
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 17-Nov-2020

Subject: Planning Application 2019/93616 Erection of 46 dwellings [revised layout with vehicular access from southwest] Land south of Soureby Cross Way, East Bierley, BD4 6PL

APPLICANT

Rouse Homes

DATE VALID

07-Nov-2019

TARGET DATE

06-Feb-2020

EXTENSION EXPIRY DATE

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

<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: Birstall and Birkenshaw

Ward Councillors consulted: Yes

Public or Private: Public

RECOMMENDATION:

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

- 1) Affordable housing – Nine affordable housing units (five social/affordable rent, four intermediate) to be provided in perpetuity.**
- 2) Education – £195,227 contribution.**
- 3) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £34,021 contribution.**
- 4) Open space – Contribution (amount to be confirmed) towards off-site provision.**
- 5) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.**
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker**
- 7) Recreation ground – Transfer of part of application site to council (for recreation use), to compensate for land to be used for vehicular access.**

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

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission, for a residential development of 46 dwellings.**
- 1.2 The application was considered at a virtual meeting of the council’s Strategic Planning Committee on 24/06/2020, where it was resolved to defer the committee’s decision for the following reasons:**

- 1) To undertake a further investigation into the feasibility of developing an access point via the strip of unregistered land located from the southwest of the site off Hunsworth Lane;
- 2) To request that further work is undertaken to explore the support that could be provided to the East Bierley Community Sports Association to facilitate their plans to improve the sporting facilities.

- 1.3 The application was considered again by the Strategic Planning Committee on 05/08/2020, where it was resolved to defer the committee's decision so that officers could consider reasons for the refusal of the application related to unregistered land issues.
- 1.4 Following deferral on 05/08/2020, however, the applicant proposed a revised layout and access arrangement that addresses the unregistered land issues. The application is therefore presented to committee again with a recommendation for approval.
- 1.5 The application would normally have been presented to the Heavy Woollen Sub-Committee as the site is larger than 0.5 hectares in size. Meetings of that committee (to which this application could have been presented) were, however, cancelled due to Coronavirus Covid-19, and the application was instead considered twice at virtual meetings of the Strategic Planning Committee. Although meetings of the Heavy Woollen Sub-Committee have now resumed, it is considered appropriate to again present this application to the Strategic Planning Committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is now 1.81 hectares in size and is located at the southern edge of the settlement of East Bierley. The site sits between a recreation ground to the northwest (designated as urban green space in the Local Plan), and green belt land to the southeast. To the southwest is a track extending southwards from Hunsworth Lane to the East Bierley Playing Fields, and part of this track is now within the application site red line boundary. To the northwest is Soureby Cross Way, a residential street serving over 20 properties.
- 2.2 The site has previously been in agricultural use. Part of the track that is now within the application site red boundary is designated as common land. Surrounding uses are residential, recreational and agricultural.
- 2.3 The application site generally slopes downhill from north (approximately 209m AOD) to south (approximately 196m AOD).
- 2.4 The East Bierley Conservation Area includes the carriageway and footway of Hunsworth Lane to the northwest of the application site, as well as the residential terrace at 607 to 621 Hunsworth Lane and properties further to the north, including 634 and 643 Hunsworth Lane. The nearest listed buildings are Cross House, and a cross base and stocks, all located to the north of the application site, and all Grade II listed.

- 2.5 There are no significant or TPO-protected trees within the application site. However, there are trees and shrubs along its edges. A Biodiversity Opportunity Zone (Pennine Foothills) covers the site.
- 2.6 The application site is within a Development Low Risk Area as defined by the Coal Authority.
- 2.7 No public rights of way cross the application site.
- 2.8 Low-level electricity cables (on timber poles) cross the site from the southwest to the northeast.
- 2.9 The application site is allocated for residential development in the Local Plan (site allocation HS89).

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 46 dwellings.
- 3.2 Vehicular access to the site is now proposed from the southwest, via the track that meets Hunsworth Lane. From this new site entrance, a new estate road would run along the site's northwest boundary (adjacent to the recreation ground), however this would not provide a vehicular connection to Soureby Cross Way at the north end of the site. Of the part of the existing track that is within the application site, around half would be upgraded with a 5.5m carriageway and two 2m-wide footways proposed between Hunsworth Lane and the site entrance. Further south, beyond the stretch of road to be adopted, the track would be upgraded with a new carriageway surface and footway.
- 3.3 In the southern part of the site, two spurs (including private drives) would extend southeastwards into the site from the main estate road. In the northern part of the site, a road would extend from the main estate road, providing access to the farmland to the southeast and extending northeastwards to a gated vehicular entrance on Soureby Cross Way. A pedestrian connection is proposed at the north end of the estate road to Soureby Cross Way, and another pedestrian connection is proposed opposite unit 45, providing access to the adjacent recreation ground and its playspace.
- 3.4 Dwellings would be arranged around these new roads, and an electricity substation is proposed towards the southern corner of the site.
- 3.5 Seven terraced, 20 semi-detached and 19 detached dwellings are proposed. All dwellings would be two storeys in height, and would have pitched or hipped roofs. Nine house types are proposed. Five of the 46 units would have two bedrooms, 25 would have three bedrooms, and 16 would have four bedrooms.
- 3.6 In relation to affordable housing, the applicant has proposed the provision of nine units on-site, representing a 20% provision. Units 1, 2, 3, 4 and 33 would be for affordable rent (three 2-bedroom and two 3-bedroom houses), and units 32, 34, 35 and 36 would be intermediate (two 2-bedroom and two 3-bedroom houses)
- 3.7 All dwellings would have off-street parking. 20 dwellings would have detached garages and 13 dwellings would have integral garages.

3.8 An area of publicly-accessible open space is proposed adjacent to the site entrance at the southwest end of the site. Further “amenity areas” are proposed adjacent to Soureby Cross Way. Soft landscaped areas (not within private curtilages) are also proposed around the site

3.9 A surface water storage tank is proposed beneath the open space at the southwest end of the site, and a hydrobrake is proposed beneath the adjacent track. A connection is proposed from these to an existing culverted watercourse beneath Hunsworth Lane.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None relevant. The planning history listed in previous committee reports related to the parts of Bierley Marsh and Soureby Cross Way that are no longer within the current application site red line boundary.

4.2 The track that forms part of the application site was within the red line boundary of the following application:

2011/91558 – Permission granted 24/08/2011 for erection of new changing facilities at Birkenshaw Rugby Club.

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

5.1 The applicant requested pre-application advice from the council in November 2018 in relation to a development of 43 units with vehicular access provided from the track to the southwest (ref: 2018/20493). Officers met the pre-application team on 13/12/2018 and 16/01/2019. No written pre-application advice letter was issued, however advice was provided verbally and via email. The main points of the advice emailed on 21/12/2018 are summarised as follows:

- Justification would be required for a scheme that did not provide a density of 35 units per hectare or the 59 units referred to in the draft site allocation.
- The setting of the East Bierley Conservation would not be adversely affected.
- Although there is potential for secondary/alternative/emergency access off Soureby Cross Way, the most plausible vehicular access would be off the private unmade access track onto Hunsworth Lane.
- Sight lines from the proposed access onto Hunsworth Lane are poor to the left when exiting the track. Acceptable sight lines would need to be shown from the access onto Hunsworth Lane. Given that Hunsworth Lane is a classified road the sight lines should be based on 85 percentile wet weather speeds.
- For unregistered land, appropriate notices would need to be completed to confirm all reasonable steps have been taken to establish the owners and/or notices served on all interested parties to validate any application which may include areas of land not in ownership of the applicant.

- Consideration should be given to the provision of a footway along Hunsworth Lane frontage to the site and a link could be provided through to Soureby Cross Way to improve pedestrian links.
- The proposed internal layout should be a shared surface designed to achieve a maximum speed of 15mph.
- Parking should be provided in accordance with Appendix 2 of the UDP, including visitor (1 space per 4 dwellings) and cycle parking. If integral garages are to be considered as contributing towards parking provision they must provide internal dimensions of 3m x 6m.
- Turning heads should be designed to accommodate an 11.85m long waste collection vehicle which should be demonstrated using swept path analysis.
- The internal access road should be 5.5m in width and 600mm hard margins are needed to all sections of any shared surface carriageways.
- Preliminary Ecological Appraisal required, followed by an Ecological Impact Assessment. The final proposals will need to demonstrate a biodiversity net gain.
- Education contribution of £182,495 required.
- The site has been identified as potentially contaminated land due to its proximity to a landfill site. Conditions relating to site contamination would be necessary.
- Measures to protect new residents from noise would be necessary.
- Electric vehicle charging points would be required.
- Health Impact Assessment not required.
- Drainage strategy will need to follow the drainage hierarchy. Site may be suitable for infiltration (subject to testing). Attenuation must store the critical 1 in 30 year storm. Volumes generated by storms up to and including the 1 in 100 + 30% climate change critical storm also must be stored on site. Attenuation spans greater than 1500mm beneath the highway will preclude adoption. Management and maintenance arrangements needed for drainage systems. Details of temporary drainage measures during works are needed.
- Nine affordable dwellings required (five social/affordable rent, four intermediate). Batley and Spen sub-area has a high need for affordable housing, particularly for houses of three or more bedrooms, as well as 1- and 2-bedroom homes and homes for older people.

