

---

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

**STRATEGIC PLANNING COMMITTEE**

**Date: 24-Feb-2021**

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

**APPLICANT**

Andrew Naylor, Miller  
Homes Ltd

**DATE VALID**

02-May-2019

**TARGET DATE**

01-Aug-2019

**EXTENSION EXPIRY DATE**

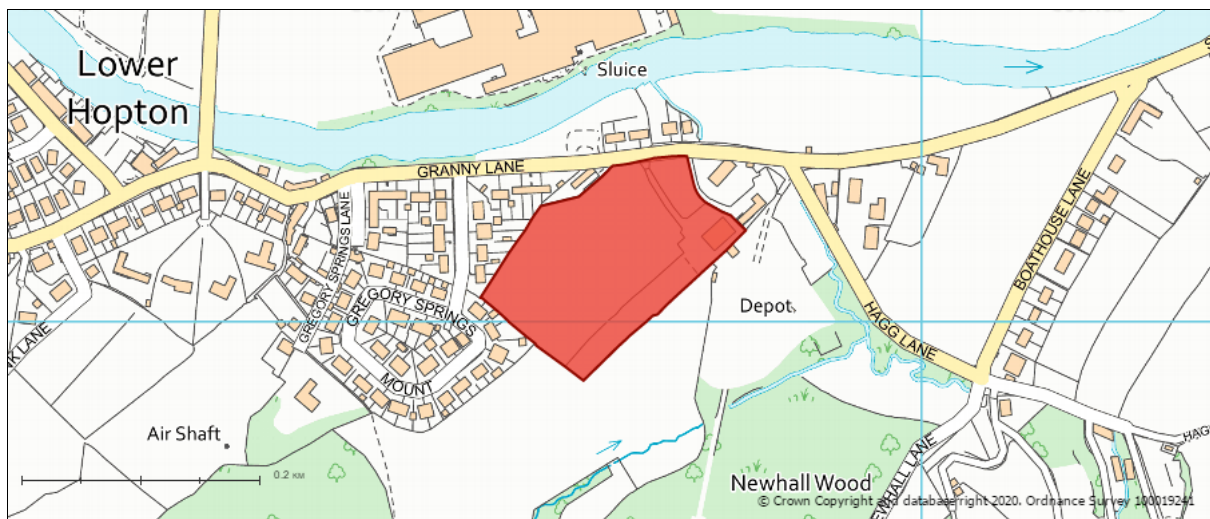
14-Jan-2020

---

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

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

**LOCATION PLAN**



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

---

**Electoral wards affected: Mirfield**

**Ward Councillors consulted: Yes**

**Public or private: Public**

---

**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions contained within this report and the sealing of the S106 Legal Agreement to secure the following:

- (i) The provision of 13 affordable houses of which 56% would be social affordable and 46% intermediate housing;
- (ii) A contribution of £58,808.00 to address the shortfall in open space requirements;
- (iii) An educational contribution of £157,992;
- (iv) Measures to a value of £52,533.50 to encourage sustainable modes of transport. This would include £10,000 for real time information display at bus stop 17564 and £10,000 to fund the Travel Plan (to include monitoring fees);
- (v) Arrangements to secure the long-term maintenance and management of the public open space;
- (vi) A £3000 financial contribution towards the future upgrade of a piped watercourse at the southern end of the site;
- (vii) A £5000 contribution for research and improvements to Valance Beck, which contributes to the flooding of Granny Lane in the vicinity of the access to the proposed development. These funds would contribute to items such as measures to stop debris flowing downstream reducing the risk of blockages;
- (viii) Arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals across the site, to include the flood route at the south west corner of the site as well as a management company to specifically manage and maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity

**1.0 INTRODUCTION:**

1.1 This is an application for full planning permission for a residential development of 67 dwellings.

1.2 It was deferred from the 27<sup>th</sup> January 2021 Strategic Planning Committee to facilitate a review and re-assessment of the scheme against the Government's Nationally Described Space Standards (NDSS), which is set out in the report below. Prior to that, it had been deferred from the Strategic Planning Committee on 14<sup>th</sup> October 2020 to allow Officers the opportunity to fully consider a video of surface water flooding that was sent to the Council by the Granny Lane Area Action Group (GLAAG) and Save Mirfield on Monday 12<sup>th</sup> October 2020.

- 1.3 The application was originally brought to the Strategic Planning Committee on 19<sup>th</sup> December 2019 on the grounds that it related to a residential development of more than 60 units. The decision of that Committee was to support the officer recommendation to delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions, including those set out within the Committee Report, and to secure a Section 106 Agreement.
- 1.4 Following that Strategic Committee, additional representations and correspondence was submitted by local residents and also, from the Save Mirfield and Granny Lane Area Action Group (GLAAG). Furthermore, on 20 January 2020, the Council received notification that the Secretary of State (SoS) for Housing, Communities and Local Government had received a request to 'call-in' the application. The SoS responded by letter dated 29<sup>th</sup> January 2020 to confirm that the Secretary of State had decided not to call in the application. He was content that it should be determined by the Local Planning Authority on the basis that the application does not involve issues of more than local importance justifying the Secretary of State's intervention.
- 1.5 Additionally, as a consequence of specific questions raised by the residents' groups (Save Mirfield and GLAAG) and, following flooding events that occurred in West Yorkshire in the early part of 2020, the Council undertook some additional consultation on 20<sup>th</sup> April 2020 with the Environment Agency, Yorkshire Water and the Lead Local Flood Authority. Their responses are detailed in the report below.
- 1.6 A further consultation exercise was undertaken in December 2020 following the applicant's submission of a Drainage Technical Note to address concerns associated with overland flows on the south eastern boundary of the site, including a slightly modified site layout. This was sent to local residents, the Environment Agency, Yorkshire Water and the Lead Local Flood Authority. Again, the responses received are set out in this report.
- 1.7 In the meantime, Officers have continued to work with the applicant to complete the S106 Legal Agreement and to prepare a final list of conditions. The resolution of these matters was significantly delayed by the Covid pandemic in 2020 but it is now close to completion. However, taking into account all these circumstances, it is considered appropriate that the application be brought back to this Strategic Planning Committee for determination again in accordance with the recommendation above.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site extends to 2.2 hectares in size, situated approximately 1km to the south of Mirfield Town Centre. It lies to the south of Granny Lane and comprises two paddocks and agricultural buildings/stables. An existing vehicular access leads south from Granny Lane, providing access to these buildings and an area of hardstanding surrounding them. The largest paddock is broadly rectangular in shape, with residential development on the northern, eastern and western sides. A smaller, narrow paddock runs along the south/south eastern boundary, separated from the main paddock by a hedgerow.

- 2.2 The immediate area surrounding the application site is semi-rural in character with residential properties concentrated to the east and open land extending to the south. The River Calder lies to the north of the site on the opposite side of Granny Lane.
- 2.3 Sheep Ings Farm is located to the east of the site, close to Granny Lane. The farm comprises a farmhouse and attached barn, which are Grade II Listed.
- 2.4 The site is allocated for residential development in the Local Plan (site allocation HS66). Biodiversity Opportunity Zones (Flood Plains and Pennine foothills) also cover the site and the northern part is located within Flood Zones 2 and 3. The remainder of the site is within Flood Zone 1. The majority of the land is within a Development High Risk Area as defined by the Coal Authority and a small area at the northern boundary of the site lies within the inner, middle and outer consultation zones of a 'high pressure gas main', which is located in the immediate vicinity. The site is also within a minerals safeguarded area where potential sand and gravel and surface coal resources are located.

### **3.0 PROPOSAL:**

- 3.1 This application seeks full planning permission for the construction of 67 dwellings, comprising the following:

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

- 3.2 A range of house types is proposed, comprising mainly semi-detached (26 units) and detached (38 units) styles but including a terrace of 3 town houses. The site would also deliver 13 affordable homes, which would represent 20% of the dwellings.
- 3.3 A single access point is proposed from Granny Lane, utilising an existing entrance into the site. This would be widened to meet adoptable highway standards and create a new priority 'T' junction. The existing stone wall at the entrance would be taken down and re-built at the rear of the visibility splay and a widened footpath provided. The internal estate road would be a loop road, providing access to houses both external and internal to the loop.
- 3.4 Red brick and a mixture of red brick and render is proposed for the elevations of the dwellings with a mix concrete roof tiles.
- 3.5 A local play area (LEAP) and public open space measuring approximately 2,350m<sup>2</sup> is proposed at the front of the site, either side of the entrance.

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

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

88/05073 – Outline application for residential development  
Withdrawn

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

98/90303 – Erection of farm store and building  
Approved

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

Refused: 26 August 2004

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

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

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

- 5.1 The applicant sought pre-application advice with regard to the residential development of the site in 2018 in accordance with pre-app reference 2018/20301. Written pre-application advice was provided on 24/08/2018. This letter addressed key matters including policy considerations, design and layout, highway impacts, flood risk and drainage and residential amenity.

- 5.2 As set out in the applicant's Statement of Community Involvement (SCI), a community consultation exercise was undertaken in September 2018. The applicant delivered letters to the occupants of residential properties in the vicinity of the application site and the SCI confirmed the receipt of 15 responses. These raised issues including objection to loss of views, highways impact, possible flood risk and drainage issues and amenity considerations.

- 5.3 During the life of the application, the applicant has provided the following additional information:

- A revised Flood Risk Assessment and additional drainage information;
- Revised layout to accommodate surface water drainage arrangements, to include the recent inclusion of an exceedance corridor to the rear of plots 32-36.;
- Supplementary highways information in the form of a Technical Note;
- Revised landscape planting.
- A Drainage Technical Note to address drainage concerns associated with overland flows on the south eastern boundary of the site;
- A revision to the layout to accommodate Section 38 highway requirements to slightly widen the eastern bend of the estate road.

## **6.0 PLANNING POLICY:**

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

### Kirklees Local Plan (Adopted 27 February 2019):

6.2 The site is allocated for residential development in the Local Plan (Reference HS66). It is identified as having a gross site area of 2.23 hectares and a net site area of 2.03 hectares, the latter being calculated by omitting the part of the site that lies within Flood Zone 3 and a heritage area of high significance adjacent to the adjoining Listed Building.

6.3 Based upon the net site area, the allocation sets out an indicative housing capacity of 70 dwellings. It also identifies the following constraints relevant to the site:

- Part of the site is within Flood Zones 2 & 3;
- The site is close to Listed Buildings;
- All of the site is within a high risk coal referral area;
- The site is affected by hazardous installations / pipelines.

6.4 In addition, site allocation HS66 identifies several other site specific considerations, which are outlined below:

- No residential development to take place in Flood Zone 3
- Adjacent to the Wildlife Habitat Network
- Links required to the core cycling network
- Proposals would identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment or any updated Heritage Impact Assessment submitted by the applicant as part of the Planning application process.
- In order to safeguard the setting of the Grade II Listed Building known as Sheep Ings Farmhouse, no development shall take place on the field/area marked as high significance in council's HIA to the east of the track running south from Granny Lane across the site

6.5 Relevant Local Plan policies include the following:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage

- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP35 – Historic environment
- LP38 – Minerals safeguarding
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Strategic Housing Market Assessment (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Highway Design Guide (2019)

6.7 A draft Housebuilder Design Guide SPD, Open Space SPD and Biodiversity Net Gain Technical Advice Note were published by the Council in 2020. These have undergone public consultation, but have not been adopted.

