of vacant land which is grassed over and has vegetation on it. The site is bounded by protected trees to the southeast and east of the site and the land slopes downwards to the east.
- 2.2 Surrounding the site is predominantly residential to the north, east and south, with open land to the north-west which is part of the housing allocation. To the south-west, there is a large industrial unit and associated car park, along with a public house further to the south-west close to the A58.
- 2.3 The site is allocated for housing on the Kirklees Local Plan (allocation HS85). It is not located in a Conservation Area.

### **3.0 PROPOSAL:**

- 3.1 Planning permission is sought for the erection of 13 dwellings, as shown on the submitted site plan.
- 3.2 The site would be accessed from Heathfield Lane and would have a private access road running through the site to provide access to the new dwellings.
- 3.3 The dwellings would have reasonable sized gardens and would be 2.5 stories in height. The design of the dwellings varies, and each dwelling has its own parking area to the front. Visitor parking would also be provided.
- 3.4 The dwellings would be constructed from a variety of materials, of which samples will be conditioned should the application be approved.

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

- 4.1 2016/92633 – Erection of 125 dwellings (with two apartment blocks) including means of access and associated infrastructure APPROVED (Heathfield Lane)
- 4.2 2008/92423 – Erection of 12 detached houses with garages WITHDRAWN
- 4.3 2010/90082 – Erection of 15 dwellings with garages and 6 apartments REFUSED (dismissed at appeal)
- 4.4 2020/92802 – Erection of 10 dwellings with associated infrastructure PENDING CONSIDERATION (part of housing allocation HS85).

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

- 5.1 Amendments have been sought to increase the number of dwellings on the site to increase the density, as well overcome Highways England objections, tree concerns, biodiversity considerations, highways and access concerns and design considerations. The agent has provided additional information on these points and the development is now, in the opinion of Officers, acceptable subject to conditions and S106 obligations.

### **6.0 PLANNING POLICY:**

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

The site is allocated for housing on the Kirklees Local Plan (allocation HS85).

#### **6.2 Kirklees Local Plan (2019):**

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP5 – Master planning sites  
LP7 – Efficient and effective use of land and buildings  
LP11 – Housing mix and affordable housing

LP21 – Highway Safety  
LP22 – Parking Provision  
LP23 – Core walking and cycling network  
LP24 – Design  
LP28 - Drainage  
LP30 – Biodiversity and geodiversity  
LP32 - Landscape  
LP33 – Trees  
LP38 – Minerals Safeguarding  
LP47 – Healthy, active, and safe lifestyles  
LP51 – Local air quality  
LP52 – Protection and improvement of local air quality  
LP53 – Contaminated and unstable land  
LP63 – New open space

### 6.3 Supplementary Planning Guidance / Documents:

- Highways Design Guide Supplementary Planning Document
- Kirklees Local Plan allocations and designations
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance
- Kirklees Strategic Housing Market Assessment (2016)

### 6.4 National Planning Guidance:

Chapter 2 – Achieving sustainable development  
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, coastal change and flooding  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 17 – Facilitating the sustainable use of minerals

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

7.1 The application has been advertised in accordance with the Council's adopted Statement of Community Involvement.

7.2 As a result of the statutory publicity, 18 representations have been received raising the following concerns:

- Protected trees
- History of the site
- Residential amenity
- Highways
- Drainage
- Publicity of the planning application
- Activity on the site whilst planning application being considered
- Consultation responses
- Ecology/wildlife
- Air quality
- Education
- Visual amenity

7.3 Ward Councillor Smaje has also commented on the application raising the following concerns:

- Protected trees
- Air quality
- Gated access/private road is going to cause maintenance in the future
- Landscaping/loss of trees following legal action is not outweighed by public benefits of providing affordable housing

7.4 Ward Councillor Thompson has also commented on the application raising the following concerns:

- Estate next door was heavily contested and restricted to a particular number of houses, including green space, affordable housing
- More than enough properties on this piece of Birkenshaw – heavily polluted and high pollution zone
- Cannot support the application