5.2 Discussions between the pre-applicant team and officers continued into 2019 regarding the provision of access into the site, and the difficulties relating to the unregistered land along the track to the southwest (adjacent to 612 Hunsworth Lane).

5.3 As set out in the submitted Statement of Community Involvement, the applicant carried out local pre-application consultation in the form of a letter (including a proposed site plan) sent to the occupants of 123 nearby properties, and to local ward Members. 17 responses were received.

5.4 During the life of the current application, the applicant submitted revised layouts which moved the proposed development's main estate road from the centre to the northwest edge of the site. In addition, the number of residential units was increased from 42 to 46, along with a commensurate increase in the proposed number of affordable housing units (from eight to nine). Amended floorplans and elevations of the proposed dwellings, a revised Flood Risk Assessment and Surface Water Management Strategy, landscaping

proposals, details of works to Bierley Marsh and Soureby Cross Way, ecological information and a new Stage 1 Road Safety Audit (and designer's response) were submitted in connection with the amended layout and increased number of units. A gas risk assessment, an Ecological Impact Assessment and an Arboricultural Impact Assessment were also submitted during the life of the application, in response to comments from officers.

- 5.5 Following the resolution of the council's Strategic Planning Committee on 24/06/2020 to defer its decision, the applicant submitted further information relating to potential support for the East Bierley Community Sports Association, and to the track to the southwest of the site.
- 5.6 Following the resolution of the council's Strategic Planning Committee on 05/08/2020 to defer its decision, the applicant submitted proposals for an amended layout that included the provision of vehicular access via the track to the southwest of the site. Revised drawings and supporting documents (including Flood Risk Assessment rev C) were submitted in connection with this amendment.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 The application site is allocated for residential development in the Local Plan (site allocation HS89). HS89 relates to 1.81 hectares (gross) / 1.7 hectares (net, excluding an area of open land from the developable area), sets out an indicative housing capacity of 59 dwellings, and identifies the following constraints:
- Third party land required for access
 - Site is close to a Conservation Area

- 6.3 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy

LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Collection, Recycling and Storage Facilities Guidance – Good Practice Guide for Developers (2017)
- Green Street Principles (2017)
- East Bierley Conservation Area Appraisal (undated)

Climate change

6.5 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining

planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

National Planning Policy and Guidance:

6.6 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 are:

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

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

6.8 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – national described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development, and a development either within a conservation area or that affects its setting.

7.2 The application was advertised via two site notices posted on 26/11/2019, an advertisement in the local press dated 21/11/2019, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for this initial publicity was 17/12/2019.

7.3 16 representations were initially received from occupants of neighbouring properties, the East Bierley Village Preservation Society (EBVPS), and a representative of the East Bierley Community Sports Association (EBCSA). These have been posted online. The following is a summary of the points raised:

- Objection to loss of green belt land. Discontinuance of agricultural use hasn't changed its categorisation.
- Objection to loss of public and protected land along Soureby Cross Way to enable widening.
- Harm to character and appearance of East Bierley. East Bierley is a unique and rare village community, and should be preserved. Proposed development would turn East Bierley into just another district of a conurbation. Village life would be lost.
- Landscape harm. Views of green fields would be lost.
- Harm to character and appearance of conservation area.
- Proposed houses not in keeping with character of the village.
- Proposed development would be visible from public land.
- Loss of privacy. Houses in Soureby Cross Way and Hunsworth Lane would be overlooked. Recreation ground would be overlooked.
- Loss of view from existing dwellings.
- Light pollution.
- Vehicle headlights would shine into windows of houses opposite new junction on Soureby Cross Way, causing nuisance.
- Increased noise and disturbance to quiet village. Noise of traffic would affect three houses nearest to new junction on Soureby Cross Way.
- Development would bring additional traffic. Village is often gridlocked and is used as a rat run. Vehicles have to mount footway to pass oncoming buses. Roads and village cannot cope with more vehicles. Traffic volumes and speeds are already dangerous. Local roads are too narrow. Village needs a traffic reduction scheme before more homes are built.
- School already creates vehicle movements and parking on Hunsworth Lane, The Marsh, South View Road and Soureby Cross Way. Council should extend parking restrictions close to school. Residents are often unable to access their properties. Hunsworth Lane is reduced to a single lane due to on-street parking.
- Bierley Marsh and Soureby Cross Way are single-track and are already inadequate for existing residents. Gradients make this road dangerous in icy conditions. There is limited parking, and passing places are often used for parking by visitors, delivery vehicles, people using the recreation ground and at school drop-off and pick-up times. Proposed widening would result in loss of regularly-used parking bays. Widening would result in more school-related parking, causing congestion and disruption. Planners had previously stated that Soureby Cross Way only had capacity for one more house.
- Proposed new junction to Soureby Cross Way would make reversing onto this existing street difficult.
- Children moving between school and recreation ground would be endangered by additional traffic on Soureby Cross Way. Soureby Cross

Way separates the village's two main attractions for children (the duck pond and playspace), and children often run between the two.

- Proposed access and egress is inadequate. Concern regarding visibility and safety when turning out of Soureby Cross Way. Visibility is poor here when cars are parked on Hunsworth Lane. Tree also restricts visibility. Accidents will happen here, or will become more likely. Applicant's suggested reduced visibility splays questioned.
- Access from track to southwest would be more suitable – visibility here is better and compliant with recommended standards, and would mean 50% of new traffic would not need to enter the village near the school. Applicant has not demonstrated that access from track to southwest can't be achieved. Query why this isn't possible if public land can be used at Soureby Cross Way.
- Query whether land along Soureby Cross Way has been purchased or is owned by council.
- Sports club want the development to be accessed via the track. Viability of this community hub depends on track being developed. Sports club may be unable to expand and may have to relocate if track isn't improved, resulting in a loss of benefits to the village. Disappointment at loss of opportunity to upgrade access to playing fields. Applicant should make a financial contribution towards upgrading track. Proposed development doesn't leave adequate space for track to be improved.
- Proposed development would be best served by entrances at both ends of the site, and barrier in the middle.
- Access from Soureby Cross Way to field adjacent to application site should be maintained.
- Pollution risk to children caused by additional traffic.
- Construction traffic should only come via Hunsworth Lane and not through the village via Bradford Road, Cliff Hollins Lane or Raikes Lane. All access points into East Bierley have "unsuitable for large vehicles" signage. Building materials should be delivered via the track to the southwest. No heavy vehicles should access the site during school drop-off and pick-up times.
- Permission should be sought from the rugby club regarding use of their car park by contractors. Soureby Cross Way doesn't have space for contractor parking.
- Noise, disruption, mud and congestion during construction. Problems were caused at fire station development at Bradford Road, Birkenshaw.
- Soureby Cross Way cannot be closed during construction, as residents need 24-hour emergency access. Deeper works to support increased traffic on Soureby Cross Way may also disrupt gas, water and electricity supplies, adversely affecting residents.
- Construction hours should be specified.
- Development would cause stress to elderly residents of Soureby Cross Way.

- Loss of fields would exacerbate flooding problems. Natural flood protection would be destroyed. Gardens downhill will flood. Water already runs off site onto Hunsworth Lane, and freezes in winter.
- Impact on wildlife. Site supports a variety of wildlife. Applicant's information regarding bat roosts queried.
- Loss of trees. Trees proposed in private gardens may be cut down. Unclear if two trees planted along Soureby Cross Way in memory of villagers would be lost.
- Loss of community "lung" reduces ability to counteract traffic pollution.
- General lack of infrastructure locally. New housing should be limited unless new infrastructure is provided.
- Some of the development's budget should go towards improvements to public open spaces in the village, to partly offset the development's negative impacts.
- Impact on electricity supply and broadband.
- Drains under Soureby Cross Way are not deep and proposed development poses risks to utilities and sewerage system.
- Local schools do not have capacity. East Bierley Primary School cannot expand without using public land. School already has to use nearby public land. Development's children would have to be driven to schools further away, causing greater congestion, pollution and health and safety risks. Walking to school should be encouraged. BBG Academy has not been referred to.
- Local doctors are struggling with patient numbers.
- Negative impact on house prices.
- Meeting with residents should have been arranged to enable discussion of planning matters.

7.4 Amendments made to the proposals during the life of the current application necessitated re-consultation. Two further site notices were posted on 22/02/2020, a further press notice was published on 05/03/2020, and letters were again delivered to addresses adjacent to the application site and to those who had previously commented. The end date for this additional publicity was 26/03/2020.

7.5 Nine further representations were received. These have been posted online. The following is a summary of the additional points raised:

- Increase in unit numbers to 46 would worsen problems previously identified.
- No new development can look old. Majority of houses opposite are at least 80 years old.
- Views from village green and approach to pond would be affected.
- View from Soureby Cross Way across countryside would be obstructed.
- Applicant's photos don't illustrate views to Pennines and across the Spen valley.