National Planning Policy and Guidance:

6.8 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters include:

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

6.9 Other relevant guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)

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

- 7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of four site notices, an advertisement in the local press (The Press – 24 May 2019) and by direct neighbour notification. This specified the statutory period of 21 days, expiring on 15<sup>th</sup> June 2019.
- 7.2 Although there is no statutory requirement under the DMPO to re-consult on planning applications, a further consultation on additional/amended details was undertaken by letter dated 4th December 2019 for a period of 10 days, expiring on 16th December 2019.
- 7.3 In the interests of fairness, following the submission of the Drainage Technical Note and modified layout to accommodate this and Section 38 highway requirements, another consultation exercise seeking the views of local residents was undertaken in December 2020. The letters were dated 22<sup>nd</sup> December and residents and interested parties were given until 14<sup>th</sup> January 2021 to respond, to account for the Christmas period.
- 7.4 A total of 97 representations were received from the occupants of neighbouring properties/members of the public to the first two rounds of consultation in May/June 2019 and December 2019. This included a representation objecting to the proposal from Save Mirfield with 792 signatories. A further 88 representations were received to third round of consultation, undertaken in December 2020/January 2021. This included an objection from GLAAG and Save Mirfield as well as a further objection letter from Save Mirfield supported by 849 of their members (listed separately).
- 7.5 Following the review of the scheme against the NDSS and a minor amendment to the floorplans of Plots 39-46 (within the site) and Plots 2-10 (western edge) a more focused consultation exercise was undertaken of those properties directly affected by the changes i.e. the existing properties close to or adjoining the affected part of the site at 34-42 Granny Lane and 3-15 Gregory Springs Road. GLAAG and Save Mirfield were also directly informed separately. At the time of writing this report, one further objection has been received.
- 7.6 The following is a summary of the points raised. It is not a complete replication of the responses, which can be viewed in full on the Council's website at <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91467>

### Flood Risk and Drainage

- Storm Ciara was not a one-off event and the area witnesses repeated flooding events.
- The proposed drainage ditch will not resolve it by exacerbate it.
- The 'Water Meadow' should never have been allocated.



- The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.
- The revised plans will only serve to flood further properties in the vicinity.
- The removal of debris upstream in Valence Beck will ensure flows are directed to Hagg Lane. If this happens it will only serve to speed the flow towards Valence Beck on Hagg Lane.
- Valence Beck already overflows onto Hagg Lane as a result of heavy rain (and not even storm situations) and the road becomes impassable.
- It is morally and ethically wrong to consider placing more people in the same situation.
- It is assumed that Miller Homes propose diverting flood water into the stream that runs through Cuckoo Hill, which joins Valence Beck half way down Hagg Lane. The resident of Boathouse Lane finds this completely unacceptable. The two streams currently carry a large amount of water at times of heavy rainfall. Any addition to this would lead to increased flooding at the junction of Hagg Lane with Granny Lane.
- Diverting water onto Hagg Lane as proposed by Miller Homes will just make the flooding worse on that road endangering the houses that are already there. Flooding on Hagg Lane is well known due to the water coming down from the hills and diverting it from the proposed site is totally unacceptable.
- How will people access the development in a flood event? What about the Police, Nurses, Ambulances etc.
- 'This is still a ludicrous proposal for building on a field which is a natural soak away for the surrounding area which regularly floods'.
- Issues with flooding have progressively got worse, and with the ongoing effects of global warming the situation will not improve.
- Will their sales literature include a flood warning to potential buyers of these new houses?
- Miller Homes have come up with an unbelievable plan to divert flood water from their site.
- Valence Beck already overflows onto Hagg Lane as a result of heavy rain (and not even storm situations) and the road becomes impassable.
- It is morally and ethically wrong to consider placing more people in the same situation.
- The latest application includes a new proposal to divert flood waters - this just means that other properties/areas will be affected instead and is not fair on the residents who already live in this area.

- 'Leave the green fields alone. All they will do is divert the water to someone else'.
- The revised plans will only serve to flood further properties in the vicinity. Surely the council must have the interests of its existing (not potential) residents in mind when taking these decisions.
- 'Water meadow does not need any housing building due to flooding and extra flooding to Ship Inn due to excess water run-off and diverted water to Hagg Lane. Plus houses on Granny Lane will suffer from more flooding. The bungalows, also on Granny Lane, will get floods from the river and ex water meadow. We need to stop taking low lying land that helps to limit flooding';
- The Ship Inn has been flooded at least four times last year. Building on the water meadow will cause more problems for the Ship Inn and the access road from Granny Lane;
- It is contemptuous for any developer/consultant to ignore local educated knowledge. The amended details skirt around the issues of safety and flooding and do not give a substantive or adequate solution for either. The proposed diversion of surface water via a gully dug out at the rear of the development to be distributed onto Hagg Lane does not in any way alter the fact that surface water flooding will occur. All the amendment does is take it away from the new homes to worsen the flooding of existing homes.
- By moving and altering water course you are protecting new builds at the sacrifice of existing houses which goes against the Local Government duty of care to protect existing homes from flooding.
- Allowing this development will simply endanger lives not only of those who live there already, but those on the street to be built who will be cut off completely. Not to mention their gardens will be water logged for months on end;
- The field currently slows the water entering the river and is a natural flood defence if anything trees should be planted to stem this flow further.
- 'The mitigation and dismissal of the flooding that has happened frequently in this area is poor at best. The plan to move water elsewhere is not a viable solution and the use of the storm as though it was an "exceptional event" is absurd'.
- The site lies at the foot of a natural amphitheatre with regard of some 800-900 acres of woods and lands all channelled into Valence Beck and other becks running through Hopton Mills. In heavy weather, the pipe cannot cope with the volume of water and overflows onto Hagg Lane.

- The recently dug channel adjacent to the boundary fence diverts any water that collects through the boundary fence onto Gregory Springs pit site entrance and onto Hagg Lane. This surface water will be discharged onto the road and add to the existing problem.
- Lifting the houses and forming embankments will only move the problem for others to deal with.
- There is no scientific solution, no calculations of water volumes or how they will increase by the removal of trees and what the consequences are for areas downstream.
- This field has always flooded annually from water build up from the Liley Beck and other springs that feed into it. It also floods on the road leading to it and because the River Calder is only 50 yards away.
- The proposal will exacerbate the already untenable flooding situation in the surrounding area and it is totally unacceptable to build houses in this location.
- Once more this week, of the 21st Dec 2020, heavy rain caused flooding down Steanard Lane and the beck running down Hagg Lane was at its limit. To consider additional run off into Hagg Lane would be dangerous as well as ill considered. The water table throughout the whole autumn and early winter has remained very high.
- Granny Lane frequently becomes impassable, as the water tries to reach the River Calder. This will never change due to the geographical formation of the valley and hills. The water meadow, if anything, if left to be a flooding area, will help controlling the flooding and should be left to be what it is 'a water meadow'.
- When storm Ciara occurred. Hagg lane and Boathouse Lane were like rivers with flood water flooding into drives and gardens. So Millers proposals would only make this worse.
- The amount of water that runs from the hills cannot be stopped once the ground is saturated.
- This area should be a protected flood plain in light of the annual flooding history of this site.
- The land in question is a local flood plain that regularly floods. If houses are to be built on it, this will only make floods in the area worse both for the roads and other residents' houses in the vicinity.
- The latest amendment is factually incorrect. It is very simplistic to imply that all the flooding we suffer year after year is merely due to blocked ditches.
- Why were the matters contained in the latest Flood Technical assessment not considered at the outset? Why has it take a year and a half of extreme pressure and campaigning by the Granny Lane Action Group to have the flooding position considered more carefully? What was seen in the video taken during Storm Ciara is not a one off incident – it happens every time there is significant rainfall.

- There is suggestion in the report by RWO and the LLFA's report that the widening and maintaining of ditching to the rear of the plots affected will 'reduce the risk of the event witnessed in February 2020 re-occurring'. Note that the risk will be reduced and not removed.
- The river regularly floods and any occupants of this proposed development would be put at risk. It is part of the flood plain of the River Calder and has flooded 6 times in the last 5 years.
- It is believed that the applicant's intention is to direct sewerage and rainwater from the site into a holding tank underneath the green area by Granny Lane from where it would be pumped into the main sewer under Granny Lane; if the pump fails or if the increased rainfalls predicted overwhelm it then the tank will overflow onto Granny Lane and threaten the houses opposite with flooding.
- Concern that comments from Yorkshire Water are based on surface water being drained to an existing water course and this has now changed.
- Concern that the sewer which would be used to drain surface water may not have adequate capacity.
- The site entrance is located within Flood Zone 3 but the supporting Flood Risk Assessment indicates that it is located within Flood Zone 2.
- Concern that the proposed surface water drainage channel on the southern boundary of the site would lead to flooding of existing properties to the south as the site is not suitable for a SuDS system.
- Concern that the surface water drainage channel should not be maintained by a private management company as maintenance may not be carried out.
- How has the £3000 requested to contribute towards the potential upgrade of the off-site water course been calculated.
- A sequential test has not been applied with regard to flood risk in connection with this proposal as required by the National Planning Policy framework.
- The Exception test has not been applied with regard to the use of this site for housing within a flood risk area.
- The proposed surface water attenuation tank may not be adequate to deal with surface water drainage from the site therefore exacerbating flood risk.
- The proposed attenuation tank associated with the surface water drainage regime for the site could be damaged if emergency vehicles use the proposed emergency access.

- A technical appraisal prepared on behalf of an objectors group of the applicant's supporting Flood Risk Assessment was submitted identifying 32 objections relating to this proposal with regard to its potential impact on Flood Risk (this is addressed in Paragraph 10.70).

### Highways and Transport

- The proposal would lead to extra traffic which would detrimentally affect highway safety as Granny Lane and Steanard Lane are not adequate to deal with existing levels of traffic. Objectors have commissioned a traffic assessment to support this view, a copy of which was passed to the Council's Highway Development Management Team for their consideration.
- The traffic using Steanard Lane remains at saturation point and the additional traffic generated by 67 new homes would overload the traffic infrastructure creating a dangerous impact on highway safety.
- What provision has been made for Traffic Calming measures if these houses are built? Are Traffic lights/ speed bumps going to be introduced for the increase in traffic exiting the proposed site?
- Existing footways on Granny Lane and Steanard Lane are inadequate and additional traffic would increase the risk of pedestrians being injured.
- Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development.
- The entrance to this site is set back and will be dangerous as the speed that cars travel on that road is not controlled.
- Still no reference to road safety. These narrow lanes are a threat to pedestrians and traffic as it is without extra vehicles being introduced. The initial road safety assessment was poor and weak and ignored all local knowledge and experience of the narrow lanes.
- By widening the footpaths to the East of the site, this does nothing to aid road safety as the blind bend is still the same and the road remains the same width.
- The highway consultant acting on behalf of the GLAAG and Save Mirfield has written to confirm that in the absence of measures to mitigate their concerns, the objections to the proposed development on highway grounds detailed in their 'Objections Report' dated 16 September 2019 remain applicable. In addition, they consider the proposed emergency access on Granny Lane to be unsatisfactory.
- Granny Lane is narrow with a thin pavement. The access from Huddersfield road is also single lane across the bridge. The increase in cars needing granny lane will cause additional problems on Huddersfield road which is already problematic at rush hour.
- Insufficient car parking.

- It is also only accessible by one local road and the extra traffic would be excessive for the size of road.
- The associated increase in traffic volume will convert the whole area into an unpleasant place to live.
- The roads around this proposed estate are not big enough for another 160 cars doing 5+ extra daily journeys each on Granny lane and Steanard Lane.
- It is not obvious on these plans how narrow Granny lane is at the junction with the new estate, the increased traffic on this narrow lane is going to create safety issues for road users and pedestrians alike.

#### Wildlife/Environmental

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

#### Heritage

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

#### Local Amenity

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

## Miscellaneous

- Developing this land would affect existing house prices in the area.
- The addition of this number of properties doesn't have supporting infrastructure of school places, amenities, wider roads.
- The local school is over-subscribed.
- Concern about the devastation a housing development of this magnitude would wreak on the local environment, including the effect on streams, watercourses, footpaths (including litter and traffic), light pollution.
- When Dewsbury Riverside is built the woods will be hemmed in by new build housing estates.
- There are plenty of brownfield sites which should be developed before this site and this approach is encouraged by government. These include the Old Swan pub site or use the Kenmore site for housing rather than a supermarket.
- If these houses were to be built, which schools would the children be put into? At the present moment schools in the local area are already oversubscribed and underfunded.
- Which doctors will these residents attend? Mirfield Health Centre is not big enough and cannot cope with the local residents which are already registered.
- How will the construction vehicles get to the site and how will noise pollution be controlled? The low bridges between the site and Mirfield will make it difficult for lorries to reach the site.
- 'Building houses on greenbelt land which also acts as a flood plane is foolish and short-sighted'.
- There are lots of buildings that could be reused – we should think more about refurbishment than new build.
- Coal mining has historically taken place in this area and houses built on this site may therefore be susceptible to subsidence.
- The development of this site is over development designed to maximise the profits of the developer.
- Previous planning applications to build on this site have been refused.
- The proposed houses are not in keeping with those existing in the area.
- The floods over the years have damaged the walls and fencing dividing the road from the river on the opposite side to proposed development and this also would need replacing along Granny Lane and Steanard Lane to provide safety for road users including cyclists, horse riders and pedestrians.