7.5 Officer comments will be made in Section 6 of this report.

## 8.0 CONSULTATION RESPONSES:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.1 Statutory:

**Highways England** – holding objection withdrawn following submission of additional information

**K.C Highways Development Management** - no objection subject to conditions

**K.C Lead Local Flood Authority** – no objections subject to conditions

### 8.2 Non-statutory:

**Natural England** – no comment to make

**Northern Gas** – no objection

**Yorkshire Water** – no objection subject to conditions

**K.C Trees** – objection to principle of facilitating access through protected trees

**K.C Ecology** - no objection. Biodiversity net gain achieved through metric 2.0.

**K.C Landscape** – open space financial contribution required. Comments made re landscaping plans – condition can be imposed.

**K.C Strategic Housing** – provision of 3 intermediate units acceptable.

**Police Architectural Liaison Officer** – comments made

**K.C Public Health** – comments made

## **9.0 MAIN ISSUES**

- Principle of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Drainage issues
- Planning obligations
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.
- 10.2 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.
- 10.3 The application site was previously allocated for business and industry use on the Kirklees Unitary Development Plan but is allocated for Housing in the Local Plan (site reference HS85) which relates to a piece of land to the northwest of the application site. Full weight can be given to this site allocation document which identifies the following constraints that are relevant to the site:
- Noise source near site – industry noise
  - Potentially contaminated land
  - Site is close to archaeological site
  - Part/all of the site within a high-risk coal referral area
- 10.4 An indicative capacity of 24 dwellings is noted in the supporting text of the site allocation. However, it is important for Members to note that only part of the housing allocation is being developed as part of the application. The North-Western part of the site is being considered as per the details of application 2020/92802, which proposes 10 dwellings.
- 10.5 Subject to highways, design, residential amenity and other matters being appropriately addressed, it is considered that residential development on this site is acceptable in principle and would make a contribution towards meeting housing need in the Kirklees district.

## Urban Design issues

- 10.6 The size of the application site is approx. 0.5ha and therefore, in accordance with Policy LP7 of the Kirklees Local Plan, which states that 35 dwellings per hectare should be achieved where possible, 17 dwellings should be achieved on this site.
- 10.7 The applicant initially proposed a development of 10 dwellings and following Officer advice requiring the density to be increased, this was increased to 13 dwellings. Given the constraints of the site in terms of the 'undevelopable area' due to protected trees in particular, 13 dwellings is acceptable in this instance.
- 10.8 As part of the assessment of the application, consideration was also given to LP5 of the Kirklees Local Plan, which is in place to ensure that developments "make effective use of the site through the application of appropriate densities in terms of scale, height and massing and its relationship with adjoining buildings and landscape". The agent has confirmed that it would not be viable to develop the housing allocation as a whole and has instead provided a master planning statement to advise Officers and Members why master planning cannot be achieved in this instance.
- 10.9 The Master Planning Statement states that the rest of the housing allocation would not be prejudiced by the proposed development and this is being subsequently developed as per 2020/92802. Access to the North Western portion of the site is shown to be taken from Whitehall Road West. It is noted by the agent that both sites have a distinct physical separation and the layout proposed would not prejudice the development of additional houses on the parcel of land to the Northwest. Officers accept this stance and will carefully consider the relationship between the two pieces of land when looking at 2020/92802.
- 10.10 The layout of the dwellings on the application site is acceptable. There will be limited hardstanding to reduce the effect of hard landscaping on the street scene and the proposed dwellings will have reasonable sized amenity spaces for the enjoyment of future occupiers. The design and materials are acceptable in this area of unallocated land and would not result in incongruous features. The materials are similar to those in the near vicinity at the adjacent site (approved under 2016/92633) which are varied and include red brick, buff brick, stone and render. Should Members resolve to approve the application, a condition has been recommended to ensure that samples of the materials are assessed prior to construction. The affordable housing units on the site would be indistinguishable in terms of their design and would be pepper potted amongst houses for market sale.
- 10.11 As a result of the loss of the protected trees, Officers have recommended that a landscaping plan is submitted via discharge of condition. This is to provide enhanced visual amenity value to the area, whilst providing partial mitigation (amongst other public benefits mentioned in this report) for the loss of the protected trees. The agent has provided a landscaping plan, but Officers are not satisfied with the positioning of the trees close to habitable room windows, as well as the species of some of landscaping proposals. For example, Ash trees are proposed but due to Ash dieback, it is Officers' opinion that this is not appropriate landscaping.