- Land has been used for agriculture until quite recently. Field has been deliberately abandoned in recent years despite there being a local need for farmland.
- Widening of Soureby Cross Way would require loss of open space or land within the conservation area.
- Field cannot be built on if original access point is not proposed.
- Officers should visit the site at 08:45 and 15:15 to witness vehicle parking and movements at the start and end of the school day.
- Lorries should not be allowed to only use Soureby Cross Way during construction.
- Staggered junction on Hunsworth Lane is not ideal, and sight line up Hunsworth Lane has not been maintained.
- If to be used for access, Soureby Cross Way should be straightened, made less steep, and widened at its junction with Hunsworth Lane.
- Public footpaths will be flooded.
- BBG Academy is oversubscribed.
- Existing population of East Bierley will already place additional demand on over-subscribed schools.
- Existing playspace can become overcrowded and unsafe.
- Inadequate local dental care provision.
- EBVPS would like to be invited to any public meeting regarding this application.

7.6 Further drawings and documents were submitted by the applicant after the re-consultation period ended. However, these illustrated amendments to the proposals and provided technical information that did not necessitate a third round of local consultation.

7.7 Following the resolution of the council's Strategic Planning Committee on 24/06/2020 to defer its decision, the EBCSA made a further representation, noting:

- Full access and rights of way to the playing fields must be maintained at all times.
- Concern regarding how the track would be left post-development.
- It is not for a charitable organisation to take on ownership of part of the track.
- The sports club's preference would be for the track to be upgraded to adoptable standards – how this is achieved and enforced is up to the council.
- The sports club's operation may be jeopardised if its future plans are not taken seriously and are halted due to accessibility issues.
- The highway demands of the club's future plans should be considered together with proposed residential development.
- Sports club has no objection to access to the residential development being provided from Hunsworth Lane and along the track.
- No formal agreement is in place between the sports club and the applicant.
- As the sports club's landlord, the council needs to act to protect landowner interests, the sports club, the local community and investments previously made.

7.8 Of note, the EBCSA is currently considering the expansion of facilities and activities at the East Bierley Playing Fields, including the provision of two new pitches, a mini-pitch, seating, a new club house and a 150-space car park. A meeting took place on 28/07/2020, attended by the applicant, representatives of the EBCSA, Cllr Smaje and Cllr Thompson. Subsequent to this meeting, the EBCSA made a further representation to the council regarding the current planning application, stating:

- Rouse have agreed to ensure that the road (on the land they own) will be constructed to allow a full footpath and double vehicle passing and this is acceptable to us as they will need to do this to maintain access and bring their services on and off the site.
- EBCSA's preference would still be for a full 2-way access to be formed off Hunsworth lane as this would both benefit EBCSA and the development and I am sure would be the most preferred option for the developer as well.
- In addition to the above Rouse have offered to work with EBCSA on our phase 2 development as appropriate to ensure both parties benefit from the planning process.
- EBCSA wish to ensure that any money allocated from the open space contribution is allocated to the playing fields development within EBCSA site for the benefit of the community and not sorting access / egress out.

7.9 Most recently, following the submission of a revised layout that included the provision of vehicular access via the track to the southwest, a third round of public consultation was carried out. Two site notices were posted on 06/10/2020, and letters were again delivered to addresses adjacent to the application site and to those who had previously commented. The end date for this additional publicity was 01/11/2020.

7.10 Eight further representations were received, including from the East Bierley Village Preservation Society. These have been posted online. The following is a summary of the additional points raised:

- Objection to revised access proposal. Greater number of residents would be impacted. Query how unregistered land issue has been overcome. Vehicular access from Soureby Cross Way would be more logical. Sports club would benefit at a cost to the village. Query if traffic flows have been measured at the previously- and currently-proposed access points. Proposed access would be used by new residents and the sports club, and would be heavily trafficked. Limited visibility at track / Hunsworth Lane junction means accident risk would increase. Soureby Cross Way has better visibility, and has traffic calming. Adverse impact on resident that uses track. Suggest providing vehicular access from both the track and Soureby Cross Way, to split the traffic load.
- Proposed new access point is a better option than Soureby Cross Way. Support for new access proposal. This would improve the access to the sports ground and leaves Soureby Cross Way to cope with its existing heavy traffic.
- Increased local congestion. Risk that emergency vehicles could not get through.

- Inappropriate site for development. Local Plan allocation should be reviewed. Proposed use is incompatible with existing uses.
- Clear public benefits would not be provided
- Objection to building houses on former green belt.
- Development would sever the village from the surrounding landscape. Adverse landscape impact. Loss of view towards Emley Moor. More space needed between buildings.
- Village is losing its identity.
- Harm to conservation area. Proposals wouldn't reflect local context.
- Concerns previously raised by Members and Historic England still apply.
- Archaeological potential of the site should be assessed.
- Overdevelopment proposed. Number of units should be reduced.
- Increased emissions.
- Increased noise.
- Light pollution.
- Dust.
- Vibration.
- Adverse impacts caused by electricity substation. Substation and service area should be located away from existing residents.
- Overlooking of properties on Hunsworth Lane.
- Query if development would be carbon-neutral and compliant with environmental policies.
- Vehicle headlights would shine into windows of houses opposite.
- Application documents haven't been updated, and still refer to 42 units. Query if additional units would have a detrimental bearing on applicant's reports.
- 10 affordable homes required, not nine.
- Affordable single-storey homes are needed for older residents. Proposed unit sizes wouldn't help meet local need. Local needs should be researched and met.
- Homes not needed here. Area is already providing many new homes. Brownfield land could be used instead.
- Proposal is profiteering exercise.
- Query if local infrastructure could support proposal. Local school is at capacity. New school should be built on application site. Developer should improve adjacent play space and provide a shop and a community hub with pre-school provision. Developer should pay for maintenance of school, cricket club, pond and marsh, village green and other public areas. Developer should fund community activities and Christmas lights.
- Loss of trees.
- Loss of habitat.
- Japanese Knotweed found nearby – query if application site is also affected.
- Unit 25 is close to site boundary and would cause problems for farming of adjacent land.
- Precedent would be set for similar development on farmland.

7.11 The following comments from Members were made prior to the applicant's submission of a revised layout that included the provision of vehicular access via the track to the southwest.

- 7.12 Cllr Smaje – Proposed development would put more pressure on an already-busy road, and would create more traffic within the conservation area. Lines of sight are already affected by parked vehicles. Proposed access is still at the wrong end of the site and is contrary to documentation supporting the Local Plan. Query if applicant has tried to locate the owner of the part of the track referred to as a ransom strip. Rugby club needs the track to be upgraded, and the proposed development should not hinder that. The council supports the rugby club and should ensure that the development would not affect the club's future success.
- 7.13 Application should not be determined at a meeting behind closed doors – several representations have been made, and members of the public should be able to participate at a committee meeting, otherwise the council could be seen as trying to push through a controversial decision. Committee members will need to visit the site to ensure they fully understand the development's impact.
- 7.14 Regarding sustainable transport contribution, it would be inappropriate to spend monies on bus shelter improvements – what is needed is regular bus services through East Bierley along Hunsworth Lane and to Cleckheaton, speed cushions further down Hunsworth Lane (past the sharp bend towards the farms). Query whether local school requires extra space for additional children (and not just a contribution towards places). Thought needs to be given to a sports contribution and play facilities.
- 7.15 Cllr Smaje also made the following comments on 15/12/2019:

“Planning Statement – the plans are not backed by the Heritage Impact Assessment as claimed. The Heritage Impact Assessment carried out for Kirklees – not the developer – when the land was allocated under the Local Plan quite clearly shows the access to the site as being from the bottom of the site, not from Soureby Cross Way as the plans submitted. The proposed access impacts on existing properties as well as some of the heritage assets of the village. It will also put extra traffic directly into the centre of the village instead of spreading it using a different access. The document states that the site lines are not to standard, we haven't it would seem had enough reported accidents at that junction for it to affect the development. Surely by putting more traffic on a junction with site lines that are not to standard is only putting in place conditions for accidents to happen. The proximity of the school and parking should not be disregarded.

In the heritage statement produced for the council it states: “Any development in an area of moderate significance needs to be in keeping with the scale, height, massing and alignment of the historic buildings in the vicinity with particular attention paid to the immediate setting of the heritage asset. The design should seek to make use of traditional or sympathetic building materials and techniques and the proposed use of the buildings in should respect the traditional character of the setting of the adjacent heritage asset which is in this case is set out in the East Bierley Conservation Area Appraisal”.

The document provided by Rouse claims that the development would cause less than substantial harm, where the council's assessment indicate a moderate significance to historical buildings that needed to

be mitigated. How does this development mitigate this, by putting more vehicles so close the historical assets? The scale and height of the development needs to be considered in relation to the gradient of the land.

Consultation – They claim they have taken into account feedback provided; however, they have completely disregarded the comments and concerns raised with them.

In the Design and Access Statement local view 4 on page 9 is in Birkenshaw – not East Bierley.

The Transport Statement shows a widening of Soureby Cross Way and discusses parking within the development. What it does not discuss is that if Soureby Cross Way is widened then parking for existing properties will be lost. How is this to be replaced?”.