- The proposal does not include any significant measures to mitigate impacts on climate change.
- Banners and posters placed at the site by objectors have been removed without their consent.
- Horses are being forced off the only off road riding areas - this will add to inaccessibility.
- Poor access for construction equipment and delivery lorries with only Hopton Lane giving headroom for taller vehicles and all routes being narrow minor roads with difficult bends.
- A concern that Officers had pre-determined the proposal before its report to the 19<sup>th</sup> December Committee because the recommendation indicated in the Committee Report was to delegate back to Officers to approve subject to the resolution of a Section 106 agreement and relevant Planning conditions, yet a further consultation period relating to amended information received did not expire until 16 December 2019.

7.7 The Save Mirfield and GLAAG residents' groups have provided the following response to the Drainage Technical Note and associated plans submitted in December 2020:

- The ill designed proposal does nothing to mitigate the flood risk. In fact this will serve to exacerbate the flooding on Hagg Lane and Granny Lane;
- Assume that this change to the discharge of flood water will be discussed with Yorkshire Water, the Environment Agency and Highways due to the proposed addition of an unpredictable and uncalculated volume flow of overland water directly onto the junction of 2 highways;
- The LLFA noted on a site visit that the homes across the road from the site should never have been built. Given that these are 90 years old suggests that the effect of climate change is all too evident. To say that they would never get planning permission now, whilst across the road there are 67 homes being considered on an ancient flood plain/water meadow, demonstrates that the effects of climate change on our community is of little consequence to the planning department.
- It is vital to carry out the Exception Test, which must demonstrate benefit to the community for the lifetime of the development (NPPF). Without this test how can the Council be fully confident that all homes within the vicinity, that is Granny Lane, Gregory Springs Road, Gregory Springs Mount, Gregory Springs Lane and Hagg Lane will benefit from the development in the long term?
- Taking into consideration the flood behind Gregory Springs Mount which enters gardens there, and for which there is some conflict as to the origin, land ownership and responsibility, coupled with the vague calculation of the proposed storage tank and hydro brake to



adequately compensate for the loss of the natural surface storage area, without the back up of 2 sewage, these factors remain a serious concern. The health and safety of all residents should be a priority.

- The LLFA has circulated information to Councillors about the poor state of the drainage systems on Hagg and Granny Lane. Since this is a known high risk flood area, surely such a survey should have been carried out prior to the original submission of the application to the Committee?
- It is known that the Council Officers have met the landowner and Miller Homes on site. It is considered that everything is being done to support Miller Homes. It is noted that it is not unusual practice to meet with interested parties but the LLFA showed some reluctance to meet other members of the community- not exactly an even-handed approach when he claims to be "independent".
- The photograph captioned 'Section of channel to rear of existing development' is of interest. This channel was hastily dug recently by the landowner and was not remedial work on an historical channel that has been used in the past as stated in the LLFA report dated January 4th. Perhaps the LLFA suggested it to the landowner as he did discuss this at the meeting.

Save Mirfield and GLAAG maintain all their objections on the same grounds as before:-. Emergency access, road safety, sustainability, transport links, heritage, the environment, biodiversity, local amenities and the general poor quality of the original application which, in their view, sought to mislead the Committee.

7.8 Additionally, Save Mirfield (SM) have provided an additional response and objection to the application. It refers back to their original objection dated 20 June 2019 but notes that this letter is supported by a further 57 people. SM advise that the points in their original letter and subsequent communications still stand. In response to the amended details, they note that SM 'continue to have no confidence in the developer's proposals as regards the issues around drainage'.

7.9 A letter has also been submitted by a firm of Solicitors on behalf of their clients, Granny Lane Area Action Group and Save Mirfield. For the most part, the letter reproduces paragraphs from the NPPF and National Planning Guidance on Planning and Flood Risk and highlights specific sections. A summary of the specific points the letter raises is set out below:

- It is understood that the landowner/applicant is proposing to dig out some blocked drainage further along the site and 'reinstate' a previous drainage route. Not only does this previous drainage route not exist to our clients' knowledge and so, a new route is proposed which has not been assessed as to its suitability and impact on the Site and surrounding area, but if used it will result in the drainage being discharged into the road at the junction of Granny Lane and Hagg Lane. No assessment has been undertaken of this proposed new route or of the ability of the junction of Granny Lane and Hagg Lane to cope with the resultant drainage discharge. Furthermore, at a meeting with

local residents on 2 October 2020, Mr Paul Farndale stated that no matter what was proposed, betterment could not be achieved for several local residents.

- To date, only an area wide desktop drainage assessment has been undertaken. In light of Mr Farndale's comments at the meeting on 22 October 2020, the proposed new drainage route, the time that has elapsed and further evidence produced, it is our client's view that a Sequential test should be undertaken and, if applicable, an Exception test should also be undertaken.

7.10 Mirfield Town Council was consulted on the original proposal and responded as follows:

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

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

Cllr Bolt (December 2019)

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

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

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

Cllr Lees-Hamilton (December 2019)

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

*back at a more suitable date after all the results of the public consultation have been included into the report.”*

7.12 Following the report to Planning Committee in December 2019, there has been on-going correspondence between the Council and the Granny Lane Area Action Group (GLAAG) and Save Mirfield. This has included an entitled 'letter before claim' in accordance with the Civil Procedures Rules (CPR) Protocol for a proposed claim for judicial review' dated 24th August 2020. The purpose of any pre-action protocol letter is to identify the issues in dispute and establish whether they can be narrowed or litigation can be avoided. However, until a decision on the application is taken, no claim for judicial review can be pursued. Nevertheless, taken together, their letters have raised a variety of issues, which can be broadly summarised as follows:

- The detailed report commissioned by GLAAG pursuant to the submitted FRA was not properly considered nor the significance of its findings conveyed to the Planning Committee;
- The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the Committee;
- Queried why the applicant was not required to correct the FRA in relation to part of the site access being within Flood Zone 3 when they were told about it in October 2019 and details of the emergency access should be required as a consequence;
- Page 21 of the KRS report (A technical appraisal prepared by KRS on behalf of the objectors' group of the applicant's supporting FRA) states that there is no route available for access to the west of the site. This alone should, in their view, make the site untenable given that the entrance is in Flood Zone 3;
- The Council have advised that finished levels of the site entrance will be raised but consider that it would not be significant. The consultant for GLAAG and Save Mirfield has looked at the contours and approximated this to actually be 1:35 at this point. They query why the Environment Agency was not made aware of this as their condition was no elevation of ground levels in Flood Zone 3?
- Query over the proposed method of drainage and any potential shortfall;
- Consider that drainage should be approved prior to any decision making and not subject to a condition;
- A concern that Yorkshire Water cannot guarantee that if sewerage levels raise, foul effluent will not run back into the storage tank;
- Assuming that the storage tank will be underground, will the land above it need to be raised?
- The large amount of deforestation on Hagg Lane, alongside Valance and Liley Clough Becks raises questions about the currency and accuracy of the Flood Risk Assessment;
- Still maintain that the Sequential Test has not been passed and requested evidence to clarify why the Exception Test was not necessary;
- Do not believe that the emergency route has been assessed with regard to its suitability to accommodate emergency vehicles such as Fire Engines, Ambulances or Police vans, particularly as they would be driven over the roof of the attenuation tank;
- Ground levels at the main site access/egress have been raised. This was in contravention of the EA's original conditions;

- The emergency access road is just a few yards away from Flood Zone 3 and its proposed route takes it perilously close to Flood Zone 3. What calculations regarding this have been made to plan for climate change?
- The elevations of the roads and development worry the residents. The concern is that water flows downhill and the velocity of flow depends not only on the rainfall but also on the slope of hard surfaces. They believe the additional problem of the steeper gradient at the emergency access should be drawn to the attention of the LLFA, Highways and the Environment Agency.
- The Council have acted illegally in allowing a development contravening its Local Plan;
- The Council was negligent in allowing the development in non-developable areas;
- The Council failed to advise the applicant in its pre-application advice on specific limitations on the site imposed in the Local Plan;
- The Council allowed errors to persist (such as the applicant stating the entrance is in Flood Zone 2 when it is in Flood Zone 3) and took no action to correct them;
- The Council failed to protect the area deemed to be of high significance in the Council's own heritage impact assessment;
- The Council unilaterally closed the public consultation period and prepared its final advice to the planning committee four days early (pursuant to the original December 2019 Committee);
- The update report to the last Committee (December 2019) was dismissive of additional matters raised;
- The advice to the planning committee, and on which it made its deliberations on 19th December 2020, was biased in favour of the applicant and throughout the planning process, the Council went out of its way to assist the applicant;
- Planning conditions are proposed for matters such as the emergency access which is contrary to all accepted planning practice.

7.13 Responses to all of the above comments are either addressed within the Assessment below or at Paragraphs 10.85 to 10.91 of this report.

## 8.0 CONSULTATION RESPONSES:

### **Statutory:**

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

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

- Areas to be used by vehicles and/or pedestrians to be satisfactorily surfaced and drained;
- The submission and approval of a scheme providing details of the adoptable estate roads;
- The submission and approval of a construction management plan;

- The submission and approval of a scheme providing details of all new retaining walls adjacent to the public highway;
- The submission and approval of a scheme detailing all new surface water attenuation measures.

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

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

KC Highways have also responded to the latest set of plans received on 21<sup>st</sup> December 2020. They comment that the newest layout supplied by the applicant amends the visitor parking arrangements and widens the carriageway on the north-eastern bend in front of plots 37, 66, and 67 to improve forward visibility. These changes are seen as a benefit to highway safety, and Highways DM do not wish to raise any objection to the scheme. It has also been advised that the contributions outlined above should comprise a sustainable travel fund. Whilst it should include for the provision of real time information at bus stop 17654, the remaining contribution can be spent on measures to promote travel by means other than the private car to be agreed prior to the first occupation of the site

KC Lead Local Flood Authority – Taking into account the latest documentation provided by the applicant, following the submission of the video of surface water flowing across the site provided by GLAAG and Save Mirfield on 14th October 2020, the LLFA still raise no objection to the proposal subject to the following planning conditions/obligation:

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

- (ii) Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

- 3. Development shall not commence until a scheme detailing the design, construction, operation, maintenance and management of emergency access roads and surface water flood route pathways to avoid curtilage flooding has been submitted and accepted in writing by the Local Planning authority. The scheme shall be installed and retained thereafter.
- 4. Development shall not commence until a detailed cross sectional design of the southern plots with rear gardens and across the border with adjacent land is required. This should include a clear indication of fences and hedgerows to be maintained, removed, or replaced, along with ditching dimensions and any bunding required. It should also include details of levels and gradients.

A financial contribution of £3,000 to contribute towards the future upgrade of a piped water course at the southern edge of the site. In addition, a contribution of £5000 is sought for research and improvements to Valance Beck, which contributes to flooding of Granny Lane in the vicinity of the access to the proposed development. This will be secured through the Section 106 agreement along with long-term maintenance and management arrangements of the applicant's surface water drainage proposals, to include a management company to specifically maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity so that blockages to the route(s) are less likely to happen post development due to a stated maintenance programme that can be enforced.

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

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

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

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

The EA were also consulted in December 2020 on the submission of the most recent information comprising the Drainage Technical Note to address drainage concerns associated with overland flows on the south eastern boundary of the site and the associated layout changes. The EA have advised by letter dated 5<sup>th</sup> January 2021 that they have reviewed the submitted document “Granny Lane – Technical Note 21.12.2020” produced by RWO Associates Ltd, and have the following comment to make:

‘This document is concerned with drainage matters relating to Valance Beck, which is an ordinary watercourse and therefore it is a matter for the Kirklees LLFA to comment on, not the Environment Agency. However, we advise that the recommendations for mitigation measures, including long term maintenance, are secured by a S106 agreement, or planning condition’. NB This would include the £8K secured through the S106 agreement.

