
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Apr-2021

Subject: Planning Application 2020/91215 Outline application for erection of residential development Land at, Green Acres Close, Emley, Huddersfield, HD8 9RA

APPLICANT

Highstone Homes Ltd

DATE VALID

24-Apr-2020

TARGET DATE

24-Jul-2020

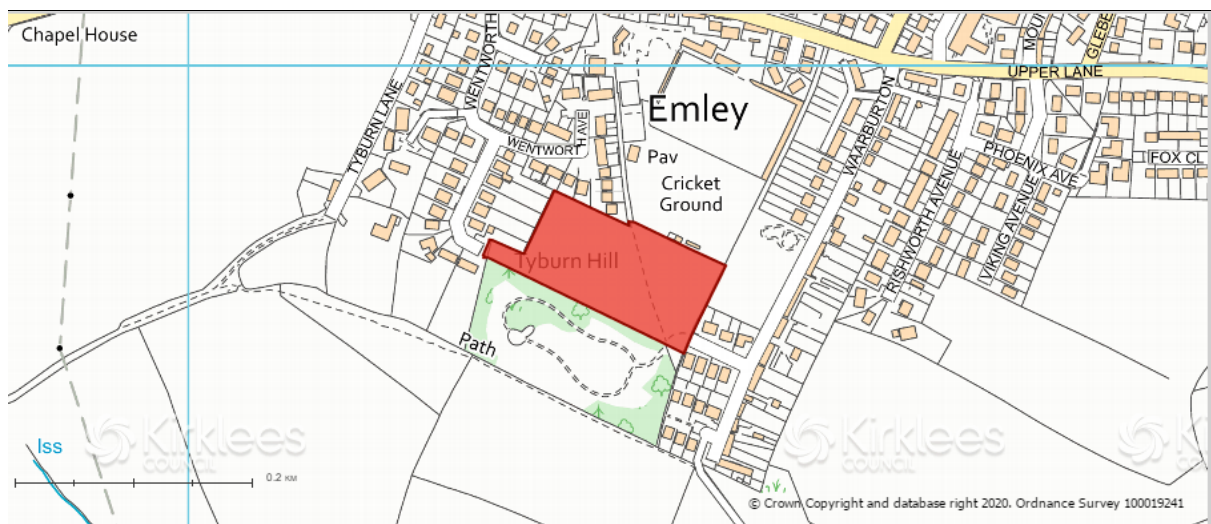
EXTENSION EXPIRY DATE

24-Dec-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: Denby Dale

Ward Councillors consulted: Yes

Public or Private: Public

RECOMMENDATION:

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

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.
- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order (TRO) to restrict parking at the Wentworth Drive / Beaumont St junction.

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

1.0 INTRODUCTION:

- 1.1 This is an application for outline planning permission, with all matters reserved (other than access), for residential development.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee, as the site is larger than 0.5 hectares in size.

- 1.3 The application is essentially a resubmission of a previous application (ref: 2019/90380, considered by the Heavy Woollen Sub-Committee on 25/04/2019), but with a revised access proposal.
- 1.4 A report relating to the current application was considered by the Heavy Woollen Sub-Committee on 04/11/2020. At that meeting it was resolved to defer the committee's decision to allow the applicant to carry out parking surveys at the Wentworth Drive / Beaumont Street junction, to enable further assessment of the impacts of the proposed development upon highway safety.
- 1.5 A second report relating to the current application was considered by the Heavy Woollen Sub-Committee on 17/02/2021. At that meeting it was resolved to defer the committee's decision to allow officers to prepare information regarding the status of the strip off land at the terminus of Wentworth Drive, and to present that information at a future meeting of the Sub-Committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 1.18 hectares in size. The majority of the site is allocated for housing in the Local Plan (site allocation ref: HS137), however a small part of the site (approximately 60sqm, at the terminus of Wentworth Drive) is outside the site allocation.
- 2.2 To the north of the application site are residential properties on Wentworth Avenue and a cricket ground which is designated as urban green space in the Local Plan. To the east is a recreation field and residential properties on Green Acres Close. To the south is Emley's Millennium Green, most of which is in the green belt. To the west are residential properties on Wentworth Drive.
- 2.3 The application site, the Millennium Green, and some of the adjacent residential properties, occupy a relatively flat and elevated area of land (Tyburn Hill) approximately 200m AOD.
- 2.4 The application site is greenfield and is grassed. No buildings exist within the site's boundaries. A hard surface exists in the southeast corner of the site, providing access to the Millennium Green.
- 2.5 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and elsewhere around the edges of the site.
- 2.6 The application site is dissected by public footpath DEN/21/20, and is edged by public footpath DEN/96/10 to the east. These are Public Rights of Way (PROWs).
- 2.7 The application site is not within or close to a conservation area. The site includes no listed buildings, however two Scheduled Ancient Monuments (Emley Standing Cross, which is also Grade II listed, and Emley Day Holes) are within walking distance of the site. The site also has some landscape sensitivity resulting from its location, surrounding topography and visibility from surrounding public open space, and from public footpaths.