- 10.12 Careful consideration has been given to those dwellings facing the street scene when immediately entering the site. Additional fenestration detailing has been included in the side elevations of the dwellings to provide some visual interest, instead of a blank elevation when entering the site. Additionally, a condition will be recommended to remove permitted development rights for future outbuildings and extensions to ensure that the impact on the protected trees is acceptable and they are retained for their amenity value to the area, and to avoid overdevelopment of gardens.
- 10.13 In conclusion, the proposed development would have, in the opinion of Officers, an acceptable impact on visual amenity and Officers are satisfied that the development would result in an effective use of land on a designated housing allocation on the Kirklees Local Plan and would provide public benefits. The proposed development complies with Local Plan Policies LP5, LP7 and LP24 and Chapters 2, 11 and 12 of the National Planning Policy Framework.

#### Residential Amenity

- 10.14 Officers are satisfied with the impact on residential amenity, both in terms of the relationship of the proposed dwellings and the existing dwellings surrounding the site, and the future occupiers of the proposed housing.
- 10.15 In relation to the dwellings on Elmfield Court, the proposed dwellings, Plots 8 and 13, are closest to existing dwellings on Elmfield Court and therefore, consideration has been given to the amenity of the occupiers of these dwellings. Firstly, in relation to Plot 8 and no. 4 Elmfield Court, there is a distance of approximately 12 metres between the side elevations. There are no openings in the side elevation facing this existing property and any future openings are controlled by the General Permitted Development Order and boundary treatment at ground floor. In the side elevation of no. 4 Elmfield Court, there are habitable room windows that Officers have assessed in terms of how they would be affected.
- 10.16 Officers have considered that the properties are orientated away from each other slightly, so the main bulk and massing of the properties will not have a direct relationship that would result in significant overbearing that would warrant refusal of the planning application, including the levels differences where no. 4 is on a slightly higher level than the application site. The proposed dwelling would be set forward of no.4 and would not affect the full rear elevation of the existing property. Officers are satisfied that, on balance, the impact on residential amenity is acceptable.
- 10.17 With regards to no. 3 Elmfield Court, the relationship between the dwellings is close and therefore, careful consideration was given to how this part of the site could be developed. It is noted that the dwelling at no. 3 Elmfield has a habitable room conservatory and openings in its side elevation. For this reason, Officers have negotiated with the agent to reduce the overall scale of this element of the building to a reduced height. Considering this, the fact that the extension part of the dwelling will be of a significantly reduced height in relation to the main dwelling, and the fact that it will not project along the full length of the dwelling and is set in from the boundary by 1.6m, with a further 2.3m to the side elevation of no. 3 Elmfield Court. In view of the above, the relationship between the dwelling is considered, on balance, acceptable in



terms of overbearing. There would be no overlooking and any future first floor side openings will be controlled by the General Permitted Development Order. Boundary treatments, which could subsequently be approved through discharge of conditions

- 10.18 The relationship between the dwellings within the development is acceptable. There is a reasonable distance between habitable room windows to avoid direct overlooking and each of the gardens of the new dwellings is of a reasonable size to allow for a good level of amenity for the future occupiers. It is also important to note that the gardens on the eastern part of the site are of a sufficient size to ensure that the protected trees will not be under pressure to be felled once the dwellings are occupied. This matter will be discussed further in the other matters section of this committee report.
- 10.19 Officers note the site plan indicates the proposed boundary treatments within the site. Officers have not agreed these details, careful consideration needs to be given to the most sensitive type of boundary treatment that respects the character of the area and provides privacy in respect of residential amenity. Officers have suggested a condition to Members that requires these details to be provided at discharge of condition stage.