Health and Safety Executive – No objection

**Non-statutory:**

KC Biodiversity Officer – No objection subject to planning conditions to secure proposed biodiversity enhancements and compensatory hedge planting. As part of the latest round of consultation, the Bio-diversity Officer confirms that they have no further comments to make.

KC Conservation and Design – No objection.

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

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

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

KC Environmental Health reviewed the revisions submitted in December 2020 and advised that the outstanding conditions recommended in their previous response dated 15th May 2019 should remain unchanged and remediation relating to the whole site is still required.

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

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

KC Trees – No objection. The Tree Officer has noted that as per the tree survey supporting the application, the Ash trees on/adjacent to the site are infected with 'Inonotus', a decay fungus. Therefore, they are in poor condition to a point that they will require removal in the near future and no new TPO can be served on them. If these trees did have to be removed ultimately a scheme for replacement trees would be sought.

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

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

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



- Each dwellings should be fitted with an intruder alarm

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

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

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

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

Yorkshire Water – No objections providing separate systems for foul and surface water drainage are provided onsite and via existing sewer off site subject to the surface water discharge rate being restricted to less than five litres per second. YW confirmed in April 2020 that they had no further comments to make. They have confirmed again in January 2021 that they still have no additional comments to make.

## **9.0 MAIN ISSUES**

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

## **10.0 APPRAISAL**

### Land use, sustainability and the principle of development

10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

10.2 This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that

proposals that accord with the policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

- 10.3 Policy LP2 of the Local Plan refers to place making and advises that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Furthermore, Policy LP3 advises, amongst other matters, that development proposals will be required to reflect the Spatial Development Strategy and development will be permitted where it supports the delivery of housing in a sustainable way, taking account of matters such as the delivery of the housing requirements set out in the Plan.
- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. Currently, as set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared to the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19<sup>th</sup> January 2021). As the Kirklees Local Plan was adopted within the last five years, the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27<sup>th</sup> February 2019). Chapter 5 of the NPPF also clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should therefore be considered in the context of the presumption in favour of sustainable development, which is at the heart of the Framework.
- 10.5 The application site is identified as a housing allocation (HS66) within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Based upon the net site area, it is given an indicative capacity of 70 dwellings. In this case, 67 dwellings are proposed, which would make a significant and welcomed contribution towards meeting the housing delivery targets of the Local Plan.
- 10.6 The site is Greenfield land. However, allocation of this and other Greenfield sites was based upon a rigorous borough-wide assessment of housing and other needs, as well as an analysis of available land and its suitability for housing through the Local Plan examination process. It was found to be an appropriate basis for the planning of the Borough by the Planning Inspector. Whilst the Local Plan strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary in order to meet development needs. Furthermore, within the NPPF, the effective use of land by re-using brownfield land is encouraged but the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.7 The application site is in a sustainable location for residential development. It is relatively accessible and situated on the edge of an existing established settlement that is served by public transport and other facilities. Further reference to and assessment of the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations. In principle, however, the development of this site for residential use is consistent with Policies LP1, LP2 and LP3 of the

KLP. It is therefore acceptable in principle subject to an assessment against all other relevant policies within the Local Plan set out below.

#### Urban design and housing density

- 10.8 The proposed 67 residential units would be laid out around a loop access road, which would connect to Granny Lane on the northern edge of the site. Of these, 31 units are proposed adjacent to the internal boundary of the access loop, and 36 are proposed adjacent to its external boundary. The layout plan submitted in December 2020 includes a small modification to the road layout to slightly widen the bend of the road at the eastern end of the site in order to satisfy the requirements of the Council's S38 Team (adoptions). This has led to very minor amendments to the position and parking arrangements of Plots 35-37.
- 10.9 Nevertheless, the new residential units would still be laid out in an appropriate arrangement, where back gardens would back onto other back gardens, existing back gardens or open land to the east and south of the site. It is considered that this layout would provide clear definition and enclosure. Consequently, ambiguous outdoor spaces would not be created and the layout provides for good natural surveillance to all areas of public realm.
- 10.10 An area of publicly-accessible open space is proposed along the site's northern edge adjacent to Granny Lane. It would be accessible to existing residents to the west, as well as to new residents. It is therefore considered to be an appropriate location as it would serve to integrate the proposed development within its surroundings. It would also help limit the visual impact of the development when seen from Granny Lane. The open space in this location would provide the wider site with a suitable entrance, which is considered important given that existing views across the site from this point on Granny Lane are of open land. Furthermore, it would reduce the impact of the development on Sheep Ings Farm and its environs, which is immediately adjacent to the site to the east.
- 10.11 Car parking has been designed into the proposals, the majority of which is located within the curtilage of individual properties. Parking spaces that are not within domestic curtilages are overlooked from adjacent residential properties allowing an adequate level of surveillance.
- 10.12 To ensure the efficient use of land, Local Plan Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities would be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or, to secure particular house types to meet local housing needs.
- 10.13 The Local Plan Site Allocation identifies the gross site area for the allocation (HS66) as 2.23 hectares. However, the net site area is recorded as 2.02 hectares. This takes account of the fact that the part of the site within Flood Zone 3 and within the HIA (Heritage Impact Assessment) area of high significance has been removed from the developable area.

- 10.14 With 67 units proposed on a site of approximately 2.23 hectares, a density of approximately 30 units per hectare would be achieved. However, this density figure is based upon the gross (red line boundary) site area. As noted above, a proportion of the site has been sacrificed to ensure dwellings are located in areas where flood risk is reduced away from the site entrance. Excluding this section of the site results in a developable area of approximately 1.93 hectares. Using this site area, the provision of 67 dwellings would equate to the density of 35 units per hectare specified (and applicable “where appropriate”) in Local Plan Policy LP7. Officers therefore consider that the proposed density of development would ensure that the site is efficiently used.
- 10.15 The proposed mix of house types is considered acceptable. The development comprises 38 detached dwellings, 13 blocks of semi-detached dwellings (26 individual units) and a block of 3 town houses. These provide a range of 2, 3, 4 and 5 bedroomed properties. This is reflective of current housing in the vicinity of this site. Existing house types in the area exhibit a range of designs and it is considered that the proposed range of house types would assimilate well with those existing and are therefore considered acceptable in design terms.
- 10.16 The applicant proposes the use of red brick and a mixture of brick and render and grey concrete tiles across the site. Again, this reflects the variety of facing and roofing materials used in the vicinity. In light of the above assessment, it is considered that the relevant requirements of Chapter 12 of the NPPF, and Local Plan policies LP2, LP3, LP7, LP24 and LP35, would be complied with.

#### Residential amenity and quality, including internal space standards

- 10.17 Local Plan Policy LP24 advises that good design should be at the core of all proposals. It states that development should provide good design by ensuring, amongst other matters, that they provide a high standard of amenity for future and neighbouring occupiers and also, that they are adaptable and able to respond to change and offer flexibility to meet changing requirements of the resident / user. As a consequence, matters such as maintaining appropriate distances between buildings, outside garden areas and also the provision of adequate living space are material planning considerations.
- 10.18 With regard to space standards, the Government’s Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees at this time. However, they provide useful guidance, which applicants are encouraged to meet and exceed, as set out in the Council’s Draft Housebuilder Design Guide SPD. NDSS is the Government’s clearest statement on what constitutes adequately-sized units. Consequently, in the context of Policy LP24, it is relevant to consider whether the dwellings would be of a sufficient size for future occupiers.
- 10.19 The NDSS minimum gross internal floor areas (GIA) are based upon the number of bedrooms within the house overall at a defined level of occupancy. For this reason, each unit size standard is sub-divided into categories based upon the number of bed spaces (persons) and also, whether it would be a 1, 2 or 3 storey dwelling. However, the guidance also confirms that relating internal space to the number of bed spaces is a means of classification for assessment purposes only when designing new homes and seeking planning approval (if a local authority has adopted the space standard in its Local

Plan). It does not imply actual occupancy, or define the minimum for any room in a dwelling to be used for a specific purpose. In this instance, where there is presently no local plan policy, the minimum standard within the NDSS for a 3 bed, 4 bed and 5 bed unit has therefore been applied in this assessment.

10.20 The report to Planning Committee in 2019 also clarified that the NDSS are not adopted but they provide useful guidance. It did advise that the proposed dwellings would meet the minimum unit size figures set out in the NDSS. On review in January 2021, however, it has been clarified that three of the house types did not. The Stretton 3 bedroom house type was 7.9m<sup>2</sup> below standard whilst both of the affordable housing units (Yare and Glaven) were 9m<sup>2</sup> and 8m<sup>2</sup> below the minimum respectively. Consequently, at that time, the majority of units (69%) were compliant but 31% were not.

10.21 Following further discussions with the applicant in January 2021, the size of the affordable housing units have subsequently been reviewed. As a result, the Yare and Glaven house type have been replaced with new affordable housing types – Driffield and Harrison. These would both comply with the NDSS. A full breakdown of the proposed unit sizes is provided in the table below. The affordable units are shaded in grey.

House Type	Size of unit	No.	GIA	NDSS minimum	NDSS Compliant
Driffield	2 bed terrace/semi	12	70	70	✓
Harrison	3 bed semi	2	84.3	84	✓
Kipling	3 bed detached	2	97.2	84	✓
Malory	3 bed detached	4	99.2	84	✓
Stretton	3 bed semi	8	76.1	84	✗
Tolkein	3 bed semi	8	84.3	84	✓
Darwin	3 bed detached	1	85.6	84	✓
Darwin DA	3 bed detached	2	87.3	84	✓
Buchan	4 bed detached	3	117.4	97	✓
Buchan DA	4 bed detached	1	117.4	97	✓
Chadwick	4 bed detached	5	130.8	97	✓
Fenwick	4 bed detached	3	119.7	97	✓
Herbert	4 bed detached	4	134.7	97	✓
Mitford	4 bed detached	9	128.9	97	✓
Butterwick	5 bed detached	4	148.7	110	✓
Total		67			

10.22 The above shows that all but one of the house types are now compliant with the NDSS as assessed by the Council. This equates to a level of compliance of 88%. Only the Stretton 3-bedroom house type is below the standard by 7.9m<sup>2</sup>. However, the floorplan for this unit still indicates that it could deliver adequate living accommodation. It includes a separate laundry/w.c at ground floor level and a family bathroom as well as a main bedroom with en-suite at first floor level. Taking into account that the NDSS is currently guidance, overall, the scheme would deliver a sufficient quality of living accommodation for future residents in accordance with LP24. All of the proposed houses would also benefit from dual aspect, and would be provided with satisfactory outlook, privacy and natural light.

- 10.23 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties on Gregory Springs Road, Gregory Springs and Granny Lane. Plots are oriented to ensure that direct views into habitable room windows are avoided. Levels on site are also similar to those surrounding the site and it is considered that the proposed separation distances would ensure that existing residents would not experience significant adverse effects in terms of reductions in natural light and privacy. The amendment to the affordable housing types noted above does result in the depth of these units being modestly increased by approximately 1 metre. This includes the units at Plots 2-6, which adjoin the existing properties on Granny Lane and Gregory Springs Road. The closest distance would be between Unit 2 and 42 Granny Lane at approximately 12 metres; however, this is at a very oblique angle to avoid any direct overlooking. Adequate distances would also be provided within the proposed development between new dwellings.
- 10.24 It should be noted that whilst outlook is a material consideration relevant to this application, private views currently enjoyed by existing residents of Gregory Springs Road, Gregory Springs and Granny Lane across the green fields of the application site cannot be protected by the Council in its determination of planning applications.
- 10.25 All of the proposed houses would be provided with acceptable private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Within the revision to the scheme in December 2020, as a result of the need to create a 2-3m corridor to channel overland surface water flows on their natural route, Plots 32-36 would lose a small strip of garden. Nevertheless, these properties still benefit from external amenity space and they retain a broadly open outlook. Furthermore, an area of open space is also proposed on site next to the site's northern boundary, adjacent to Granny Lane. This would be 2350m<sup>2</sup> in size, and would include a Locally Equipped Area for Play (LEAP), which would be within 400m walking distance of all the homes it serves. It would be positioned to provide a buffer zone between it and the habitable room façade of adjacent dwellings. Further details of the LEAP would be required by condition.
- 10.26 In terms of noise, although residential development would increase activity and movements to and from the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.27 A condition requiring the submission and approval of a Construction Management Plan (CMP) is proposed. The details submitted for a future discharge of condition would need to sufficiently address the potential amenity impacts of construction work at this site. Details of temporary drainage arrangements would also need to be included in the CMP.
- 10.28 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protect those of existing occupiers. It would therefore comply with the objectives of Policy LP24.