- 7.16 Following the resolution of the council’s Strategic Planning Committee on 24/06/2020 to defer its decision, Cllr Smaje raised queries regarding the status and ownership history of the application site and adjacent land. These queries have been answered by officers in Land Charges and Legal, Governance and Commissioning.
- 7.17 Cllr Thompson – Concurs with Cllr Smaje’s comments (paragraph 7.12 above), and added that the council not only support but has heavily financed the sports club in East Bierley. For the betterment of the local community and the health benefits to the area, the council should stop thinking about what is easy for the developer and more about what is right for the area and the residents already in that area.
- 7.18 Regarding sustainable transport contribution, this could be better spent on the village health and wellbeing facilities at EBCSA or track improvements to accommodate existing traffic and the proposed additional 150 car parking spaces. Money would be wasted on Metro cards, 95% of which are never used. More buses are needed, rather than an upgrade to a bus stop that no buses serve.
- 7.19 Responses to the above comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

KC Highways Development Management (commenting on latest layout) – The proposed parking standards are generally in accordance with pre-application advice guidance, with two- and three-bedroom dwellings having two spaces, and four-bedroom dwellings (or larger) having three spaces. Plots 1 to 4 are all two-bedroom dwellings but only six off-street parking spaces are provided. Highways Development Management would recommend allocating the two adjacent visitor parking spaces to a plot to meet the recommended standards. Only four other visitor parking spaces are shown which represents a shortfall. One space per four dwellings is the recommended standard.

Bin collection points are shown to all plots. However, a large refuse vehicle would be unable to access the proposed roadway serving plots 1 to 7 given its size, and a communal bin collection point should be considered.

A revised stage one road safety audit will need to be provided.

The applicants have provided a plan showing the swept paths for a 11.85m refuse vehicle through the site. It is noted that the road needs adjusting adjacent to plots 28 and 46 and that these amendments are not to be made until the road safety audit has been carried out. Further amendments may be required. Detailed advice provided regarding swept paths.

KC Lead Local Flood Authority (commenting on previous layout) – No objection, subject to conditions requiring a detailed drainage design for surface water and land drainage, an exceedance flow routing plan, a construction-phase surface water management plan, and a drainage management and maintenance plan.

Coal Authority (commenting on latest layout) – Site is within the defined Development Low Risk Area, so there is no requirement for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted. Standing advice referred to.

8.2 Non-statutory:

KC Biodiversity Officer (commenting on latest layout) – No further ecological information has been submitted to support this application, therefore previous comments remain valid. Biodiversity metric calculations should be carried out based on the new revised layout using the Biodiversity Metric 2.0.

KC Conservation and Design (commenting on latest layout) – The impact of the proposed development on the setting of the East Bierley Conservation Area has been considered, and there would be minimal harm. No objections on heritage grounds.

KC Education (commenting on latest layout) – £195,227 education contribution required.

KC Environmental Health (commenting on previous layout) – Satisfactory Phase 1 contaminated land report submitted. Phase 2 report inadequate, therefore four conditions relating to contaminated land are recommended. Conditions also recommended to secure electric vehicle charging points and a Construction Environmental Management Plan.

KC Landscape (commenting on previous layout) – £86,696 open space contribution required, potentially for use at the adjacent recreation ground (subject to ward Member and community consultation). Birstall and Birkenshaw ward is deficient in quantity of natural and semi-natural greenspace and allotments (although the proposed development does not meet the allotments trigger of 50 units). 46 units trigger the requirement for a Local Area of Play. Condition recommended, requiring full details of landscaping and its future management, and an Ecological Design Strategy. Details of connections to recreation ground required.

KC Strategic Housing (commenting on previous layout) – 20% affordable housing provision required. On-site provision is preferred. In the Batley and Spenningsdale sub-area there is a significant need for 3-bedroom affordable homes (and larger), and demand for 1- and 2-bedroom affordable homes. Nine of the 46 units should be affordable. Proposed mix of 2- and 4-bedroom homes is welcomed. Affordable dwellings should be distributed evenly throughout the development (and not in clusters), and must be indistinguishable from market housing in terms of both quality and design. Proposed distribution of affordable units is acceptable. Kirklees works on a 55% social/affordable rent / 45% intermediate split – five social/affordable rent and four intermediate units would therefore be appropriate.

KC Trees (commenting on previous layout) – No objection. Adjacent trees form a prominent landscape feature, and are on council-controlled land. Applicant's arboricultural information appears to have informed the proposed design, and unacceptable long-term conflicts between trees and occupants of the proposed development should therefore be avoided. The proposed access road appears to be located an adequate distance from the trees, however the proposed parking spaces may need to be constructed from a no-dig cellular confinement system. Arboricultural Method Statement (to show how construction would be undertaken while avoiding damage to trees) required, ideally prior to determination, but can be secured via a pre-commencement condition.

KC Waste Strategy (commenting on previous layout) – Inclusion of bin collection points welcomed, however clarification required regarding provision in specific locations, to ensure proposed provision can be accommodated without obstructing highways or parking. Surfacing of collection points needs clarifying. Space for three 240-litre bins needed for each dwelling. Temporary refuse collection arrangements needed if development is to be phased with residents moving into dwellings before development is completed (condition recommended). General advice provided regarding waste storage and collection.

West Yorkshire Police Designing Out Crime Officer (commenting on latest layout) – No objection in principle. Plots 1 to 4 and 32 to 33 have a shared rear access. Plots 1 to 4 backs onto to open land behind the properties. This is not acceptable. Detailed boundary treatment plans requested. Highways throughout the development should be adopted, as small private drives serving several properties that are unadopted will not have any street lighting to BS5489-2:2016 standard. This lends itself to creating dark spaces around properties, which will be exploited by offenders. Gates to access rear gardens are set back away from the front building line – this is also not acceptable. Rear garden access gates are requested to be conditioned to be installed as close to the front building line as possible in line with the Secured by Design recommended guidelines.

Yorkshire Water (commenting on latest layout) – Conditions recommended regarding development close to public water main, separate systems of foul and surface water drainage, and details and completion of satisfactory surface water outfall. 4m easement required either side of the centre line of the Dewsbury Link Main. No objection to proposed layout or access from Hunsworth Lane. Public water main must be protected during construction. Applicant's Flood Risk Assessment is acceptable. Advice provided regarding connections to sewers and sewer adoption.

9.0 MAIN ISSUES

- Land use and principle of development
- Climate change and sustainability
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Support for the East Bierley Community Sports Association
- Other matters

10.0 APPRAISAL

Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The 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 Full weight can be given to site allocation HS89, which allocates the site for housing. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however, some release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H531) stated:

“The site is located in part of the strategic gap between East Bierley and Birkenshaw. However, it would follow the existing southeastern edge of the village and not encroach onto Birkenshaw. Accordingly, and taking account of the identified need for housing, I conclude that exceptional circumstances exist to justify the removal of the site from the Green Belt”.

- 10.4 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the loss of the site's previous agricultural use, the proposed residential use, and the principle of residential development at this site, is policy compliant.
- 10.5 The 46 dwellings proposed would also contribute towards meeting the housing delivery targets of the Local Plan.

Climate change and sustainability

- 10.6 The applicant's Planning Policy Statement and Design and Access Statement refer to climate change and sustainability policies, and briefly refer to drainage, but do not explain how the proposed development would help to address or combat climate change effects. Officers note, however, that measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents) and electric vehicle charging points would be secured by condition, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures will need to account for climate change.
- 10.7 The application site is in a sustainable location for residential development, as it is relatively accessible and is adjacent to an existing, established settlement. Although local public transport and certain other facilities are limited, East Bierley currently has a pub, sports facilities, a primary school, a hairdresser, a florist / food shop and churches, such that some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.8 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.

Design and conservation

- 10.9 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide.
- 10.10 The application site is subject to constraints relevant to design and conservation, including the nearby East Bierley Conservation Area which includes the carriageway and footway of Hunsworth Lane to the west of the application site, as well as the stone-built residential terrace at 607 to 621 Hunsworth Lane and properties further to the north, including 634 and 643 Hunsworth Lane. The nearest listed buildings are Cross House, and a (probably medieval) cross base and (probably 18th century) stocks, all located to the north of the application site, and all Grade II listed. Due to its topography

and location adjacent to a recreation ground, the application site is visible in many views from public vantagepoints.

- 10.11 The council's character appraisal of the East Bierley Conservation Area defines East Bierley as a rural village surrounded by picturesque countryside and adds that the village's green spaces emphasise its rural location and allow views over the surrounding countryside. Views through gaps between buildings are specifically noted. Noting the large amount of open space in and surrounding the conservation area, the appraisal highlights that this space is an integral part of the character of the conservation area, and states that it should be preserved in order to maintain an important attribute of the village. The street layouts in the conservation area are characterised by stone-built terraced properties with pitched stone slate roofs which are interspersed by stone detached dwellings. The scale and the difference in building heights also add to the character and create a varied streetscape. The appraisal notes typologies ranging from large detached properties to terraces and converted farm dwellings, while later development spreading outwards from the village's historic centre (including 20th century development) is also noted, as are the different styles, layout and character of these areas. The appraisal notes the use of local natural stone (in regular coursed ashlar), the common roof materials (stone, slate and red tiles), the common pitched roofs, and the contribution that low stone garden walls make towards the area's character. Street surfaces are mostly tarmac, with concrete kerbs. The appraisal states that all trees play an important role in creating the character of the conservation area, and that attention should be given to existing trees and the introduction of new trees when considering development proposals in East Bierley.
- 10.12 With regard to opportunities for enhancement, the appraisal states that the scale, design and materials of new developments should reinforce and protect the features in East Bierley that give it special character, such as using similar styles and designs of buildings, replicating window designs and using materials which are used on existing historic buildings. Traditional materials should be used for new buildings as modern equivalents such as artificial stone and plastic fails to respect the character of the area. The height and scale of development proposals should be considered in order to protect key views of the conservation area.
- 10.13 The appraisal's townscape analysis map identifies important frontages at 607 to 621 and 643 Hunsworth Lane, and a key view from Bierley Marsh and Soureby Cross Way (southwards, across the recreation ground and across part of the application site). Hunsworth Lane is identified as an important gateway to the village.
- 10.14 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the East Bierley Conservation Area.