#### Landscape issues

- 10.20 Policy LP32 of the Kirklees Local Plan states that proposals should seek to enhance the landscape character of the area considering, in particular, the setting of settlements and buildings within the landscape. The agent has provided a site plan which demonstrates the landscaping on site. Officers have worked with colleagues in K.C Landscape who have raised concerns in relation to the positioning of the trees on site which are required to provide part of the mitigation for the loss of the protected trees to facilitate access to the site from Heathfield Lane. The current landscaping plan shows a lime tree within several metres of habitable room windows of the proposed houses which would result in an unsustainable scheme which Officers consider would be fraught with difficulty in terms of their future maintenance. In terms of visual amenity, the tree planting will help break up the built form and provide amenity value within the development site. As well as this, the species of the trees and planting within the landscaping plan include Ash trees which suffer from ash dieback and are not a suitable species for the site, which has to provide adequate mitigation for the loss of the protected trees and the biodiversity habitats that will be lost as a result of the development.
- 10.21 Considering the above, given that K.C Landscape is satisfied that there is scope within the development site to provide acceptable mitigation and tree planting, Officers recommend to Members that a landscaping scheme is conditioned for a future discharge of condition application. It is imperative that the scheme is carefully designed and opportunities for tree planting are incorporated into the street where possible.
- 10.22 Policy LP63 relating to new open space has also been considered. K.C Landscape Officers have advised that within the Birkenshaw ward, there are currently deficiencies in Natural and Semi Natural Greenspace. A calculation has been undertaken in line with Policy LP63 which suggests a payment of £24,501.00 to the local community park in Birkenshaw, in lieu of the on-site provision of 1428.26 sq. metres of open space (including a local area of play)

that would otherwise be required. Officers have confirmed that the agent is in agreement to this payment and this will be secured through a S106 agreement.

- 10.23 In terms of ecology, Officers have considered Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework when assessing the proposed development and the ecological information has been submitted. The agent has provided an ecological design strategy, a tree planting plan and a biodiversity metric calculation using the Warwickshire Method.
- 10.24 Officers are of the opinion that biodiversity net gain could not be achieved on site through the current layout, and there are no other pieces of land within the applicant's control that could accommodate biodiversity net gains. For this reason, given the scale of development, off site compensation needs to be provided, through calculation of the Metric.
- 10.25 It is noted that there will be the loss of at least 2 habitat units and therefore, a sum of £41,912 is appropriate to offset this loss and to satisfy the aims of Policy LP30 and Chapter 15 of the National Planning Policy Framework. Officers have suggested a condition to Members that this contribution can be secured through S106.
- 10.26 The submitted Ecological Design Strategy and Tree Planting Plan is sufficient in terms of providing on site mitigation for biodiversity on site although it would be preferable for some of the habitat boxes to be incorporated into the proposed dwellings where possible. Given that the loss of protected trees and habitats on the site is significant, a further condition will be recommended by Officers to require the provision of bat/bird on the dwellings.

#### Housing issues

- 10.27 Officers have considered Policy LP11 of the Kirklees Local Plan which states that on developments of 10+ houses, 20% of the dwelling should be affordable units. Therefore, this application for 13 dwellings triggers this requirement. Officers have consulted with K.C Strategic Housing who have stated that the Kirklees Council tenure mix is 55% social or affordable rent housing and 45% intermediate housing. In this case, the applicant has offered 3 intermediate affordable housing units to be part of the development. Officers are satisfied that given the small scale of the development on a housing allocation site, the provision of 3 intermediate dwellings is satisfactory to provide a public/social benefit to the scheme. This will be secured by S106 agreement.
- 10.28 With regards to housing mix, K.C Strategic Housing have advised that there is a requirement for affordable 3+ bedroom housing in the Birkenshaw Ward, which can be accommodated within this development (which has 3, 4 and 5 bed houses), thus Officers are satisfied that the proposed development would meet local housing need. Affordable housing will be distributed evenly within the development and would not be different from market housing in terms of design and quality.