### Affordable housing

- 10.29 Local Plan Policy LP11 requires 20% of units in market housing sites to be affordable. A 54% social or affordable rent / 46% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing should be appropriately designed and located around the proposed development.
- 10.30 In this case, 13 of the proposed 67 units would be affordable. In terms of unit numbers, this represents a 20% provision, which meets the requirements of Local Plan Policy LP11, and is welcomed.
- 10.31 This proposed unit size mix (11 x 2 bed and 2 x 3 bed) would assist in meeting known housing need as set out in the 2016 Strategic Housing Market Assessment.
- 10.32 In terms of the tenure of the affordable housing units, 7 would be social rented units and 6 would be intermediate dwellings. This would deliver a 54% social: 46% intermediate in accordance with the Council's requirements, which is secured within the Section 106 agreement.
- 10.33 The proposed locations of the affordable housing units are considered acceptable, as they would be distributed around the application site. Taking all these matters into account, the proposal is therefore compliant with Policy LP11.

### Highway and transportation issues

- 10.34 The dwellings would be served by a single access off Granny Lane which would be 5.5m in width at the junction with a 2.0m footway on either side. The estate road then remains 5.5m wide apart from a small section measuring 6.0m. The 2.0m footways continue throughout the site barring the section of shared surface to the frontages of plots 21-36 and 51-66 where a 0.6m hard margin is provided. At the newly-formed junction, appropriate visibility splays of 2.4m x 50m and 2.4m x 46m have been demonstrated.
- 10.35 In terms of traffic generation, the Transport Assessment (TA) submitted with the application (based upon 67 dwellings) offers 2 assessments. One is based on 'TRICS' figures, which is a national database of transport survey records across a wide range of land use categories. Using the 'residential – houses privately owned' land use classification, the TA identifies a trip rate of 38 two-way movements in the AM peak (10 arrivals and 28 departures) and 35 in the PM peak (24 arrivals and 11 departures). The second assessment was requested by the Council using a higher threshold of 0.8 vehicle trips per dwelling per hour. This results in 53 two-way trips in the morning and evening peak (13 arrivals and 40 departures in the morning and the opposite in the evening).

- 10.36 Using this higher figure, the TA identifies that assessments were undertaken to demonstrate the 2024 predicted peak-hour operational characteristics of junctions in the vicinity of the site. This included the Huddersfield Road/Queen Street/Station Road junction, the Huddersfield Road/Steuard Lane junction and the Steuard Lane two-way bridge, as well as the operation of the proposed site access. The analysis concludes that the proposal would not result in material impacts to the safety or operation of any of the junctions assessed and the development related trips would not have a significant impact on the operation of the local highway network.
- 10.37 The TA also included an analysis of accidents that occurred on the highway network in the vicinity of the site in the 5 years prior to January 2018. This identified 11 'Personal Injury Accidents' in this period, of which 10 were classified as slight and 1 as serious, although none were in the immediate vicinity of the site. Using Crashmap data up to 2019, this shows one incident between the junction of Gregory Springs Lane and Hopton Lane involving 2 vehicles but documented as slight in severity. The number of accidents recorded is therefore considered to be low and there is no evidence to suggest that the proposed development would unduly affect the frequency of accidents in the future.
- 10.38 Initially Officers raised concerns regarding visibility at the junction of the site with Granny Lane, off-street car parking, forward visibility on part of the estate road and anomalies in the TA. This resulted in the submission of a Technical Note (TN), which addressed the issues raised in the original consultation response. The TN provided further justification for the achievable visibility splays at the junction with Granny Lane, the proposed visitor parking arrangements and demonstrated that the levels of resident parking would be suitable for the site and consistent with other Miller Homes developments. It also provided sufficient evidence that forward visibility at points of concern on the estate road could be adequately achieved. Furthermore, it amended anomalies in the TA with regard to existing buses and trains in the vicinity of the site.
- 10.39 In this regard, it is noted that the site is accessible by means other than the private car. Mirfield Railway Station is within approximately 800m walking distance of the proposed site access. This would be circa 0.5 miles and within a 10-minute walk. Mirfield Station provides connections to Leeds, Bradford, Huddersfield, Wakefield and Dewsbury, amongst other destinations. Mirfield is due to be upgraded as part of Network Rail's Transpennine Upgrade proposals and whilst this could lead to some disruption to services in the short-term, there would be long-term benefits to future residents.
- 10.40 The site is also accessible by bus. The nearest stops are on Calder Road, which are approximately 0.3 miles (approximately 480m) from the site entrance. Whilst this would be just beyond the 'desirable' 400 metre acceptable walking distance identified in the Institute of Highways and Transportations (IHT) 'Providing for Journeys on Foot' (2000) referred to by the Transport Consultant appointed by the local residents groups, it would be approximately a 7 minute walk on a relatively level route. The bus stops would also be comfortably within the 800m acceptable distance identified in the IHT document. These are served by the 262 service (hourly, Monday – Saturday), which extends to Huddersfield Town Centre.



- 10.41 The site is also in reasonably close proximity to Mirfield Town Centre, which provides a range of services and provisions. It lies approximately 1200m from the site. Whilst this is beyond the preferred maximum of 800m identified in the IHT report above, it is still less than a mile's walk on a mostly flat route. Moreover, the IHT document recognises that acceptable" walking distances will vary between individuals and circumstances. It will depend on various factors including an individual's fitness and physical ability, encumbrances, like a shopping, pushchair, the journey purpose and personal motivation. Nevertheless, overall, the site is within an existing residential area and it is considered to be sufficiently accessible by means other than the private car and an accessible location for development. Furthermore, as part of the S106 agreement, measures to a value of £52,533.50 would be secured to encourage sustainable modes of transport. This would include £10,000 for real time information display at bus stop 17564 (Calder Road/Granny Lane) as well as Travel Plan monitoring.
- 10.42 Following the previous Committee, concerns were raised by local residents' groups about the gradients of the site access. Following discussions with the Council's Highways Officers, it is understood that the junction approach gradient is likely to be 1:33. The Highways SPD allows a maximum gradient of 1:25, so 1:33 would be compliant with the SPD and the Council would have no issue with the adoption of the road at this gradient. Nevertheless, final details of site levels will be required prior to any development commencing by means of a planning condition.
- 10.43 For the reasons set out above, Officers therefore consider that subject to conditions and the planning obligations detailed in this report, the proposal would accord with Kirklees Local Plan Policies LP21 and LP22 with regard to its potential impact on the Local Highway network.

#### Flood risk and drainage issues

- 10.44 Guidance within the NPPF advises at Paragraph 163 that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This approach is reinforced in Policy LP27 of the KLP, which confirms, amongst other matters, that proposals must be supported by an appropriate site specific Flood Risk Assessment (FRA) in line with National Planning Policy. This must take account of all sources of flooding set out in the Strategic Flood Risk Assessment and demonstrate that the proposal will be safe throughout the lifetime of the development (taking account of climate change). Policy LP27 also notes that proposals for development that require a Sequential Test in accordance with national guidance will need to demonstrate that development has been directed to areas with the lowest probability of flooding, following a sequential risk based approach.
- 10.45 Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available, or can be co-ordinated to meet the demand generated by the new development.

- 10.46 The application site lies within Flood Zones 1 (low probability), 2 (medium probability) and 3 (high probability) as defined on the Environment Agency's Flood Zone map. The majority of the site is within Flood Zone 1, which is land having a less than 1 in 1,000 annual probability of river or sea flooding. Approximately the northern third lies within Flood Zone 2 (land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding) whilst an area around the existing entrance on Granny Lane is within Flood Zone 3 (land having a 1 in 100 or greater annual probability of river flooding). Parts of the site are also identified to be at a relatively high risk of surface water flooding.
- 10.47 The applicant has prepared a site specific Flood Risk Assessment to support the application as required by LP27. This was subject to amendments in the course of the application with the last revision submitted on 11<sup>th</sup> December 2019. The findings of the FRA are detailed below.
- 10.48 A Sequential Test is not required for this application on the grounds that the site was allocated for housing through the Local Plan process, for which a strategic flood risk assessment was undertaken (Technical Paper: Flood Risk – November 2016). This technical appraisal comprised a consideration of the site's potential flood risk issues. Whilst including some land within Flood Zones 2 and 3, it was nonetheless considered suitable for residential development and included as an allocation. This allocation was subject to thorough examination and was deemed to be sound and lawful by the Planning Inspectorate. Paragraph 162 of the Framework confirms that 'where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again'.
- 10.49 With regard to the Exception Test, this is a method to demonstrate and to help ensure that flood risk to people and property will be managed satisfactorily, whilst allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The Exception Test was applied at the Local Plan stage within the Technical Paper noted above. In respect of the site allocation at Granny Lane (Site Reference H40 at that time), it noted that an Exception Test was not required because the developable area had been reduced to remove the area at a high risk of flooding so that there would be no new housing in Flood Zone 3a.
- 10.50 It is acknowledged that Paragraph 162 of the NPPF confirms that the Exception Test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account. Neither is considered to apply in this instance, because relevant aspects of the proposal (i.e. the use of the site for residential purposes) was considered at the plan making stage as set out above. There has also been no change to the flooding risk of the site as identified on the Environment Agency's Flood Map for Planning between the adoption of the Local Plan and the consideration of this application.

10.51 Furthermore, the requirement for an Exception Test is set out in Planning Practice Guidance: Flood Risk and Coastal Change. Table 2 of the PPG outlines the flood risk vulnerability classification of specific types of development. Table 3 of the PPG then sets out flood risk and vulnerability and flood zone compatibility and clarifies when the exception test should be applied. Buildings used for 'dwellinghouses' are classed as 'more vulnerable' in Table 2 whilst amenity open space is classed as 'water-compatible development'. For more vulnerable development, no exception test is required for development falling within Flood Zones 1 and 2. So even if the Exception Test had not been previously applied, because all the housing on this site lies within Flood Zones 1 and 2, no Exception Test would be required. No Exception Test is required either for water compatible development.

10.52 It is acknowledged that a small section of the access road at the point that it adjoins Granny Lane falls within Flood Zone 3. However, Table 3 of the PPG does not categorise residential estate roads, which are, in effect, engineering operations associated with the residential development of a site. In its scale, it is not the essential infrastructure of the type which is referred to in the Planning Practice Guidance, which includes mass evacuation routes and therefore implying a significance of scale. Again, the application of the Exception Test would not be applicable.

10.53 Nevertheless, the submitted FRA does address how flood risk to people and property would be managed satisfactorily. It confirms that the site is within Flood Zones 1, 2 and 3 and considers the implications of the proposed residential development in relation to flood risk and surface water management. It determines the existing flood risk and estimates the likely impact associated with this proposal. The conclusions of the FRA can be summarised as follows:

- Dwellings are proposed in Flood Zones 1 & 2 with a minimum FFL of 45.87m AOD. This is 0.6m above the 100-year + 30% Climate Change flood level, and this would ensure that the properties remain safe during the critical flood level.
- All other sources have been reviewed and deemed a low or manageable risk. The surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable.
- It is proposed to discharge surface water to the public combined sewer at a rate of 5.0 l/s as agreed with Yorkshire Water.

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

10.54 With specific regard to the intersection of the access road with Flood Zone 3 where it adjoins Granny Lane, it is acknowledged that this could lead to a situation whereby emergency vehicles trying to gain access to the site are obstructed during a severe flood event. Consequently, it is considered that an emergency access could be achieved via the public open space to the west of the access road. This lies within Flood Zone 2 and is therefore less likely to flood. The principle of this route as an emergency access has been discussed

with West Yorkshire Fire and Rescue Service who raise no objection in principle subject to the access meeting minimum design specifications in terms of its width, carrying capacity and restrictions of unauthorised entry. The open space is of a sufficient size to accommodate the required width and details of the emergency access road, including its construction to ensure a specific tonne capacity and entry points will be secured via a planning condition as set out at Section 12 of this report.