- 10.15 As noted by the Local Plan Inspector in her report of 30/01/2019, the application site is located in part of the strategic gap between East Bierley and Birkenshaw. Development of this site, however, would follow the existing southeastern edge of the village, and would not encroach onto Birkenshaw or significantly erode the important gap between the two settlements. Although the proposed development would inevitably bring about change to the landscape and character of this part of East Bierley, and to the village's relationship with the adjacent green belt land, it is considered that the site can be developed without causing significant landscape harm.
- 10.16 Proposed site layouts submitted at pre-application stage, and initially submitted under the current application, showed a main estate road running southwest-northeast through the centre of the site. Dwellings would have faced (and would have been accessed from) this estate road, while the development would have lined the adjacent recreation ground and green belt land with rear garden boundary treatments along most of the site's edges. This would have given the development a very insular character (augmented by the lack of a vehicular or pedestrian connection to the track to the southwest), would have created a poor relationship with adjacent land, and would have squandered opportunities to improve natural surveillance of the recreation ground.
- 10.17 During the life of the current application, officers suggested a revised approach to the proposed development's layout, whereby a new estate road would be provided along the site's northwestern edge, and from which spurs would extend southeastwards into the site. Officers noted that having development on one side of the estate road could be less efficient (in terms of number of units served per so many metres of road), but argued that this layout would enable the applicant to implement a preferable perimeter block approach, and would significantly reduce the need for rear garden boundary treatments along the edge of an important area of public realm (the recreation ground). A much better open space / estate road / house relationship could be achieved, reflecting the relationship along Hunsworth Lane on the opposite side of the open space (and creating a sense of enclosure to the recreation ground reminiscent in some ways of a village green, noting of course that such a space already exists in East Bierley at The Green to the north). Natural surveillance of the recreation ground would be greatly enhanced, and with spurs extending southeastwards from the estate road, public views through the proposed development (of the countryside beyond the application site) would be retained.
- 10.18 The applicant responded positively to the above advice and submitted an amended layout that was much more successful in aesthetic, amenity and security terms. In that amended layout, and the most recent amended layout, while there are still parts of the edges of the site (along parts of the site's green belt boundary) where rear garden fences would be necessary, the extent of these has been significantly reduced, and details to be submitted pursuant to a recommended condition would ensure that their visual impact is minimised.

- 10.19 The applicant also responded positively to officer requests for an increase in the quantum of development proposed. To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Site allocation HS89 sets out an indicative housing capacity of 59 dwellings within a developable (net) area of 1.7 hectares.
- 10.20 During the life of the current application, the applicant increased the proposed number of units from 42 to 46. With 46 units now proposed in a site of 1.81 hectares, a density of only 25 units per hectare would be achieved.
- 10.21 It is noted, however, that the 1.81 hectare site area includes part of the existing track to the southwest, as well as land subject to an easement restriction relating to a Yorkshire Water main (the Dewsbury Link Main) that runs northwest-southeast across the northern edge of the application site. Development close to the site's northern edge is further constrained by the proximity of existing dwellings on Soureby Cross Way (and the need to limit impacts upon their amenities by leaving space undeveloped) and the existence of a bank on the south side of this road (changes in levels are more abrupt at this end of the site). The proposed development must also take its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and the character and appearance of the East Bierley Conservation Area, and it is noted that surrounding densities to the north, southwest and west are not particularly high, with many residential properties benefitting from spacing and good-sized gardens that help define the area's character. The grain of this existing development, and the gaps between buildings, are illustrated in figure ground plans included in the applicant's Design and Access Statement and are described in the East Bierley Conservation Area Appraisal.
- 10.22 Furthermore, it is again noted that site allocation HS89 refers to a developable (net) area of 1.7 hectares (which, with 46 units proposed, results in a density of approximately 27 units per hectare), and that the applicant previously suggested that – with some of the above constraints taken into account – the site's developable area is as low as 1.44 hectares, resulting in a density of approximately 32 units per hectare.
- 10.23 With all these matters taken into account, although the proposed density falls short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, it is recommended that the proposed quantum of development, and its density, be accepted.

- 10.24 As vehicular access is now proposed via the track to the southwest, fewer changes to levels would be required, and changes in levels in parts of the site would be still limited by the existing water main. Developers are in any case normally expected to work with a site's existing topography, rather than radically reshape it.
- 10.25 The proposed development's estate road layout would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs will need to be designed to direct any surface water flow away from building thresholds.
- 10.26 With the layout currently proposed, most rear gardens of the new dwellings would back onto other proposed rear gardens, forming (or partly forming) perimeter blocks. Proposals for rear access to units 1 to 4 and 32 and 33 have attracted comments from the West Yorkshire Police Designing Out Crime Officer. However, it is considered that these concerns (which affect a relatively small number of units in this scheme) can be addressed through appropriate specification of boundary treatments and the provision of lockable gates. The proposed layout would result in natural surveillance of the recreation ground being greatly enhanced, and this is welcomed in relation to crime and anti-social behaviour prevention and creation of safer, more sustainable neighbourhoods. Outdoor areas within the application site that are not proposed within garden curtilages would need to be defined, landscaped and managed to ensure they do not become ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping. A condition related to crime and anti-social behaviour prevention measures is recommended.
- 10.27 The applicant proposes an electricity substation close to the site's south corner. Noting that this installation requires vehicular access, and would not be located particularly prominently, this aspect of the proposal is considered acceptable. Although an alternative location slightly further to the south (next to unit 1) would have been preferable in aesthetic and amenity terms, it is not recommended that planning permission be withheld for this reason.
- 10.28 The existing electricity cables that run across the application site would be underground, and their timber poles would be removed as part of the proposed development. This is welcomed.
- 10.29 Off-street car parking is proposed in front and side driveways, and in integral or attached garages. With appropriate landscaping, the proposed car parking would not have an over-dominant or otherwise harmful visual or streetscape impact.
- 10.30 Nine house types are proposed, all of which would present two storeys to the proposed development's new estate roads. Seven terraced, 20 semi-detached and 19 detached dwellings are proposed. All dwellings would be two storeys in height. The proposed mix of unit types and sizes, and the proposed two storeys, would be suitably reflective of existing development nearby and in the East Bierley Conservation Area. Conventional massing, roof forms and elevational treatments are proposed. The number of, and variations to, house

types would add interest to the proposed street scenes. Pitched roofs, front gables, bay windows and porches are proposed, and these details are considered acceptable.

- 10.31 Regarding materials, section 7 of the applicant's application forms indicates that reconstituted stone is proposed for the walls of the dwellings, and grey interlocking concrete tiles are proposed for their roofs. This proposed palette must be considered in the context of the materials used in the East Bierley Conservation Area, but also in the later, 20th century development that has spread out beyond the village's historic core, and where a wider variety of materials have been used. Although inferior to the local natural stone used in many buildings in the conservation area, subject to a condition requiring details and samples it is recommended that the proposed materials (including the use of artificial stone) be accepted.
- 10.32 The proposed layout would limit the prominence of rear garden fencing, which is welcomed. However, in some locations, careful design of boundary treatments would be necessary, given the site's location in relation to the conservation area and the green belt, and its visibility. Front garden boundary treatments, where required, should be low to reflect those of many properties within the East Bierley Conservation Area. Careful design of boundary treatments and defensive planting will be necessary where proposed side and rear garden boundaries would be exposed to public access. Where applicable, security concerns can be addressed through the use of defensive planting, without the need for additional fencing along the site's sensitive green belt boundary. A condition requiring details of boundary treatments is recommended.
- 10.33 A high-level assessment of the impact of development (at this site) upon the East Bierley Conservation Area was carried out during the preparation of the Local Plan, and officers and the Local Plan Inspector found no reason to reject the then-proposed site allocation due to potential impacts upon this designated heritage asset. It is additionally noted that the relationship between the proposed dwellings and the adjacent recreation ground would in some ways reflect the relationship between the older buildings and The Green at the centre of the conservation area. The important southwards view across the recreation ground (identified in the East Bierley Conservation Area Appraisal) would be framed by the proposed development, however it is considered that this effect would not be harmful.
- 10.34 The application site does not have a direct relationship with the three nearest listed buildings and does not form a part of their settings, particularly since the application site red line boundary was amended to exclude parts of the highway at Bierley Marsh and Soureby Cross Way. It is considered that the proposed development would not cause harm to the significance of these listed buildings. No archaeological designations apply to the application site, and the applicant was not required to submit archaeological information in support of the current application.

10.35 In light of the above assessments, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP7, LP24 and LP35, would be sufficiently complied with. The proposed development is considered compliant with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

10.36 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.