3.0 PROPOSAL:

- 3.1 Outline planning permission (with details of access) is sought for residential development of the site. A single vehicular access is proposed from Wentworth Drive, and pedestrian access points are proposed where public rights of way already enter the site. The existing gated access points to Green Acres Close and the Millennium Green would be retained. Details of access through the site have not been submitted for approval.
- 3.2 Other matters (namely appearance, landscaping, layout and scale) are reserved.
- 3.3 Although the applicant does not seek approval of a layout or specific number of residential units, an indicative site layout plan has been submitted, showing 44 units arranged as detached, semi-detached and terraced dwellings, some with garages. A new estate road would extend eastwards across the site from Wentworth Drive, private drives would be provided off this estate road, and pedestrian access would be provided from the existing public footpaths. The alignment of public footpath DEN/21/20 would be largely maintained, with part of it becoming the footway of the proposed estate road.
- 3.4 Other application documents refer to a residential development of “approximately” 50 new dwellings. This number is also indicative.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 99/91668 – Planning permission was refused on 24/09/1999 for the formation of a grass full-size practice pitch and an all-weather training surface with associated lighting and the formation of millennium green, on a site that includes the current application site and land to the south which is now the Millennium Green. Refusal reasons related to 1) noise and disturbance to nearby residents, 2) visual intrusion caused by floodlights, 3) highways safety, and 4) development prejudicing the future development of Provisional Open Land. A subsequent appeal was dismissed 10/08/2000. Planning permission was granted 12/01/2000 for the change of use of agricultural land to the south to recreational use (ref: 99/92555) and planning permission was granted on 23/04/2001 for the erection of a millennium monument (ref: 2001/90226).
- 4.2 2019/90380 – Outline planning permission was refused on 26/04/2019 for the erection of residential development and associated access. The council’s reason for refusal was as follows:

1. The proposed development would intensify vehicular movements on Warburton, which would increase risks to pedestrian safety and the risk of conflicts between drivers, due to the lack of adequate footways, visibility and space for parking. The proposed development would therefore have a detrimental impact on highway safety. This would be contrary to Kirklees Local Plan Policies PLP5 (as modified) and PLP21 (as modified).

4.3 A subsequent appeal (ref: APP/Z4718/W/19/3239659) against the council's refusal was dismissed on 23/12/2019, with the appeal Inspector stating:

"...the proposal would have a significant and unacceptable impact on pedestrian and highway safety in Warburton... My concerns relating to highway and pedestrian safety in Warburton are matters of overriding concern and consequently I conclude that the development would not accord with the highway safety and traffic impact requirements of Policies LP5 and LP21 of the LP; the SPD and paragraph 109 of the National Planning Policy Framework".

4.4 Following the dismissal of the appeal and further research, the applicant ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it.