### Highway issues

- 10.29 The proposal has been assessed by Officers and is considered acceptable. The access to the site would be from Heathfield Lane to the south and the site layout shows an access road to be built to serve the 13 properties. A swept path analysis has been produced to demonstrate that a refuse vehicle and emergency services can access the site safely.
- 10.30 The gated access has been removed and conditions have been recommended to ensure that the necessary details are provided should the road be made up to adoptable standards via a S38 agreement.
- 10.31 The parking provision is deemed to be acceptable and sufficient to avoid any displacement of vehicles outside of the site and there is sufficient scope within the site to accommodate bin collection points – Officers have recommended a condition to Members.
- 10.32 Subject to the inclusion of necessary conditions, Officers are satisfied that the proposed development complies with Local Plan Policies LP21 and LP22 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

### Drainage issues

- 10.33 Highways England commented on the planning application and stated that the proposed development could affect the M62 highway drain and therefore, until discussions with the Local Lead Flood Authority had been resolved, Highways England provided a holding objection to the application.
- 10.34 The concern related to how connections from the proposed development via a culverted watercourse would affect the M62 as discussed above. The Local Lead Flood Authority initially stated that further information was regarding to the drainage design.
- 10.35 Officers worked with the agent who provided drainage details which stated that the surface water systems under the M62 was not an option and therefore that other alternatives should be explored.
- 10.36 The agent has stated that there is a public sewer which the site can be drained to and this acceptable to the Local Lead Flood Authority. Highways England objection has also been withdrawn subject to a condition ensuring that a detailed construction phase temporary drainage, flood risk and mitigation scheme is provided.
- 10.37 Yorkshire Water have also been consulted on the planning application and have no objection in principle to the drainage systems shown on plan (20) 004 A.
- 10.38 In conclusion, following amendments to the scheme, Officers are satisfied that the proposed development complies with Local Plan Policy LP28 and Chapter 14 of the National Planning Policy Framework.

## Representations

10.39 All comments have been considered. As a result of the statutory publicity, 18 representations have been received raising the following concerns:

- Protected trees  
Officer comment: see other matters section of this report
- History of the site  
Officer comment: the history of the site has been considered. The public benefits of the scheme have been assessed by officers who are satisfied that they outweigh the loss of the protected trees to facilitate the access.
- Residential amenity  
Officer comment: see residential amenity section of this report.
- Highways  
Officer comment: Highways DM do not have an objection to the proposed development. See highway safety section of this report.
- Drainage  
Officer comment: see drainage section of this report. Highways England and LLFA have no objection to the planning application.
- Publicity of the planning application  
Officer comment: a site notice and neighbour letters were sent initially. Following the publicity of amended plans, neighbour letters were sent to adjoining neighbours. This is in accordance with the Council's publicity agreement.
- Activity on the site whilst planning application being considered  
Officer comment: site clearance does not constitute development.
- Consultation responses  
Officer responses: consultation responses are on the website.
- Ecology/wildlife  
Officer comment: see landscape issues section of this report.
- Air quality  
Officer comment: Environmental Health has confirmed that the site is not within an air quality management zone. Is it not located close enough to the main roads to be adversely affected. See other matters section of this report.
- Education  
Officer comment: This development, including the allocation for housing, as a whole, does not trigger a contribution towards education. The trigger is 25 dwellings. The indicative capacity of the housing allocation, as a whole, is 24 dwellings.
- Visual amenity  
Officer comment: see visual amenity section of this report. Officers are satisfied with the impact on the character of the area of this development. Landscaping details are to be conditioned.

10.40 Ward Councillor Smaje has also commented on the application raising the following concerns:

- Protected trees  
Officer comment: see other matters section of this report
- Air quality  
Officer comment: Environmental Health have confirmed that the site is not within an air quality management zone. Is it not located close enough to the main roads to be affected. See other matters section of this report.
- Gated access/private road is going to cause maintenance in the future  
Officer comment: the access to the site is not gated. Highways DM are satisfied with the proposed development
- Landscaping/loss of trees following legal action is not outweighed by public benefits of providing affordable housing  
Officer comment: this opinion is noted. As stated within this report, Officers are satisfied that, on balance, the public benefits of the development would outweigh the loss of the trees following legal action. The balanced argument is set out within this report.