10.37 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties. The proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook. The blank rear wall of the garage of unit 28 would be downhill and 19m away from the front elevation of 20 Soureby Cross Way, and the rest of the rear elevation of this new dwelling would be spaced further away, with most rear windows serving non-habitable rooms.

10.38 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the site's location close to Hunsworth Lane (which is already used by through-traffic) it is not considered that neighbouring residents to the northeast would be significantly impacted. Residents of some existing properties on Hunsworth Lane could experience greater levels of everyday noise and disturbance, however these impacts are not considered so great as to warrant refusal of planning permission. The proposed residential use is not inherently incompatible with existing surrounding uses, including agriculture. The proximity of unit 25 to the site's boundary would not jeopardise the continued use of the adjacent farmland.

10.39 Residents have expressed concern regarding headlights (of vehicles moving out of the proposed development and onto Hunsworth Lane) shining into neighbouring properties. This is acknowledged as a potential impact (and, therefore, attracts some negative weight), however the impact would be momentary, it would only happen when vehicles are moved during dark hours, and it is therefore not considered so problematic as to warrant refusal of permission. Headlights momentarily shining on a property opposite a street entrance in this way is not an uncommon occurrence.

10.40 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site. Details of dust suppression measures and temporary drainage arrangements would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.

- 10.41 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.42 In terms of unit types and sizes, the applicant proposes:
- 2x Linton, 4-bedroom, 185sqm
 - 3x Shelley, 4-bedroom, 157sqm
 - 3x Sandringham, 4-bedroom, 148sqm
 - 4x Nostell, 4-bedroom, 140sqm
 - 4x Bretton, 4-bedroom, 113sqm
 - 9x Studley, 3-bedroom, 119sqm
 - 6x Nunnington, 3-bedroom, 113sqm
 - 10x Bedale, 3-bedroom, 83sqm
 - 5x Malham, 2-bedroom, 72sqm
- 10.43 Five of the 46 units would have two bedrooms, 25 would have three bedrooms, and 16 would have four bedrooms. This is considered to be a sufficiently varied mix of unit sizes that would cater for a range of household sizes, would help create a mixed and balanced community, and would help to avoid visual monotony across the site. Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion, and although specific proportions of unit sizes are not set out in the policy (and there is no requirement for bungalows), and although a masterplan did not need to be prepared for this particular site, the spirit and intention of this policy would be complied with.
- 10.44 Although the Government's Nationally Described Space Standards (2015, updated 2016) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed. Of the 46 dwellings proposed, the majority would comfortably exceed the Government's standards. The four Bretton units and the five Malham units would be compliant depending upon the number of people living in those units. At 83sqm each, the ten Bedale units would fall slightly short of the Government's standard (which is a minimum floorspace of 84sqm for a 3-bedroom, 4-person, 2-storey dwelling), however this is not considered significant in the context of an otherwise acceptable range of unit sizes.
- 10.45 All of the proposed dwellings 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.
- 10.46 All dwellings would have WCs at their entrance level, providing convenience for visitors with certain disabilities. No dwellings would have bedrooms on their entrance level, although several units would have habitable rooms at ground floor level that could be converted to bedrooms.
- 10.47 All of the proposed dwellings would be provided with adequate private outdoor amenity space.

- 10.48 Areas of on-site open space are now proposed, including a 438sqm “amenity area” towards the southwest end of the application site. It is accepted that additional on-site provision would not be appropriate or necessary at this site, given the large recreation ground immediately to the northwest. A financial contribution would instead be required, based on the open space needs of a 46-unit development, and existing provisions and deficiencies in East Bierley and the Birstall and Birkenshaw ward. The required contribution is to be recalculated, having regard to the latest proposed layout (a contribution of £86,696 would have been payable in connection with the previous iteration of the proposals).
- 10.49 Access to the adjacent recreation ground is also an important consideration, and it is noted that the proposal to line the recreation ground with the development’s main estate road should ensure good access is available to residents – a pedestrian connection is proposed opposite unit 45 (providing access to the playspace within the adjacent recreation ground), and a simple 450mm high timber knee rail is proposed along this boundary.
- 10.50 Although some details of landscaping proposals have been shown on the applicant’s drawings, a condition is recommended, requiring further details of the development’s outdoor spaces and their purpose, design, landscaping, boundary treatment and management. In response to Member requests, the applicant has agreed to a hedgerow being planted at the southwest end of the recreation ground, to prevent balls rolling onto the new vehicular access. This hedgerow would need to be planted so as not to obstruct visibility, and as this potential location is outside the application site, this provision would need to be secured via the Section 106 agreement.

Affordable housing

- 10.51 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split 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 would need to be appropriately designed and pepper-potted around the proposed development.
- 10.52 The 20% policy requirement would be equivalent to 9.2 affordable units; therefore this 46-unit development would normally necessitate the provision of nine affordable units.
- 10.53 Nine affordable units are indeed proposed, and these would comprise three terraced 2-bedroom units, two semi-detached 2-bedroom units, and four semi-detached 3-bedroom units. In light of advice from KC Strategic Housing, this affordable unit size mix is considered acceptable.

- 10.54 The applicant has confirmed that units 1, 2, 3, 4 and 33 would be for affordable rent, and units 32, 34, 35 and 36 would be intermediate. This is policy-compliant and is considered acceptable. All affordable housing would need to be provided in perpetuity.
- 10.55 The proposed locations of the affordable housing are considered acceptable, given the size of the site and the proposed development, and given the applicant's proposal to provide the affordable units in three locations (rather than grouping them together). Similar detailing and the same materials are proposed for all dwellings, which would help ensure that the nine affordable units would not be visually distinguishable from the development's market units. The proposed unit type and tenure mix would also assist in making the affordable units indistinguishable – for example, of the ten Bedale units proposed, six would be private, two would be for affordable rent, and two would be intermediate.

Highway and transportation issues

- 10.56 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport, and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.57 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.58 Although not explicitly required by site allocation HS89, providing vehicular access to the site via the track to the southwest is considered preferable to having a single vehicular access point on Soureby Cross Way. This preference was stated by the council during the preparation of the Local Plan – for this site, in relation to Soureby Cross Way the Accepted Site Options Technical Appraisal (July 2017) referred only to a “potential secondary / alternative / emergency access”. Officers provided advice to the applicant to that effect at pre-application stage, and in “numerous” responses to the applicant's own pre-application local consultation (as detailed in the submitted Statement of Community Involvement) the point of access was raised as a concern. At application stage, representations from Members, local residents, the East Bierley Village Preservation Society (EBVPS), and a representative of the East Bierley Community Sports Association (EBCSA) also confirmed a preference for providing vehicular access from the southwest. It is recognised that such access would necessitate the upgrade of part of the existing track (which is currently in a poor condition), and that such an upgrade would be of

significant benefit to the sports club to the south of the application site, where a variety of publicly-beneficial activities are regularly organised.

- 10.59 The difficulties in providing vehicular access via the track are set out in detail in previous committee reports, and need not be repeated here. However, it remains the case that a strip of unregistered land exists along the side boundary of 612 Hunsworth Lane, that there is not enough space between this unregistered land and the recreation ground to provide a 5.5m wide carriageway for two-way traffic and a 2m wide footway, and that the applicant is unable to compel the owner of the unregistered land to come forward at this stage.
- 10.60 Given these difficulties, under the current planning application the applicant instead proposed vehicular access via Bierley Marsh and Soureby Cross Way to the north. This attracted significant local objection, and was not considered acceptable by Members. At its meeting on 05/08/2020, the Strategic Planning Committee resolved to defer its decision so that officers could consider reasons for the refusal of the application related to unregistered land issues.
- 10.61 Following that deferral on 05/08/2020, however, the applicant reconsidered the proposed access and layout. The applicant now proposes a revised layout and access arrangement that avoids the unregistered land adjacent to 612 Hunsworth Lane, but requires the use of 77.5sqm of the recreation ground. To compensate for this loss, the applicant proposes to add land from the application site to the southeast edge of the recreation ground, so that there would be no net loss of recreation ground land. The applicant has offered to transfer up to 216sqm of the application site to recreation use, however this is more than would be required to compensate for the proposed loss.
- 10.62 The provision of a vehicular access (to serve a new residential development) on part of a publicly-accessible recreation ground (which is allocated as urban green space in the local plan, and is common land) would normally be considered unacceptable. However, taking into account the relatively small amount of land affected (77.5sqm), the proposed compensatory addition of land to the recreation ground, the fact that affected land is not the most useful and valued part of the recreation ground, and the fact that the access would help deliver new homes at an allocated site and improve access to a local sports facility, this aspect of the proposal is considered acceptable in principle.
- 10.63 The affected part of the recreation ground comprises 5.5sqm of council-owned common land, and 72sqm of unregistered land. In relation to the council-owned land, the applicant has served notice on the council as landowner. In relation to the unregistered land (which is a different piece of unregistered land to that piece adjacent to 612 Hunsworth Lane), officers believe this is vested in the Crown as bona vacantia (it may be the case that the land is unregistered only because of a plotting error), and the applicant has duly served notice on the Crown (Bona Vacantia Division). It appears that using this piece of unregistered land does not present the same uncertainty and risk as the unregistered land adjacent to 612 Hunsworth Lane would.
- 10.64 The affected part of the recreation ground and the adjacent stretch of existing track are registered as common land. This means the applicant would additionally need to either deregister the land (via Section 16 of the Commons Act 2006), or provide the vehicular access (under Sections 38 and 39 of the Commons Act 2006) without deregistering the land. Although both options

introduce complexity and cost (which the applicant would have to bear), the applicant is likely to pursue the latter option, having regard to the Government's policy that the country's stock of common land should not be diminished. Of note, the applicant does not necessarily need to obtain consent for using or deregistering the common land before obtaining planning permission, and there is no reason why the council as Local Planning Authority could not approve planning permission, while noting that a consent regarding the common land is yet to be obtained.