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

5.1 The applicant requested pre-application advice from the council in May 2018. Written pre-application advice (ref: 2018/20216) was issued by the council on 07/02/2019, the main points of which are summarised as follows:

- Given proposed allocation of site for housing in the Local Plan, subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, residential development at this site is acceptable in principle.
- Subject to details, residential development at this site is considered to be sustainable development.
- The proposed quantum and density of development was appropriate (44 units were shown on an indicative layout).
- Proposed indicative layout did not satisfactorily accommodate all of the site's constraints. Treatment of public rights of way needed revisiting, dwellings should relate better to the surrounding open spaces, risks of crime and anti-social behaviour should inform the layout, family-sized dwellings should face the open spaces, and side elevations and high fences should not line footpaths.
- A contribution towards off-site public open space provision would normally be appropriate, however some on-site provision may be appropriate here, if carefully designed along footpath.
- Early consideration of landscaping, boundary treatments and lighting would be appropriate.
- Two storey dwellings would be appropriate.
- Proposed short terraces, detached and semi-detached dwellings are appropriate.
- A variety of house types would be appropriate.
- High quality materials (including natural local stone and brick) would be appropriate.
- Car parking should be accessible, usable and overlooked, and should not dominate the street.
- Ball Strike Risk Assessment may be required. Applicant should consult with Sport England.
- Proposed development is unlikely to harm heritage assets, however a full assessment would be necessary.

- Proposed residential units should provide adequate outlook, privacy and natural light. Applicant is encouraged to follow the Government's Nationally Described Space Standard.
- 20% affordable housing required with a 54% Social or Affordable Rent / 46% Intermediate tenure split, Affordable housing should be pepperpotted around site and designed to not be distinguishable from private accommodation.
- Proposed unit size and tenure mix should reflect known housing need.
- Providing vehicular access via Green Acres Close is far less appropriate than via Wentworth Drive, given Warburton's narrow carriageway widths, on-street parking, level of use, lack of footways, poor sight lines in places, and houses with front doors opening directly onto the road.
- Evidence required at application stage of applicant's efforts to secure access from Wentworth Drive.
- Should applicant demonstrate that vehicular access cannot reasonably be achieved from Wentworth Drive, applicant would need to mitigate the proposed development's unacceptable impact on highway safety caused by intensification of vehicular movements to Warburton.
- Proposed improvements to footpaths could encourage pedestrians to use these routes.
- Proposed works to Upper Lane / Warburton junction would improve sight lines and could be considered beneficial, however details are needed.
- Proposed works to Warburton are unnecessary or questioned.
- Warburton is unsuitable for any further intensification of use.
- Transport Assessment required, and its scope should be agreed with officers.
- Travel Plan required.
- Road Safety Audit and designer's response required.
- Construction Management Plan required.
- Detailed advice provided regarding parking, cycle storage, design of roads proposed for adoption, waste storage, and highways retaining structures.
- Contribution towards Metro cards may be necessary.
- Proposed development should provide convenient pedestrian routes, new and enhanced green infrastructure links, and a walkable neighbourhood.
- Access to Millennium Green (including for maintenance vehicles) must not be hindered by development.
- Site-specific Flood Risk Assessment, Surface Water Drainage Report, drainage maintenance plan, and temporary drainage (during construction) plan required. Infiltration may be possible at this site.
- Some adjacent trees should be regarded as constraints. Impact assessment required.
- Preliminary Ecological Appraisal required. This may identify a need for an Ecological Impact Assessment.
- Phase I Contaminated Land Report required.
- Electric vehicle parking spaces required.
- Noise Assessment required. Site may be subject to elevated levels of noise from adjacent sports pitches and recreation field. Health Impact Assessment required.
- Site is within a Development High Risk Area as defined by the Coal Authority. Coal Mining Risk Assessment required.

- Section 106 planning obligations likely to relate to affordable housing, education, highways, public open space and drainage.
 - Pre-application public consultation is encouraged.
- 5.2 During the life of the current application the applicant submitted amended indicative layouts that removed previously-illustrated landscaping from the site's southeast corner (which would have restricted access to the Millennium Green), and that added a curved kerb and footway to the site's vehicular entrance at Wentworth Drive. In relation to highways matters, a Road Safety Audit and a designer's response were submitted, as was a points of access plan, an indicative plan of works to public footpath DEN/21/20, and an assessment of the Wentworth Drive / Beaumont Street junction. Gas monitoring information was also submitted in response to a request from Environmental Health officers. An amended Flood Risk Assessment, a Biodiversity Net Gain Assessment and a ball strike risk assessment were submitted by the applicant.
- 5.3 Following the Sub-Committee's deferral on 04/11/2020, the applicant submitted the findings of parking surveys carried out at the Wentworth Drive / Beaumont Street junction.
- 5.4 Following the Sub-Committee's deferral on 17/02/2021, the applicant submitted the findings of further parking surveys carried out at the Wentworth Drive / Beaumont Street junction, as well as the findings of a speed survey and a solicitor's letter relating to the strip of land at the terminus of Wentworth Drive.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 The site is allocated for housing in the Local Plan (site allocation ref: HS137). The site allocation relates to 1.28 hectares (gross and net site area), sets out an indicative housing capacity of 44 dwellings, and identifies the following constraints:
- Potential third party land required for access
 - Public right of way crosses the site
 - Limited surface water drainage options
 - Part/all of site within a High Risk Coal Referral Area
- 6.3 The site allocation also identifies the following site-specific considerations:
- Development on the site shall ensure access to the Millennium Green is retained
 - The public right of way shall be retained