10.55 In response to concerns from residents in relation to the effect of the gradient of the access road on flood risk, the LLFA have advised that roads will be drained into the attenuation tank and the flow control device will slow flows down to accepted rates during storms. This will be considered as part of the detailed design of the roads through the S38 highway adoption process.

10.56 Turning to surface water and drainage, initially, the applicant proposed to drain surface water from the developed site to an existing water course via an underground pumping station. However, the use of a pumping station was considered to be problematic by the LLFA as, in the event of the pump failing, it could exacerbate a flooding event. Following negotiations with Yorkshire Water, the applicant now proposes to drain surface water from the site directly to the existing public sewer located within Granny Lane via a gravity fed connection. This would be subject to limiting the discharge rate to 5l/s and would therefore require a satisfactory method of attenuation. Foul water would be drained via a separate system to the public sewer. Following confirmation from Yorkshire Water, The Environment Agency and the Local Lead Flood Authority, Officers consider that this would provide a suitable drainage regime for the site and detailed site drainage measures can be adequately dealt with via the planning conditions and obligations outlined in Section 12 of this report.

10.57 In addition, the applicant has undertaken a recent review of drainage concerns associated with overland flows. This followed the receipt in October 2020 of a video taken in February 2020 when Storm Ciara occurred. The video provided pictorial evidence of a flow running across the site, along the track towards Granny Lane during the storm event. Following on-site investigations, the applicant prepared a Technical Note dated 21.12.2020, which confirmed that the applicant had undertaken the following:

- A topographical survey extending to the southern fields.
- A site walkover on the southern boundary to review Valence Beck.
- A site meeting with Kirklees Council's LLFA officer.

10.58 The Technical Note identifies the following issues:

- Certain areas of Valence Beck have obstructions within the watercourse, mainly in the form of fallen trees, which are reducing the capacity and resulting in flows backing up the channel.
- Given the known downstream obstructions within the Beck, water escaping the channel at the identified location is expected, as witnessed in the February 2020, storm Ciara event.
- The topographical survey identifies the overland flow route, which is visible in-situ on to the rear of the site. The natural channel runs along a line north, then north east before ultimately draining towards Hagg Lane before ultimately discharging to Granny Lane.

- 10.59 The Technical Note then determines that there were three primary factors that contributed to the incident during Storm Ciara and the overland flow witnessed on the site:
- Blockages in Valance Beck;
  - The intensity of the storm;
  - The unmanaged channels to the rear of the site.
- 10.60 It is proposed that this risk would be mitigated through this proposal as follows:
- The onsite channel would be extended and enlarged and incorporated into managed land rather than plot ownership so that it can be maintained in perpetuity. Therefore, a 2m-3m wide corridor would be provided to channel flows on their natural route. It would be 300mm deep on the plot side.
  - Plot finished floor levels are above existing ground levels and rear gardens fall back towards the channel, further encouraging flows on this route.
  - A financial contribution will be provided via the S106 for clearance and maintenance works on Valance Beck, to reinstate the capacity of the watercourse.
- 10.61 The Technical Note concludes that ensuring the overland flow route is formally improved and maintained and obstructions removed within Valance Beck would reduce the risk of the event witnessed in February 2020 re-occurring. Nevertheless, in the event that they did, the management of this flow route to the rear of the site would ensure flows are directed to Hagg Lane and onto Granny Lane as they were designed to historically.
- 10.62 This additional information has been reviewed by the LLFA. The LLFA advises that the Technical Note (TN) reflects their observations on the latest and previous site visits. Storms in November 2019 saw a flood route along the back of the site and Stringers Place, which was observed by the LLFA and noted in conversation with residents.
- 10.63 For February 2020 (Storm Ciara), this route was partially blocked off causing significant ponding within the red line boundary of the application site, where water reached a natural weir point and cascaded along the access route to Granny Lane. In addition to the information within the TN, the LLFA observed that there is an old access way at the corner of the field to the rear of the development site and on the northern border of Kirklees owned land, which is boarded up. A gate is now installed at a higher level in this Kirklees land. It would also appear that a small strip between the Kirklees land and the site/Stringers Place is owned and/or is a right of way/access for the owners of the land to the rear of the site. The field arrangements shown on OS maps throughout the 20th century reflects this ownership.
- 10.64 In principle, the LLFA therefore welcome the reinstatement of ditch work and the future management of the overland flow paths to the west, rather than ponding on the application site and overflowing to the north. In English Common law, a landowner must accept floodwater through his/her land. The LLFA note that it would be prudent for the landowner to the south of the site to

continue the remedial work already carried out by the owners of the development site to improve the ditch present in their land but this is not within the control of this application. The LLFA did request a detailed cross sectional design of the southern plots with rear gardens, which was subsequently provided by the applicant. However, the LLFA would like additional cross-sections and this will form a condition of this approval.

- 10.65 Accordingly, the LLFA continue to raise no objection to the development subject to conditions to secure a detailed drainage scheme prior to works commencing and also, a Section 106 agreement to maintain the ditching (the flow route) through a management company so that blockages to the routes are less likely to happen post development due to a stated maintenance programme that can be enforced. This would be tied into the already agreed flood route at the south west corner of the site.
- 10.66 The information has also been reviewed once again by the Environment Agency and Yorkshire Water. This will be the fourth time the documentation for this proposal has been considered by these external agencies. The EA raise no objection, noting that the Technical Note is concerned with drainage matters relating to Valance Beck, which is an ordinary watercourse and therefore it is a matter for the Kirklees LLFA to comment on, not the Environment Agency. However, they advise that the recommendations for mitigation measures, including long term maintenance, should be secured by a S106 agreement, or planning condition. Yorkshire Water also confirm that they have no additional comments to make on the Technical Note.
- 10.67 For the reasons set out above, it is considered that this proposal therefore accords with Local Plan Policies LP27 and LP28 and Section 14 of the NPPF with regard to its potential impact on local flood risk and drainage, which is considered to be acceptable subject to conditions and the requirements set out in the planning obligation.

#### Trees, landscaping and ecological considerations

- 10.68 The application site is previously undeveloped (Greenfield) land and comprises two pastures used for grazing. Other than grass, the pastures are largely devoid of vegetation. However, they are bounded by established hedgerows to the east, which include some self-seeded trees. A mature tree is located at the northern edge of the site. No trees within or near to the site are protected by Tree Preservation Orders. Biodiversity Opportunity Zones (Flood Plains and Pennine foothills) covers much of it. However, as the site is grassed and used for grazing, its biodiversity interest is likely to be limited.
- 10.69 The applicant has provided an Arboricultural Impact Assessment, which indicates that two trees and two tree groups would need to be removed to accommodate the development. The proposals would see the retention of the existing mature ash at the northern edge of the site and the existing hedge along the site's eastern boundary, as well as some vegetation along the southern edge. It is, however, noted that the Ash trees on/adjacent to the site are infected with Inonotus, which is a decay fungus. They are in a poor condition to a point where they will require removal in the near future and no Tree Preservation Order can be served on them. A condition is therefore attached that would require replacement planting of any such tree if it is removed or dies within 5 years of the planting scheme being implemented.

- 10.70 The applicant has submitted an Ecological Impact Assessment (EclA) in support of the proposed development. This concludes that the application site is of low ecological value as it primarily comprises grassland and hard standing with limited species and biodiversity could be enhanced via landscape planting as part of the development.
- 10.71 Officers considered that whilst the submitted EclA generally addressed the potential impact of the development on local ecology, the loss of existing hedgerow needed further consideration. A revised landscaping scheme to indicate additional hedge planting to the south of the development and adjacent to the public open space was therefore submitted.
- 10.72 Consequently, Officers consider that, subject to additional hedge planting being carried out in order to offset the loss of established hedges on site and the implementation of mitigation measures detailed in the EclA to be secured by condition, this proposal accords with Kirklees Local Plan policies LP33 and LP30 with regard to its potential impact on the local biodiversity.

#### Ground conditions

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

10.77 It is therefore considered that this proposal accords with Kirklees Local Plan Policies LP38 and LP53 with regard to potential contaminated and unstable land and minerals safeguarding issues.

### Heritage Issues

10.78 Whilst there are no known heritage assets within the application site itself, it is immediately adjacent to Sheep Ings Farm which is a Grade II listed building. The farm comprises a farm house and attached barn, part of which dates from the 17<sup>th</sup> century. The listing description highlights the physical attributes of the building including construction details and fenestration treatment.

10.79 Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. It is therefore important that any development in the vicinity respects the character and setting of this building. This approach is consistent with the objectives of Policy LP35 of the KLP.

10.80 The importance of this heritage asset was identified as a site specific consideration when the application site was included in the Local Plan as a housing allocation. The 'Other Site Specific Considerations' section of the Site Allocation notes that 'proposals will identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment (HIA) or any updated Heritage Impact Assessment submitted by the applicant as part of the planning application process'.

10.81 The Council's HIA was undertaken during the Local Plan process in response to questions raised by Historic England at that time. Paragraph 5.3 of the HIA refers to the high significance area as 'field boundaries and associated land to north of the allocated site. It noted that 'this strip of land has significance as a historic field boundary and it also provides a buffer zone between the development and the remaining land'. The HIA suggests that the loss of the area of open land identified as High Significance in the HIA would result in substantial harm and should be retained as open land.

10.82 The applicant has submitted a supporting Heritage Statement, which considers the historical context of the farm and the likely impacts associated with this proposal. The assessment concludes that:

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



- 10.83 Officers have reviewed this document and, bearing in mind a buffer would be created between the farm and the new dwellings, agree with the conclusions outlined above. In their consultation response to the application, the Council's Conservation Officer advises that the area of high significance is, in the main, retained as per the requirement of the HIA albeit that there is a settling tank and POS situated within it. It would, nonetheless, be open. The Conservation Officer notes that it is unclear that the whole of the high significance area as defined in the HIA is retained but, due to the lack of firm field boundaries on site, the actual boundary of the high significance area is difficult to assess. Nevertheless, it is determined that the premise of the high significance area is kept and there is no objection to the proposal from a heritage point of view. It is therefore considered that the proposal would preserve the setting of the listed building and would not harm its significance.
- 10.84 West Yorkshire Archaeology Advisory Service has indicated that due to previous finds in the vicinity, the site may contain unrecorded archaeological remains and has advised that an intrusive survey should be carried out to investigate this before this application is determined. However, officers consider that this matter can be satisfactorily dealt with via a planning condition which requires the completion of such a survey prior to any development commencing on site.
- 10.85 Subject to the inclusion of a condition requiring the completion of an archaeological survey, it is considered that this proposal accords with KLP Policy LP35 and Section 16 of the NPPF with regard to its impact on the historic environment.

#### Other Matters

- 10.86 Chapter 12 of the Local Plan relates to climate change and states that: "Effective spatial Planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use Planning principle. The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Having regard to the West Yorkshire Low Emission Strategy, a condition is recommended requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies will also be secured via the Section 106 agreement. Encouraging the use of more sustainable methods of transport all contributes positively to the aims of climate change.
- 10.87 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24 (e).

## Representations

10.88 The following is a summary response to the issues raised through the consultation process that have not been addressed within the report above:

### 10.86 Flood Risk and Drainage

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

**Reason:** The site is not a flood plain in any planning context. It does not have any positive drainage nor any means to manage the discharge of water to existing water courses. The field getting wet during rain events occurs already, before and without the development. The question is whether the new development would suffer adversely from these events or can risk to it be adequately mitigated. The risk to existing houses is a separate matter outside the planning process unless the new development would make it worse. It is considered that the new development does not affect the sources of the current flooding.

- It is assumed that Miller Homes propose diverting flood water into the stream that runs through Cuckoo Hill, which joins Valance Beck half way down Hagg Lane. The resident of Boathouse Lane finds this completely unacceptable. The two streams currently carry a large amount of water at times of heavy rainfall. Any addition to this would lead to increased flooding at the junction of Hagg Lane with Granny Lane.

**Reason:** The proposed mitigation works associated with this proposal have been fully considered by the LLFA as set out in the report above.