Ward Councillor Thompson has also commented on the application raising the following concerns:

- Estate next door was heavily contested and restricted to a particular number of houses, including green space, affordable housing  
Officer comment: this is noted. It is important for Members to note that this site is part of a wider allocation for housing on the Kirklees Local Plan, therefore the principle of development of housing on this land has been established.
- More than enough properties on this piece of Birkenshaw – heavily polluted and high pollution zone  
Officer comment: see other matters section of this report on air quality
- Cannot support the application  
Officer comment: this is noted.

#### Planning obligations

10.41 The size of the site proposes 13 dwellings and would, therefore, trigger contributions relating to public open space and affordable housing, each of which would require a financial contribution.

10.42 To accord with Local Plan policy LP11, 20% of the proposed development's residential units would need to be secured as affordable housing.

10.43 The K.C Landscape team have commented on the application and stated that the development triggers open space requirements and a requirement for children and young people's provision as per the Fields in Trust requirements in the form of a Local Area of Play. No open space has been provided on site and, therefore, a financial contribution of lieu of this is required. It has been

calculated at £24,501.00 and will be used at the local community park in Birkenshaw, addressing the quantity deficiencies within the Birkenshaw ward. This would be secured through condition and S106 agreement.

- 10.44 The final contribution that is required relates to ecological contributions, to ensure that, as a result of the loss of habitats as set out above, the development would not result in a net loss of biodiversity on site. This sum would be £41,912.00. Officers have assessed the ecological impact of the development in the report above.
- 10.45 Conditions imposed on grants of planning permission must satisfy the 6 tests for a condition (necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects).
- 10.46 Conditions relating to contributions, in this instance, all meet the 6 tests set out in Paragraph 55 of the National Planning Policy Framework. The contributions are required to make the development acceptable and to mitigate the impact caused by it.

## Other Matters

### Air Quality

- 10.47 The site is positioned between Whitehall Road West and Heathfield Lane, with the M62 running to the south of the site. Concerns have been raised by interested parties in relation to the impact that the proposed development would have on air quality. In this case, K.C Environmental Health have confirmed that the small scale of the development is not considered to significantly impact on the air quality of the area and that the site is set well back and screened from the main roads to ensure that the occupiers of the dwellings in the future would be affected by the poor air quality coming from Whitehall Road West and the M62.
- 10.48 A condition has been recommended by Officers to ensure that an electric vehicle charging point is provided per residential dwelling to mitigate the impacts on climate change in accordance with the Council's Climate Change Emergency strategy and to comply with Policy LP51 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

### Trees

- 10.49 There are protected trees to the south, east and west of the application site and therefore, consideration has been given to the impact of the proposed development on the protected trees.
- 10.50 Officers have discussed the application with K.C Trees Officers who are objected to the proposed development due to the requirement to facilitate replacement protected saplings to facilitate the access to the development. This fails to comply with Policy LP33 of the Kirklees Local Plan which states that development proposals should normally retain any valuable or important trees where they make a contribution to public amenity and the distinctiveness of a specific location or contribute to the environment.

- 10.51 Officers negotiated with the agent to achieve 13 dwellings on the site to trigger a contribution towards affordable housing and public open space to create public benefits of the development. These public benefits, along with a tree planting scheme, will be achieved, to mitigate the loss of the sapling protected trees.
- 10.52 Policy LP33 of the Kirklees Local Plan also states that where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme. In this case, the agent has worked with Officers too ensure that there is scope for the site to re-accommodate the protected trees within it, as well as additional hard and soft landscaping to improve the visual amenity benefit of the site. Officers ask Members to note the condition recommending a detailed landscaping scheme to be submitted at discharge of condition stage. This detailed landscaping scheme will include the replanting of the protected trees elsewhere within the site.
- 10.53 Secondly, Officers have worked closely with the agent of the proposed development in order to ensure that the dwellings located close to the eastern boundary have large enough gardens to accommodate the mature protected trees that will not be felled as a result of the proposal. The dwellings are a sufficient distance from the trees to ensure that their canopies will not affect the living conditions of the occupiers and thus increase pressure to fell. A condition has been recommended to Members to ensure that permitted development rights are removed for future outbuilding and extensions in the curtilages of the dwellings so that any future works to dwellings will have to be assessed by the Local Planning Authority in respect of their impact on the protected trees and their roots.
- 10.54 Officers consider that the impact of the proposed development as a result of the protected trees fails to comply with Local Plan Policies LP24 and LP33 and Chapters 12 and 15 of the National Planning Policy Framework, however, the on balance, public benefits of the development outweigh this loss of protected trees which will be replaced within the landscaping scheme.