6.4 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.5 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020, updated 2021)
- Green Street Principles (2017)
- Viability Guidance Note (2020)

- 6.6 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.

Climate change

- 6.7 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

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

National Planning Policy and Guidance:

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

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

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

6.11 Relevant national guidance and documents:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development that would affect a public right of way.

7.2 The application has been advertised via five site notices posted on 20/05/2020, an advertisement in the local press dated 15/05/2020, and letters delivered to addresses adjacent to the application site and further afield. Of note, given that access to the application site is now proposed from Wentworth Drive, consultation letters were sent to all properties on Wentworth Drive, Wentworth Avenue and Manderlay Gardens. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 18/06/2020. In light of the Coronavirus / Covid-19 epidemic, consultation letters asked that comments be made within 35 days (rather than the statutory 21).

7.3 228 representations were received from occupants of neighbouring properties, members of the public and the Emley Millennium Green Trustees (and their solicitors). These have been posted online. Photographs of road congestion, video footage of a bird of prey, and commissioned reports (IOP Consulting, June 2020 and Northern Transport Planning Ltd, June 2020) were submitted with representations. The following is a summary of the points raised:

- Objection to principle of development here, notwithstanding site allocation. Proposal would bring no benefit. The adverse impacts of the proposal would significantly and demonstrably outweigh any benefits. Derelict buildings should be developed instead.
- Low cost housing is already available for sale in Emley – more is not needed.
- Loss of open space.
- Proposal is disproportionate to size to the village. Character of old village would be harmed. Development would not contribute to local character or distinctiveness. Development would cause extensive further urbanisation in a rural transitional area.
- Emley cannot support any more housing. Area is already well served by new housing developments.
- Previous reason for refusal is just as valid for current proposal.
- Previous refusal on limited grounds does not mean all other aspects of scheme are acceptable.
- Traffic and congestion concerns. Chapel Lane / Beaumont Street / Upper Lane are already very busy. 100 additional vehicles would pass through Wentworth Drive daily. Beaumont Street / Wentworth Drive junction was designed in 1975 for 40 houses with car ownership 50% less than it is now. Bend in road, newly-positioned bus stop and volume of traffic make turning out of Wentworth Drive difficult. Emergency vehicles would

struggle to get through village. Traffic prevents older people leaving their homes. Emley already carries traffic to/from the M1. Online shopping has increased traffic. HGVs, agricultural vehicles and buses travel through the village. Other developments in Skelmanthorpe, Scissett and Clayton West will add to traffic in Emley. Local sports fixtures also generate traffic. Road widening, speed restrictions, footways and other measures are needed to accommodate the additional traffic. This and other developments should be refused until Flockton bypass and other improvements are implemented. Efficiency of local highway network would be reduced.