- 10.65 Of the part of the existing track that is within the application site, around half would be upgraded with a 5.5m carriageway and two 2m-wide footways proposed between Hunsworth Lane and the site entrance. The applicant intends to put this highway forward for adoption.
- 10.66 Further south, beyond the stretch of road to be adopted, the track would be upgraded with a new carriageway surface and footway. This would be of benefit to the sports club and users of the East Bierley Playing Fields, and would adequately support the sports club's future expansion plans (in terms of carriageway and footway width – it is noted that two footways would not be required here). Once these works are completed, the applicant wishes to transfer the ownership of this stretch of road to the sports club or the council. The council, however, is unwilling to take on this ownership or responsibility – of note, this stretch of road would only serve the playing fields and an electricity substation, its adoption is neither necessary nor desirable in highways maintenance terms, and the transfer of this stretch of road to the council or the sports club is not considered necessary to make the proposed development acceptable, and it would therefore fail the statutory tests. The sports club are also unwilling to take on ownership of this stretch of road. It would therefore remain in the ownership of the developer, or would be transferred to the management company that would be responsible for the management and maintenance of any land within the proposed development that is not within private curtilages or adopted by other parties. Private rights of way that currently exist along the track would not be affected.
- 10.67 The current access proposal would involve the laying of highway surfaces close to two trees at the southwest end of the recreation ground. These trees are of significant amenity value (were they not on council-owned land, they may be worthy of TPO protection), and have a CAVAT value of £10,610 in total. If these trees would need to be felled to make way for the vehicular access, the £10,610 would be payable prior to commencement of works. The applicant, however, has stated that the trees would not need to be felled. To verify this, officers have asked the applicant to provide information regarding root spreads, and an arboricultural impact assessment.
- 10.68 The current access proposal also has implications for drainage. The applicant previously intended to install pipework and surface water storage beneath the track, which would have effectively prevented adoption of the track in the future, as spans of more than 900mm were proposed. With the applicant now proposing vehicular access via the track (and its adoption), the proposed surface water storage has had to be moved to a location within the site, away from adoptable highways.

- 10.69 The applicant has advised officers that access to the East Bierley Playing Fields would be maintained at all times during construction works. As no public right of way exists along the track, this is a private matter to be resolved between the parties, however the applicant's assurance is nonetheless welcomed.
- 10.70 Of note, although vehicular access is now proposed via the track to the southwest, a gated access point on Soureby Cross Way is still shown on the proposed layout. This would provide access to adjacent farmland, and is not intended for everyday or general public use.
- 10.71 Adequate visibility can be provided at the point where the new vehicular access meets Hunsworth Lane.
- 10.72 In relation to trip generation, for the earlier 42-unit iteration of the proposals, the applicant's Transport Statement predicted 25 additional vehicle movements in the morning peak hour (08:00 to 09:00) and 23 additional movements in the afternoon peak hour (17:00 to 18:00). Although the concerns of local residents are noted, given local road and junction capacity, it is not considered that this level of additional traffic would cause severe impacts. The 46 units now proposed would generate a similar level of additional traffic, which is also considered acceptable. Indeed, Highways Development Management officers have previously advised that in terms of additional traffic generation the increase in unit numbers from 42 to 46 would result in potentially two to three additional two-way movements at peak times, which officers do not consider to be significant.
- 10.73 Positive weight can be attached to the applicant's proposal to line the southeast edge of the adjacent recreation ground with the development's main estate road. At pre-application stage, officers had suggested securing the provision of a footway along Hunsworth Lane in connection with development at the application site, however the current proposal is preferable, as it provides a southwest-northeast route away from the traffic of Hunsworth Lane, designed to 15mph speeds, and does not require the paving of a 2m wide strip of the recreation ground and the erosion of this important urban green space.
- 10.74 With the pleasant and relatively safe southwest-northeast route proposed adjacent to the existing recreation ground, and its connection (for pedestrians) to the recreation ground and Soureby Cross Way, the proposed development responds positively to Local Plan policies LP20, LP24dii and LP47e, which promote and require the creation of safer pedestrian environments, walkable neighbourhoods, good connectivity and permeability, and layouts that encourage active and sustainable travel.
- 10.75 Having regard to paragraph 5.19 of the council's Highway Design Guide SPD, the proposed development is not of the size that would normally necessitate the submission of a Travel Plan. It is, however, still recommended that other measures to encourage the use of sustainable modes of transport be secured. The West Yorkshire Combined Authority have previously recommended that

a contribution of £13,000 be secured to fund the provision of a new bus shelter, and that a contribution of £21,021 (towards bus-only Metro cards) would be appropriate. However, in light of comments from ward Members (including in relation to the limited public transport services currently available in East Bierley), it is recommended that these contributions be secured and put towards alternative sustainable transport measures to be agreed between officers and ward Members.

- 10.76 Regarding the proposed development's internal arrangements, the proposed development's sight lines, forward visibility, design speeds, alignments, gradients and adoptability have not attracted a significant objection from Highways Development Management officers. The applicant has submitted swept path analysis (for an 11.85m refuse vehicle) which suggest amendments to the curtilages of some plots would be necessary. These changes would be minor in scale, would not affect the numbers of units (or significantly reduce the outdoor amenity spaces of units), and would not warrant further public consultation, therefore it is recommended that this matter be delegated to officers to resolve at conditions stage. Highways Development Management officers are satisfied that this matter can be addressed via an appropriately-worded condition.
- 10.77 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highways Design Guide, except in relation to units 1 to 4. Reallocation of the nearby visitor parking spaces to these units, in accordance with Highways Development Management advice, is recommended. It is also recommended that additional visitor parking spaces be secured by condition, although the provision of one space per four dwellings is not considered essential, given the extensive new estate roads that are proposed (where visitors can temporarily park without obstructing movements of other vehicles) and the limited likelihood of visitors parking on existing adjacent streets.
- 10.78 Details of secure, covered and conveniently located cycle parking for residents would be secured by a recommended condition.
- 10.79 A condition, requiring details of the surfacing and drainage of parking spaces, is recommended.
- 10.80 Storage space for three bins will be required for all dwellings. Bin collection points have been shown on the applicant's drawings, however further details of waste collection, including details of management to ensure any waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. This would also consider the visual impact of waste storage arrangements within the development.
- 10.81 Residents' concerns regarding construction traffic routing, contractor parking and related matters would be addressed via the required Construction (Environmental) Management Plan (C(E)MP).

Flood risk and drainage issues

- 10.82 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore the applicant submitted a site-specific Flood Risk Assessment and Surface Water Management Strategy (FRASWMS) in support of the proposed development.
- 10.83 The site slopes downhill from north to south. To the west of the application site, a culverted watercourse runs beneath Hunsworth Lane. Further south this becomes Hunsworth Upper Lane Beck, and eventually joins the River Spen. A combined public sewer also runs beneath Hunsworth Lane. Beneath Soureby Cross Way there is a public surface water sewer and a separate public foul water sewer. A Yorkshire Water main (the Dewsbury Link Main) runs northwest-southeast across the northern edge of the application site.
- 10.84 In response to officer comments, the applicant's drainage proposals were amended during the life of the current application, and again when the latest changes to the site layout and access arrangements were made. The applicant's FRASWMS now states that a surface water storage tank is proposed beneath the open space at the southwest end of the site, and a hydrobrake is proposed beneath the adjacent track (along which the vehicular access is proposed). A connection is then proposed from these to the existing culverted watercourse beneath Hunsworth Lane. A discharge rate (to the culverted watercourse) of 3.7 litres per second is proposed.
- 10.85 Prior to settling on this proposed drainage solution, the applicant appropriately followed the drainage hierarchy and – in light of site investigation results – concluded that infiltration was not appropriate as means of surface water disposal at this site. Officers concur with this conclusion.
- 10.86 The Lead Local Flood Authority (LLFA) were satisfied with the proposed drainage strategy (subject to conditions) when two box culverts (for the storage of surface water) were proposed in a different location, along with a discharge rate of 3.7 litres per second. The comments of the LLFA on the revised drainage strategy are awaited.
- 10.87 Two of the LLFA's previously-requested conditions are recommended later in this report, however the condition recommended by the LLFA regarding drainage maintenance and management would be addressed via a Section 106 planning obligation, and details of temporary surface water drainage arrangements would be secured via the recommended condition requiring the submission and approval of a Construction (Environmental) Management Plan.
- 10.88 Residents have expressed concern regarding the proposed development's implications for off-site drainage. It is noted, however, that surface water currently leaves the site via infiltration (and possibly overland flows at times when the land is saturated), whereas following completion of the proposed

development surface water would be collected, attenuated, and directed to the existing culverted watercourse, such that there is likely to be a reduction in surface water reaching surrounding land from the application site. Effectively, the proposed development would result in currently uncontrolled discharge being brought under control.