- Water meadow does not need any housing building due to flooding and extra flooding to Ship Inn due to excess water run-off and diverted water to Hagg Lane. Plus houses on Granny Lane will suffer from more flooding. The bungalows, also on Granny Lane will get floods from river and ex water meadow. We need to stop taking low lying land that helps to limit flooding’;

**Response:** The site has been declared a ‘water meadow’ by local residents. This is not a formal designation. However, in planning terms, the site lies within Flood Zones 1, 2 and 3 and it has been assessed on this basis against both local and national planning policy.

- The Ship Inn has been flooded at least four times last year. Building on the water meadow will cause more problems for the Ship Inn and the access road from Granny Lane.

**Response:** The Ship Inn lies within Flood Zone 3 and it is therefore identified to be at a high risk of flooding. However, within this application, no houses would be constructed in Flood Zone 3; rather, they would be sited in either Flood Zones 1 or 2 and their finished floor levels would be designed to take account of that location.

- It is contemptuous for any developer/consultant to ignore local educated knowledge. The amended details skirt around the issues of safety and flooding and do not give a substantive or adequate solution for either. The proposed diversion of surface water via a gully dug out at the rear of the development to be distributed onto Hagg Lane does not in any way alter the

fact that surface water flooding will occur. All this amendment does is take it away from the new homes to worsen the flooding of existing homes.

**Response:** No evidence has been submitted to justify the assertion that this application will worsen flooding of existing homes. Rather, the proposed mitigation works associated with this proposal have been fully considered by the EA and the LLFA as set out in the report above.

- The field currently slows the water entering the river and is a natural flood defence if anything trees should be planted to stem this flow further.

**Response:** As set out above, the site is not a designated flood plain. It is an undeveloped field. This would change post development when a positive drainage system is introduced and off-site improvements made.

- 'The mitigation and dismissal of the flooding that has happened frequently in this area is poor at best. The plan to move water elsewhere is not a viable solution and the use of the storm as though it was an "exceptional event" is absurd'.

**Response:** As above, as a result of this development, a positive drainage system would be introduced on the field and off-site improvements made. The drainage solutions for the site have been carefully considered by the LLFA and deemed to be acceptable in principle for the reasons set out in the report.

- There is no scientific solution, no calculations of water volumes or how they will increase by the removal of trees and what the consequences are for areas down stream.

**Response:** It is unclear what is meant by a scientific solution. With regard to calculations, micro-drainage calculations would be required by condition for tank sizing and would be published on the Council's website as a result.

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

**Response:** It is considered that the proposed surface water drainage regime at the site would be capable of dealing with surface water generated during flood conditions and would not result in local flood risk being increased.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** This contribution has been requested by the Lead Local Flood Authority as a proportionate figure to potentially fund such works should they be needed in the future. This figure has now been increased to a total of £8K in total.

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

**Response:** These matters are addressed in the report above.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Response:** Surface Water Drainage corridors with a management company to maintain it as agreed with LLFA would be secured through the S106 Legal Agreement.

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

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

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

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

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

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

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

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

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

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

- No maintenance arrangements for the surface water drainage.

**Response:** As above.

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

**Response:** As above.

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

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

- The exceedance routes have not been assessed.

**Response:** Exceedance routes are shown within Appendix K of the FRA. Moreover, whilst the consultant employed by the residents' groups may disagree with the findings of the FRA, it has been found to be acceptable by technical experts both at the LLFA and the EA. The LLFA also confirm that

exceedance events have been considered for surface water. The tank cover levels are lower and to the north of all the new properties. Where knowledge tells us the LLFA that a problem from the south affects the site, monies have been secured to carry out repairs to a system on 3rd party land. As a belt and bases approach, a channel has been lowered between houses to let water safely through the estate should this occur in the future.

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

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

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

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

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

**Response:** As above.

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

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

- The Sequential Test has not been passed.

**Response:** This is addressed in the report above.

- The Exception Test has not been passed

**Response:** This is addressed in the report above.

- Why were the matters contained in the latest Flood Technical assessment not considered at the outset? Why has it take a year and a half of extreme pressure and campaigning by the Granny Lane Action Group to have the flooding position considered more carefully? What was seen in the video taken during Storm Ciara is not a one off incident – it happens every time there is significant rainfall.

**Response:** The consideration of flood risk and drainage matters as part of this application has had regard to the requirements of both national and local planning policy and guidance. It has not a question of being considered more



carefully as a result of local campaigning but the Council have endeavoured to listen and respond specifically to the views expressed by local residents. Storms in November 2019 saw the flood route along the back of the site and Stringers Place observed by the LLFA and in conversation with residents. For February 2020 (Storm Ciara), this route was partially blocked off causing significant ponding within the red line boundary, where water reached a natural weir point and cascaded along the access route to Granny Lane. The latest scheme seeks to mitigate that situation.

- There is suggestion in the report by RWO and the LLFA's report that the widening and maintaining of ditching to the rear of the plots affected will 'reduce the risk of the event witnessed in February 2020 re-occurring'. Note that the risk will be reduced and not removed.

**Response:** As above. The proposed mitigation will mean that surface water will not follow this route as it has done in the past.

By moving and altering water course you are protecting new builds at the sacrifice of existing houses which goes against the Local Government duty of care to protect existing homes from flooding.

**Response:** This is an opinion rather than an evidenced statement. The development cannot resolve all existing flooding problems but it should not make it worse. It is the Council's opinion that it would not, for the reasons set out in this report.

It is believed that the applicant's intention is to direct sewerage and rainwater from the site into a holding tank underneath the green area by Granny Lane from where it would be pumped into the main sewer under Granny Lane; if the pump fails or if the increased rainfalls predicted overwhelm it then the tank will overflow onto Granny Lane and threaten the houses opposite with flooding.

**Response:** The FRA is clear that r, following discussion with the LLFA and Yorkshire water it has been agreed a discharge rate of 5 l/s can be utilised to the public sewer to avoid the need for a surface water pumping station.

The removal of debris upstream in Valance Beck will ensure flows are directed to Hagg Lane. If this happens it will only serve to speed the flow towards Valance Beck on Hagg Lane. Valance Beck already overflows onto Hagg Lane as a result of heavy rain (and not even storm situations) and the road becomes impassable.

**Response:** The removal of debris upstream in Valance Beck will ensure that flows continue to be directed to Hagg Lane without obstruction, as it should flow.

How will people access the development in a flood event? What about the Police, Nurses, Ambulances etc.

**Response:** The Emergency Access could provide a means of access for any emergency vehicle during a severe flood event.

Will their sales literature include a flood warning to potential buyers of these new houses?

**Response:** Whether or not the sales literature for these houses will include a flood warning to potential buyers is a matter for the applicant but it is reiterated that the houses themselves are sited within Flood Zones 1 and 2, which Government guidance confirms to be appropriate in terms of its vulnerability classification.

## 10.90 Highways and Transport

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

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

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

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

- Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development.

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

## 10.91 Wildlife/Environmental

- The proposal would have detrimental effect on local wildlife.

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

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

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

- This development would result in the loss of Green belt.

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

- The loss of trees associated with this development is unacceptable.

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

- Trees and bushes have already been removed from the site without consent.

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

## 10.92 Heritage

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

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

- The field where development would take place is an archaeological site.

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

### 10.93 Local Amenity

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

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

- The development of the site would result in a loss of privacy for existing residents.

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

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

**Response:** There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Long-term funding of health facilities is being considered as part of the Local Plan via Community Infrastructure Levy (CIL). With regard to schools, it is considered that primary provision is adequate and a financial contribution is secured towards secondary provision.

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

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

### 10.94 Miscellaneous

- Developing this land would affect existing house prices in the area.

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

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

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

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

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

- The development of this site is over development designed to maximise the profits of the developer.

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

- Previous planning applications to build on this site have been refused.

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

- The proposed houses are not in keeping with those existing in the area.

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

- The proposal does not include any significant measures to mitigate impacts on climate change.

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

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

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

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

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

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

**Response:** This is address above.

- The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the 19<sup>th</sup> December 2020 Committee.

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

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

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

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

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

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

**Response:** The EA confirmed in their consultation response dated 21<sup>st</sup> April 2020 that they had updated their comments to take account of the latest version of the FRA (Version 7 dated 10.12.2019) and they still had no objections subject to the imposition of a condition in relation to finished floor levels and no raising of ground levels in the area of public open space (POS) located within the Flood Zone 3. They note that the proposed site access route is located within the extent of flood zone 3 and the EA were aware that the LPA had referred to land raising of the access road in Flood Zone 3, stating "Whilst it is acknowledged that the finished levels of that part of the access falling within Flood Zone 3 would be raised slightly, these would not be significant". On this basis, the EA were satisfied that this minimal amount of land raising should not have any adverse impact on flooding to the site or elsewhere and have no objection to this. Whilst it is acknowledged that the consultation employed by GLAAG and Save Mirfield has looked at the contours and approximated the gradient of the access road to be 1:35, it is

noted that this is an approximation. The Granny Lane site is not as topographically challenge as other site allocations within Kirklees and it is still considered that the finished levels of the part of the access falling within Flood Zone 3 would only be raised slightly. In any event, finished site levels are subject to a planning condition and the Council has confirmed that in this instance, they are willing to advise the established residents groups (GLAAG and Save Mirfield) when the details of these conditions are submitted to give them the opportunity to view the technical data.

- Query over the proposed method of drainage and any potential shortfall.

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

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

**Response:** This is addressed in the report above.

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

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

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

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

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

**Response:** No evidence is provided as to why the deforestation on Hagg Lane should bring the accuracy of the entire FRA into question. The removal of trees in this area would represent a very small part of the flood catchment into Valance Beck and the FRA did assess overland flood routes in the event of water escaping from the Valance Beck in consultation with the LLFA.

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

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

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

**Response:** This is addressed at Paragraph 10.46.

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

**Response:** This is addressed at (x) above.

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

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

- What calculations regarding this have been made to plan for climate change?

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

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

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

- The Council have acted illegally in allowing a development contravening its Local Plan.

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

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

**Response:** If the Council have understood GLAAG and Save Mirfield correctly, it is their assertion that the Council have recommended approval for development (POS and road infrastructure) in non-developable areas. It appears that they have assumed the definition of a non-developable area to mean an area where 'development' is not permitted in the Local Plan. On this site, this would mean the area within Flood Zone 3 and the HIA (heritage) area of high significance. The Allocations and Designations document (February 2019) does identify the gross site area for the allocation (HS66) as 2.23 hectares with the net site area being 2.02 hectares, taking into account the flood zone and HIA, which are thereby removed from the 'developable area'. However, there is no definition of 'developable' and 'non-developable' within the Local Plan. The net and gross site areas for residential sites are identified within the Site Allocations document in order to assign a realistic housing capacity to them. This is based upon the developable area and excludes the non-developable area. The HS66 Site Allocation does not state that there can be no development within the non-developable area nor does it preclude the inclusion of non-developable areas within the red line boundary of a planning application. Read as a whole, the Site Allocation document refers to various constraints and site specific considerations for HS66. These include the proximity of the site to Listed Buildings and that part of it lies within Flood Zone 3 where it confirms 'no residential development to take place in Flood Zone 3'. The issue of the HIA area of high significance is addressed

above but in summary, within this proposal it is POS/highway and therefore, it is sufficiently retained as open land in compliance with the identified constraint. The planning application is also compliant with regard to flood risk as no houses are proposed within Flood Zone 3. Consequently, whilst the road infrastructure and POS constitute development, the Local Plan does not prohibit these from the non-developable area for the reasons stated above.

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

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

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

**Response:** This is addressed above.

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

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

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

**Response:** This is addressed at Paragraph 7.2.

- The update report to the last Committee was dismissive of additional matters raised.

**Response:** It is standard practice for a Council to prepare a Committee Update report to address any matters that have emerged between the publication of the Committee Report and the day of the Planning Committee. Late representations to applications are common and the Update report process allowed the Committee to be informed of such representations and in this respect, it was neither unusual nor untoward.

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

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

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

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



10.95 In response to the main points set out in letters received from GLAAG, Save Mirfield and their Solicitor to the latest round of public consultation in December 2020/January 2021, the following is advised:

- The ill designed proposal does nothing to mitigate the flood risk. In fact this will serve to exacerbate the flooding on Hagg Lane and Granny Lane.