- Highway safety objections. Wentworth Drive / Beaumont Street lacks visibility, there is a blind rise, low winter sun affects visibility, vehicles parked at this junction further reduce visibility and turning space, traffic speeds through, near misses occur, minor collision has occurred, and additional traffic would add to existing risks. Vehicles swerve into the mouth of Wentworth Drive to avoid collision. Cyclists are often forced off the road and are deterred from cycling in Emley. Danger to children using nearby roads. Road Safety Audit has not been submitted.
- Local roads and footways are already inconvenient, inadequate and dangerous for people with disabilities.
- Residents of the proposed development are unlikely to commute by bicycle.
- Refuse vehicle currently has to reverse the entire length of Wentworth Drive. Comments of KC Waste Strategy noted. Turning space needed. Bend in Wentworth Drive is already hazardous. Chapel Lane / Beaumont Street / Upper Lane have several junctions and concealed entrances, and are often heavily parked. Chapel Lane is narrow and lacks footways in places. Vehicles mount footway to pass.
- Concern regarding increased traffic on Warburton. Unclear if access is still proposed from Green Acres Close. Objection to unofficial use of Green Acres Close for access. Access onto Warburton is inappropriate due to road width and lack of parking. Green Acres Close is too narrow to accommodate waggons.
- Unclear how ransom strip issue at Wentworth Drive has been resolved. Risk that developer may not take access from the west, and may revert to Green Acres Close access proposal. Vehicular access into the site via the gated entrance at Green Acres Close would not be prevented. If this access was approved there would be no way of ensuring that it remained gated nor that it would not be used as an access to the site.
- Query as to why a geotechnical survey of Warburton and Green Acres Close was carried out on 25/03/2020.
- Routes of construction traffic queried.
- Roads are already in a poor condition, and stability of roads is queried. Four mine shafts close to entrance to Wentworth Drive may not have been capped properly – query as to whether this has been investigated.
- Applicant's traffic survey relates to Warburton, and not to the Wentworth Drive / Beaumont Street junction, and is out-of-date. Traffic survey or officer observations at Wentworth Drive would not provide a true account if carried out during lockdown.
- Generic thresholds regarding Transport Statements and junction assessments should not apply where there is significant local concern.
- Applicant's Transport Statement is inadequate and omits key information regarding roads and junctions.

- Concern regarding Highway Development Management officer comments.
- Lack of visitor parking in proposal.
- Pedestrian routes to/from site are unsafe. Footway of Wentworth Drive unpassable by pedestrians due to overgrown hedge, wheelie bins and parked vehicles. Development would endanger older people, children, dog walkers and horse riders. With the previous application it was noted that pedestrian routes needed to be improved. Applicant does not propose improvements to ends of footpaths meeting Upper Lane.
- Claimed public right of way (where units 17, 31, 32 and 33 are indicatively shown) would be blocked. Layout should be amended to accommodate this route.
- Clarification required as to whether public rights of way across site could in fact be retained.
- Lack of public transport in Emley. Village only has an hourly bus service. All residents of the proposed development would travel by car.
- Lack of local facilities. Emley only has one shop. Schools and GPs are oversubscribed. No guarantee that education funding would be spent on local schools, or would increase capacity. Playground and youth club are barely adequate. Lack of local employment opportunities.
- Local utilities are under strain and cannot support the proposed development.
- Increased pollution. Adverse impact on air quality caused by emissions.
- Light pollution would affect wildlife and prevent star gazing. Objection to lighting of footpath.
- Increased noise, including from improved footpath.
- Adverse impact on health and wellbeing. Development would cause stress to residents.
- Loss of amenity (including privacy) for adjacent residents.
- Climate change impact. Development would be unsustainable and contrary to council's climate change declaration. Sustainable modes of transport are not an option in Emley, and would not be used by residents of the proposed development.
- Traffic, noise, dust and disturbance (including to wildlife) during construction.
- Adverse impact on Millennium Green. Detrimental effect on its character, nature and tranquillity. Application site's zone of influence extends into the Millennium Green, and impacts will therefore need to be considered. Attenuation tanks should not be provided within 6m of the Millennium Green boundary. Risk of artificial light from the development affecting Millennium Green "dark zone". Millennium Green is a conservation area. Development and boundary treatment should be spaced away from boundary, to allow maintenance of Millennium Green fences. Millennium Green would have to be dug up to provide drainage connection to watercourse. Value of Millennium Green has been proven during pandemic.
- Proposed refuse vehicle turning area would encroach into Millennium Green car park.
- Query if disabled access to Millennium Green would be maintained.
- Development footprint should be kept away from adjacent hedgerows and trees. Buffer zone should be provided. Viability of proposed vehicular access questioned, as it would intrude into overhang of existing

hedgerows and trees. Developer should set up a management company responsible for maintaining hedgerows and trees.