#### Minerals Safeguarding

- 10.55 The site is over 1000sq m and is within a wider mineral safeguarding area and therefore, Local Plan Policy LP38 applies. This policy is important to ensure that known mineral reserves are protected from permanent development which may sterilise such resources through encouraging the extraction of mineral, if feasible, prior to non-mineral extraction taking place.
- 10.56 This policy states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of Policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it. This complies with the aims of Chapter 17 of the NPPF.

## Archaeology

- 10.57 West Yorkshire Archaeological Society have commented on the application. The presumed route of a Roman road is plotted immediately to the south of the application site's southern boundary (West Yorkshire Historic Environment PRN 3526 and is a class III Site of Archaeological Importance, Road 712 runs roughly east to west). Previous archaeological evaluation to the east on this alignment did not record evidence of the road's presence, this may be because the route lies slightly to the north or south of the presumed line.
- 10.58 Therefore, this non designated heritage asset may be present within the site and should be fully archaeologically evaluated in accordance with Policy LP35 of the Kirklees Local Plan and Chapter 16 of the National Planning Policy Framework. Officers are satisfied that a condition can be recommended for works to be undertaken pre commencement of development.

## **11.0 CONCLUSION**

- 11.1 To conclude, the concerns summarised above have been carefully considered however, when assessing this planning application in relation to national and local planning policy, along with all other material planning considerations, officers are of the opinion that the principle of residential development on this site which is allocated for housing on the adopted Kirklees Local Plan is acceptable. Furthermore, on the basis of the submitted information and subject to appropriate conditions and S106 contributions, the loss of the protected trees is considered by Officers to be, on balance, acceptable, and outweighed by the public benefits of the scheme.
- 11.2 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. 3 years time period for implementation
2. Development must be completed in accordance with the approved plans
3. Submission of drainage maintenance and management scheme
4. Programme of archaeological recording to be submitted by a qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation
5. Submission of a Construction Environmental Management Plan which shall include details of actions that will be taken to minimise adverse impacts on occupiers of nearby properties.
6. Provision of Electric Vehicle Charging Points (1 EVC per dwelling)
7. Submission of a Phase II Intrusive Site Investigation Report
8. Submission of remediation strategy
9. Implementation of remediation strategy



10. Submission of validation report
11. Reporting of unexpected contamination
12. Noise report assessment (future occupiers of the development)
13. Removal of Permitted Development rights for outbuildings and extensions within red line boundary
14. Permeable surfacing for hardstanding and estate road
15. Details of junction of new estate road
16. Internal adoptable standard roads
17. Scheme detailing location and cross sectional information for all new retaining walls adjacent to existing/proposed adoptable highway
18. Scheme detailing location and cross sectional information for all new retaining walls adjacent to existing/proposed adoptable highway all new surface water attenuation culverts/ tanks located within the proposed adoptable highway footprint
19. Details of storage/access for waste
20. Full landscape proposals to be submitted (including hard and soft landscaping, details relating to existing trees and vegetation and replacement tree planting)
21. Samples of materials to be submitted and subsequently approved
22. Construction Phase temporary drainage, flood risk and pollution mitigation
23. Bat / bird box provision on dwellings
24. Obscure glazing some windows where necessary

**Background Papers:**

Application and history files.

Website link to be inserted here

Certificate of Ownership – Notice served on/ or Certificate A signed:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/91534>

Certificate A signed and dated 3<sup>rd</sup> May 2019