**Response:** This is a point of view. As set out in the report, it is considered that the proposal does sufficiently mitigate against flood risk and will not exacerbate existing flooding on Hagg Lane and Granny Lane.

- Assume that this change to the discharge of flood water will be discussed with Yorkshire Water, the Environment Agency and Highways due to the proposed addition of an unpredictable and uncalculated volume flow of overland water directly onto the junction of 2 highways.

**Response:** All the above consultees have been consulted as set out in the report.

- The LLFA noted on a site visit that the homes across the road from the site should never have been built. Given that these are 90 years old suggests that the effect of climate change is all too evident. To say that they would never get planning permission now, whilst across the road there are 67 homes being considered on an ancient flood plain/water meadow, demonstrates that the effects of climate change on our community is of little consequence to the planning department.

**Response:** The point being made by the LLFA is that the homes across the road from the site lie within Flood Zone 3. Under current national and local planning policy, more vulnerable development such as dwellinghouses would be subject to a Sequential and Exception Test if it were to be built within Flood Zone 3a and would not be appropriate within Flood Zone 3b. However, the dwellinghouses within the application site would not lie within Flood Zone 3 but would be within Flood Zones 1 and 2, which Government Guidance confirms to be appropriate in terms of its vulnerability classification.

- It is vital to carry out the Exception Test, which must demonstrate benefit to the community for the lifetime of the development (NPPF). Without this test how can the Council be fully confident that all homes within the vicinity, that is Granny Lane, Gregory Springs Road, Gregory Springs Mount, Gregory Springs Lane and Hagg Lane will benefit from the development in the long term?

**Response:** The need for the Exception Test has been considered fully in the report above.

- Taking into consideration the flood behind Gregory Springs Mount which enters gardens there, and for which there is some conflict as to the origin, land ownership and responsibility, coupled with the vague calculation of the proposed storage tank and hydro brake to adequately compensate for the loss of the natural surface storage area, without the back up of 2 sewage, these factors remain a serious concern. The health and safety of all residents should be a priority.

**Response:** The broken land drainage system has been observed to the rear of Gregory Springs and money is available to improve this. It may, of course, happen again and mitigation has been made in the layout design should this occur. The LLFA are clear that the new estate will not make this worse for the experiences of the existing houses.

- The LLFA has circulated information to Councillors about the poor state of the drainage systems on Hagg and Granny Lane. Since this is a known high risk flood area, surely such a survey should have been carried out prior to the original submission of the application to the Committee?

**Response:** The road drainage on Hagg Lane does not affect the new development site. It was reported to the LLFA that some gullies were blocked. This was investigated and highways were asked to clean them out as the LLFA would for any observation on the highway network anywhere in the district. On cleaning these out, some were found to be poor runners or non-runners, which means there may be a blockage in pipework, a collapse or that another service, such as gas or cable has interfered with the system at some point. As highways have found this, they will create a job for further exploration to rectify the problem. This is a process. It would be followed regardless of the development. All the drainage from the site is independent from this gullies and downstream pipework.

- Council Officers have met the landowner and Miller Homes on site. It is considered that everything is being done to support Miller Homes. It is noted that it is not unusual practice to meet with interested parties but the LLFA showed some reluctance to meet other members of the community- not exactly an even-handed approach when he claims to be "independent".

**Response:** It is the role of Council Officers to consider the planning applications before them, which may quite appropriately include meeting with the applicant on-site to discuss specific matters. Officers from both Planning and the LLFA have also met and spoken with the residents/landowners around the site. The imputation that the LLFA is not independent and may therefore be biased towards the developer is a serious accusation. It is anticipated that will be responded to outside of the planning process.

- The photograph captioned 'Section of channel to rear of existing development' is of interest. This channel was hastily dug recently by the landowner and was not remedial work on an historical channel that has been used in the past as stated in the LLFA report dated January 4th. Perhaps the LLFA suggested it to the landowner as he did discuss this at the meeting.

**Response:** The LLFA advise that there is a dug channel at the corner of the land, which the LLFA were unaware of prior to our meeting. The author of the letter therefore assumes incorrectly.

It is understood that the landowner/applicant is proposing to dig out some blocked drainage further along the site and 'reinstate' a previous drainage route. Not only does this previous drainage route not exist to our clients' knowledge and so, a new route is proposed which has not been assessed as to its suitability and impact on the Site and surrounding area, but if used it will result in the drainage being discharged into the road at the junction of Granny Lane and Hagg Lane. No assessment has been undertaken of this proposed new route or of the ability of the junction of Granny Lane and Hagg Lane to cope with the resultant drainage discharge. Furthermore, at a meeting with local residents on 2 October 2020, Mr Paul Farndale stated that no matter what was proposed, betterment could not be achieved for several local residents.

**Response:** GLAAG and Save Mirfield advise that the drainage route does not exist *to their knowledge* and they therefore assert that it is a new route that has not been assessed as to its suitability and impact on the site and surrounding area. That is not the case. Even if the landowner has dug out

some of the blocked drainage, there are a combination of factors that provide evidence that there is a natural overland flow route running to the rear of the existing stables and Stringers Place before draining towards Hagg Lane and ultimately discharging to Granny Lane. This evidence includes topographical data, depressions in the exiting landscape that are evident on site and also the observations of the LLFA during previous flood events. The analysis of this information and the experience of the LLFA also means that it has clearly been assessed. The issue of betterment referred to in the letter requires clarification. The LLFA were principally referring to residents opposite the site whose houses are sited within Flood Zone 3ai – the houses are located in an area with a high probability of flooding and in fact are on land where water would flow in times of flood where it not prevented from doing so by infrastructure based on an annual probability of 1 in 20 (5% AEP) or greater. Under current local policy, residential development in Flood Zone 3ai would not be permitted. However, this is an existing situation that would be unchanged by the current application – it cannot be expected to mitigate existing flooding on sites already with a high probability of flooding but the Council are satisfied that it would not increase flood risk elsewhere, which is the test in the NPPF.

To date, only an area wide desktop drainage assessment has been undertaken. In light of Mr Farndale's comments at the meeting on 22 October 2020, the proposed new drainage route, the time that has elapsed and further evidence produced, it is our client's view that a Sequential test should be undertaken and, if applicable, an Exception test should also be undertaken.

**Response:** The application has been supported by a site specific Flood Risk and Drainage Assessment, which has been revised in the course of the application, including the Drainage Technical Note submitted in December 2020. These have been fully considered by professional with technical expertise in these matters at the Environment Agency, Yorkshire Water and the LLFA. All have no objection to the application subject to conditions. Furthermore, the requirement for a Sequential and Exceptions Test is determined by national and local planning policy and guidance and not by the passage of time that has elapsed. The need for the Sequential and Exceptions Test is very clearly addressed in the Committee Report.

### Planning obligations

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

- Affordable housing – As noted above, to accord with Local Plan Policy LP11, the applicant proposes 13 affordable housing units. Arrangements shall cover the number, type, layout, disposition, timescale and mechanism for provision, and shall confirm the units are to be provided in perpetuity.
- Open space – Off-site contribution of £58,808.00 to address shortfalls in specific open space typologies. Arrangements shall also cover the layout, disposition, timescale and mechanism for provision, and shall confirm the open space is to be publicly-accessible in perpetuity.

- Education – Officers have confirmed that a £157,992 contribution towards secondary school provision is necessary to serve the needs of the proposed development.
- Sustainable transport – Measures to encourage the use of sustainable modes of transport, including Travel Plan monitoring arrangements and fees involving a financial contribution of £53,533.50.
- Drainage – Arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals, including a £3,000 financial contribution to contribute towards the future upgrade of a piped water course at the southern edge of the site and also, arrangements for a management company to maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity so that blockages to the route(s) are less likely to happen post development due to a stated maintenance programme that can be enforced;
- Drainage – an additional financial contribution of £5K for research and improvements to Valance Beck, which contributes to the flooding of Granny Lane in the vicinity of the access to the proposed development. These funds would contribute to items such as measures to stop debris flowing downstream reducing the risk of blockages.

10.97 The requirement for an obligation to retain the affordable housing in perpetuity and with regard to open space is set out in the report above. With regard to education, the contribution is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Contributions will only be sought where the new housing will generate a need which cannot be met by existing local facilities. This will be determined through examination of current and forecast school rolls of relevant primary and secondary schools, their accommodation capacities and consideration of the type of housing to be provided. This provides a consistent approach to securing the education contribution within the planning application process.

10.98 The contribution towards sustainable transport measures in accordance with guidance within the Highways Design Guide to secure improvements to travel by means other than the private car. The heads of terms in relation to drainage will ensure that arrangements are in place to secure long-term maintenance and management of the surface water drainage proposal as well as to secure improvements locally.

10.99 For these reasons, these contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore conform to guidance within the Framework.

## **11.0 CONCLUSION**

11.1 The application site is allocated for residential development under site allocation HS66, and the principle of residential development at this site is considered acceptable.

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

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

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

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion.

3. No development (excluding demolition) above ground level shall commence until manufacturers details of the facing and roofing materials (including samples if requested) in broad accordance with the External Finishes' plan ref: GRY/EX FIN/001 Rev J received 21 December 2020 has been submitted to and approved in writing. The development shall then be implemented in strict accordance with the approved details and thereafter retained.

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

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

**Reason:** In the interest of satisfactory and sustainable drainage.

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

- a. Details of off-site works;

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

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

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

6. No development shall commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail: - phasing of the development and phasing of temporary drainage provision. - include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented. The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To avoid an increase in flood risk during the construction phase.

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

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

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

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

8. No development (excluding demolition) shall commence until a scheme detailing the design, construction, operation, maintenance and management of the emergency access road and surface water flood route pathways to avoid curtilage flooding has been submitted to and approved

in writing by the Local Planning Authority. The details of the emergency access shall include the following:

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

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

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

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

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

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

- a) The means of access to the site for construction traffic to include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site;
- b) Detail of construction workers parking facilities;
- c) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
- d) Measures to control the emissions of dust and dirt during construction;
- e) Location of site compound, plant equipment/storage and car parking for on-site employees;
- f) Hours of site working;
- g) Provide details of a site manager and identify how the contact details for the site manager will be displayed externally on the site.

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

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

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

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

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

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

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

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

14. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 13, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

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

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 14. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

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

16. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved



Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

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

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

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

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

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

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

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

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

- i) Details of trees/vegetation to be retained;
- ii) Details of species of trees/shrubs to be planted;
- iii) Methods of planting and spacing;
- iv) Size of planting;
- v) Protection of planted species;
- vi) Weed prevention;
- vii) Boundary details and means of enclosure between and around dwellings and around the site;
- viii) Details of how the scheme will enhance local biodiversity to reflect the priority habitats and species found within the relevant Flood Plains and Riverine Habitats Biodiversity Opportunity Zone and to include the installation of 6 bird boxes and 6 bat boxes and having regard to the recommendations set out in the Whitcher Wildlife Ltd.

Ecological Consultants Extended Phase 1 Habitat Survey  
(Jan 2018) (Ref: 180110);

- ix) An implementation plan detailing the timescales for the landscape and bio-diversity schemes;
- x) A management plan, including long term design objectives, management responsibilities and maintenance schedules.

The approved hard and soft landscape works shall be implemented in accordance with the approved details prior to the development being brought into use, or within an alternative timescale to be first approved by the Local Planning Authority. Trees and shrubs which, within a period of five years of the planting being implemented (including existing trees), are removed, die or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

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

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure that appropriate archaeological recording is undertaken.

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

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

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

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

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

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

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

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

26. No development shall commence above damp proof course level until a detailed cross sectional design of the surface water drainage corridor to the rear of plots 32-36 to extend from their rear gardens to a point cross the border with adjacent land has been submitted to and approved in writing by the Local Planning Authority. The details shall include all fences and hedgerows to be maintained, removed, or replaced, along with ditching dimensions and any bunding required. It should also provide details of all levels and gradients. The development shall be implemented in accordance with the approved plan and therefore retained.

**Reason:** In the interests of securing and maintaining an acceptable surface water drainage strategy.

### **Background Papers:**

Application and history files.

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

Certificate of Ownership – Certificate B completed.