- 10.89 Foul water from the proposed development would discharge to the existing combined public sewer beneath Hunsworth Lane. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.90 The Dewsbury Link Main and its easement would not be adversely affected by the proposed development.

Trees and ecological considerations

- 10.91 The application site is previously undeveloped (greenfield) land, was previously in agricultural use, and is grassed. There are no significant or TPO-protected trees within the application site, however there are trees and shrubs along its edges. A Biodiversity Opportunity Zone (Pennine Foothills) covers the site.
- 10.92 The applicant initially submitted a Preliminary Ecological Appraisal (PEA), and later submitted an Ecological Impact Assessment (EclA) and an Arboricultural Impact Assessment (AIA) during the life of the application, in response to officer comments. In relation to bats, the applicant's survey found no structures or suitable trees that could provide bat roost potential, and asserted that the site provided low potential for foraging and commuting bats. A biodiversity net gain calculation was also submitted – this confirmed that the proposed development would result in a net loss (contrary to Local Plan policy LP30 and chapter 15 of the NPPF). The extent of this loss, however, needs to be clarified by the applicant – the applicant's EclA refers to a -1.91 unit loss, while the submitted net gain calculation refers to a -2.32 unit loss.
- 10.93 Given that a net loss would be caused, the applicant asked officers to advise what financial contribution would be required to achieve the necessary net gain. This, however, was premature – the applicant should first explore opportunities for on-site mitigation (there are, for example, areas where hedgerow planting would be possible, and the area above the water main easement may have potential for wildflower meadow planting, should Yorkshire Water agree to this in a timely manner). It is likely that on-site measures alone would not result in the proposed development achieving a net gain, therefore the applicant would additionally be expected to explore whether nearby sites (within the applicant's ownership, and suitable for accommodating mitigation measures) are available. It is considered that the absence of details of provision at such sites, and/or of a financial contribution for off-site provision (the relevant amount to be calculated once the above exploration has been carried out) need not prevent the current application being considered by the Strategic Planning Committee, and it is recommended that authority to resolve these matters be delegated to officers.

- 10.94 Trees within the adjacent recreation ground (including the two trees referred to at paragraph 10.67 above) are valuable in terms of their visual amenity, and together they form a prominent landscape feature. It is therefore important that any development proposed at the application site is informed by their location and shading. The applicant's arboricultural information has, indeed, informed the proposed design, and it is considered that unacceptable long-term conflicts between the adjacent trees and the occupants of the proposed development would be avoided. In the previously-proposed layout, the proposed main estate road would have been located an adequate distance away from the trees (however the proposed parking spaces may have needed to be constructed from a no-dig cellular confinement system), and in relation to the current proposed layout an Arboricultural Method Statement (to show how construction would be undertaken while avoiding damage to trees) is required, and an appropriate condition is recommended. This will need to include an appropriate Tree Protection Plan.
- 10.95 Residents' concerns regarding existing trees along Bierley Marsh and Soureby Cross Way (planted in memory of East Bierley villagers) were noted, however vehicular access is no longer proposed from that end of the site.

Environmental and public health

- 10.96 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, measures to discourage high emission vehicle use and encourage modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, should be secured via Section 106 obligations.
- 10.97 As noted above, the required Construction (Environmental) Management Plan (C(E)MP) would need to include details of dust suppression measures. No other comments or concerns have been raised by Environmental Health officers in relation to air quality and emissions.
- 10.98 A condition requiring the submission of details of outdoor lighting is recommended. This is considered necessary in relation to residential amenity, and also to ensure disturbance to wildlife is minimised. Security is also a consideration in relation to lighting, and the conditions-stage submission would need to address the West Yorkshire Police Designing Out Crime Officer's concerns regarding the lighting of unadopted highways.
- 10.99 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, affordable housing, proximity to the adjacent recreation ground and playspace, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

10.100 Regarding the social infrastructure currently provided and available in East Bierley and the surrounding area (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP provision, there is no policy or supplementary planning guidance requiring the proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations.

Ground conditions

10.101 Council-held records indicate that the site is potentially contaminated, and in an earlier response, Environmental Health officers requested further information regarding gas risk and arsenic concentrations. The applicant duly responded, and in light of further comments from Environmental Health officers, conditions regarding site contamination remediation are recommended.

10.102 Following recent amendments, all of the application site is now within a Development Low Risk Area as defined by the Coal Authority. The Coal Authority have raised no objection to the proposed development.

10.103 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion 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.

Representations

10.104 A total of 33 representations were received from occupants of neighbouring properties. The material planning considerations raised in the comments have been addressed in this report.

Planning obligations

10.105 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

1) Affordable housing – Nine affordable housing units (five social/affordable rent, four intermediate) to be provided in perpetuity.

2) Education – £195,227 contribution.

3) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £34,021 contribution.

4) Open space – Contribution (amount to be confirmed) towards off-site provision.

5) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.

6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

7) Recreation ground – Transfer of part of application site to council (for recreation use), to compensate for land to be used for vehicular access.

10.106 A resident has also requested that the developer be required to improve the adjacent playspace, provide a shop and a community hub with pre-school provision, pay for maintenance of the local school, cricket club, pond, marsh, village green and other public areas, and provide funding for community activities and Christmas lights. However, besides those listed above at paragraph 10.105, there are no other contributions or obligations that are required under current planning policies and that would pass the relevant statutory tests.

10.107 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

Support for the East Bierley Community Sports Association

10.108 As noted in the previous committee report, in light of the decision of the Strategic Planning Committee on 24/06/2020 to request further work to explore the support that could be provided to the East Bierley Community Sports Association to facilitate their plans to improve the sporting facilities, the following matters are noted:

- Transfer of track – The applicant offered to transfer ownership of part of the adjacent track to the sports club, without charge. The applicant has argued that it would be more beneficial for the sports club to own and control an upgraded private access. The sports club, however, are unwilling to take on responsibility for this part of the track, noting that they are a volunteer-run charity with no similar responsibilities, and they do not own the playing fields (they are leased from the council). The sports club's preference is for the council to adopt the section of track.
- Infrastructure – The applicant has noted that the electricity substation (which would be built as part of the proposed development) could be specified to provide for the future needs of sports club.
- Section 106 contributions – The applicant does not object to the financial contributions (required to make the proposed development acceptable in planning terms) being used on sports club projects.

Officers note, however, that any such use of these monies would normally follow community and Member consultation, and must meet the relevant statutory tests.

10.109 It is again noted that the vehicular access now proposed would be of benefit to the sports club and users of the East Bierley Playing Fields.

Other planning matters

10.110 A condition removing permitted development rights from the proposed dwellings is recommended. This is considered necessary due to the site's location adjacent to (and partly within) the East Bierley Conservation Area, and its visibility from public vantagepoints. Extensions, outbuildings and other alterations under permitted development allowances here could be harmful to the significance of this heritage asset, and could cause visual harm in longer views across the site and the adjacent recreation ground.

10.111 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

10.112 There is no evidence to suggest the proposed development would result in problems relating to electricity or internet supply.

10.113 No evidence has been submitted in relation to the possible presence of Japanese Knotweed at the application site.

11.0 CONCLUSION

11.1 The application site is allocated for residential development under site allocation HS89, 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), the East Bierley Conservation Area, topography, drainage and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. The applicant has proposed an appropriate quantum of development and an acceptable layout, the proposals respond appropriately to the conservation area, and the quality of residential accommodation is considered acceptable. The provision of 46 residential units at this site (including the provision of nine affordable housing units) would contribute towards meeting the housing delivery targets of the Local Plan, and are welcomed. Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured 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 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. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction (Environmental) Management Plan (including temporary surface water drainage arrangements).
4. Provision of visibility splays.
5. Completion of coal legacy mitigation works.
6. Submission of details of a connection for pedestrians and cyclists between the main estate road and the track to the southwest.
7. Submission of amended drawings to accommodate 11.85m refuse vehicle swept paths.
8. Submission of details relating to internal adoptable roads.
9. Submission of details of surfacing and drainage of parking spaces.
10. Submission of details of visitor parking.
11. Cycle parking provision prior to occupation.
12. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
13. Submission of details of waste storage and collection.
14. Submission of details of retaining walls.
15. Submission of an Arboricultural Method Statement and Tree Protection Plan.
16. Submission of a detailed drainage design for surface water and land drainage.
17. Submission of a detailed exceedance flow routing plan.
18. No development or landscape features within water main easement.
19. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
20. Submission of an intrusive site investigation report (phase II report).
21. Submission of a remediation strategy.
22. Submission of a validation report.
23. Submission of details of crime prevention measures.
24. Submission of details of electricity substation and its boundary treatments.

25. External materials (details and samples to be submitted).
26. Submission of details of boundary treatments.
27. Submission of details of external lighting.
28. Submission of a full landscaping scheme and Ecological Design Strategy.
29. Submission of details of biodiversity enhancement and net gain.
30. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93616>

Certificate of Ownership – Certificate B signed