- Impact on flora and fauna, including bats and other species. Loss of habitat. Adjacent trees are nested by many bird species. Birds of prey visit the site. Millennium Green is a release site for rescued hedgehogs.
- Application lacks ecological survey of the site and Millennium Green.
- Site is within a High Risk Coal Referral Area.
- Query as to whether a methane drainage survey including boring and extraction been carried out.
- Noted that Lead Local Flood Authority have objected to the application. Drainage problems exist in the village. Run-off from development may affect surrounding streets. Watercourse (to which a connection is proposed) is within a high flood risk area.
- Laying connection to watercourse would require uprooting of trees and hedgerows, and disruption to farm.
- Additional traffic would put Emley Standing Cross at risk.
- Unfair for development to adversely affect viability of adjacent sports facilities.
- Ball strike risk assessment must be submitted.
- Inaccuracies in applicant's documents regarding local facilities.
- Claimed social and economic benefits of development are queried.
- Development would be targeted by criminals.
- Increased risk of anti-social behaviour along footpath.
- Query as to why site is referred to as land at Green Acres Close, when access is proposed from Wentworth Drive.
- Number of proposed units is inconsistent across application documents.
- Application documents have not been updated since the last application was considered.
- No pre-application consultation took place. Lack of public consultation on application is underhand. Lack of consultation with Emley Millennium Green Trustees.
- Concern that application is being considered during an unprecedented pandemic. Due process is not being followed. Lockdown would have prevented public meeting or consultation being held. Application is not being subjected to public scrutiny.
- No evidence of applicant's claim that there is local support for delivery of new homes.
- Council should disregard additional council tax income that would be generated.
- Application is a waste of council time and taxpayer's money.
- Application is an attempt to enrich the landowner and developer to the detriment of residents.
- Development is contrary to National Planning Policy Framework and the Local Plan.

7.4 Cllr Turner referred to the initial indicative layout and noted that the proposal would use the car park for the Millennium Green and would make access to the Millennium Green very difficult. In later comments, Cllr Turner stated:

- *I am still of the opinion that the access to this site is inadequate.*
- *Taking vehicles from the site down Wentworth Drive to allow access to the main road network will over load what is already a difficult and very busy junction.*

- *The junction is often blocked by cars parking on Wentworth and on Chapel Lane.*
- *The site lines are regularly obscured by vehicle parking on the road due to the lack of off street parking.*
- *Upper Lane is in effect a one lane, again due to on street parking and any extra traffic using that as a route to either the motorway network or Wakefield or South Yorkshire will add to this existing problem.*
- *The whole road network in Emley is busy and which ever direction you choose to leave the village involves using small narrow roads.*

7.5 Cllr Simpson made the following comments:

- *As highlighted by Cllr Turner, it appears that the Millennium Green parking would be badly affected. This would be an issue in of itself, as well as causing on-street parking issues.*
- *Without the above, I was already concerned about the parking provision (whether or not it meets policy I do not know, but I do not believe the policy is adequate for our villages anyway). With the above included I think this will cause a number of parking issues.*
- *It has been suggested that it is possible that the developer could/would be entitled to undertake works on/under the Millennium Green itself to facilitate the development. This would be wholly unacceptable in my view, if this is true.*
- *The statements and suggestions around sustainable travel in the plans are wrong and ludicrous. Emley is one of the most isolated of our villages with a poor bus service that does not link directly into the other villages. It is by no means accessible by foot, cycle or public transport in any way other than being able to walk to the pub, first school and small Londis. Statements made such as 'the site is highly accessible by foot, cycle and public transport to a number of local facilities' and 'minimises trips by private car' are frankly ludicrous.*
- *The application describes Skelmanthorpe as a small town, which is neither true nor helpful.*
- *The application describes 'a mini-supermarket; a post-office; a hot food takeaway'. There is no 'mini-supermarket' it is a small corner shop and the post office is a small function within that. Similarly, unless this has changed very recently, there is no hot food takeaway.*
- *I am very concerned that the plans provided thus far show that no thought has yet been given to the junction by which the development will be accessed (from the main road) - the Upper Lane/Wentworth Drive junction. This junction is a serious concern of mine. Cars approach the junction at great speed coming into the village. The only thing that slows the traffic is the almost permanent obstructions of cars parking on the main road which essentially make this section one way and brings vehicles into conflict. This is what I suspect generated the speed measurement in the application, though I do not know where the cables were placed. I do know however that speeding here is an issue. There is also the bus stop at the junction, on the opposite side of the road to where cars are usually parked. There are numerous other junctions in the immediate and close vicinity. In my view, this section of Upper Lane, specifically at this point of access, has the greatest potential for serious highways issues in the entire village and it is clear to me that increased traffic here would make it less safe. The developer should consult and create a highways plan to mitigate the increase in journeys by making*

this section of highway safer however possible. I do not think it is acceptable, as the developer says in their application, to say that 'the proposed development will not materially exacerbate the existing situation' and wash their hands of it, or pretend that issues do not exist or will not be effected.

- *I believe that trip generation figures should not only be included for the additional dwellings, but a measurement of existing traffic from the Wentworth estate should be taken to give Committee Members and officers a fuller understanding of traffic at this junction at peak times.*
- *The Access statement says that 'access is the only material change to the previous application'. If this is the case, then why is it only an outline application? It could have a number of material changes for all we know without the details and a full application, and they may well attempt to force these through if successful at this first stage. As far as this application is concerned the only thing that is the same is the site and the developer.*
- *I am particularly concerns by the junction/access issue and I feel it is absolutely vital that the developer looks at this again and provides a full plan for mitigation in consultation with highways before this reaches the stage at which a decision can be considered.*

7.6 In later comments, Cllr Simpson added:

- *I remain very concerned about the access included in the proposal, in particular the Wentworth Drive / Beaumont St junction, and believe that highways safety and access would be made less safe without mitigations being put in place.*
- *Unless a double yellow line scheme is incorporated at the junction as a condition, I believe that this should be rejected – or in the least deferred until a more satisfactory proposal for the access and road safety can be presented.*
- *As can be seen from the attached picture, vehicles regularly park closely to the proposed access from the main road, which is at the entrance to the village, and cars also park on the main road making it a one way most of the time – as well as a bus stop used by school services next to the junction.*
- *I know that the issue of parked cars is a constant issue here and has been for many years. I attended the site yesterday and can confirm that vehicles were again parked dangerously at the junction edge. This is a consistent issue that needs to be addressed.*
- *In the least, a yellow line scheme should be devised to prevent cars from parking within 10m of the junction edge on both the main road and Wentworth Drive, and these lines should be extended this further down the main road (on the side of the junction) to ensure visibility and safer traffic flows.*

7.7 Mark Eastwood MP wrote to object to the application, stating:

- *I am concerned that this particular planning application has not had enough public consultation for such a significant development of this size. I do not feel it is appropriate that the developer is allowed to rely upon public consultation from a previously rejected application when this is a new application with a notably different unique access point.*

- *Concerning the new access point, I worry about access, particularly Wentworth Drive and the junction with Beaumont Street.*
- *There is insufficient off-road parking for residents on Beaumont Street, and both the White Horse Inn and Band Room, often hold events which result in cars parking on the street and causing problems for those accessing the Wentworth estate.*
- *I am concerned that the applicant has not given due consideration to the re-sited bus stop, which adds to visibility problems exiting Wentworth Drive, due to people queueing for bus services.*
- *At the junction of Wentworth Drive and Beaumont Street, vehicles travelling along Beaumont Street westbound, frequently have to manoeuvre their car into the entrance of Wentworth Drive, to avoid the traffic coming the other way. For those vehicles that are travelling east and approaching a blind rise, they often have to cross onto the other side of the road due to the parked cars on the side opposite the entrance to Wentworth Drive. This would be a problem in itself if it were just cars. However, matters are made worse because HGV's, double-decker buses and large agricultural vehicles often use the route.*
- *Slightly further up from Beaumont Street towards the centre of the village, into Upper Lane, there is blind vehicular access to crucial village landmarks - Emley AFC, the Cricket Club, Youth Club, Community Centre and the Wentworth Bar.*
- *Any additional volume of traffic at this already precarious spot could lead to more accidents problems. I would also like to raise my concerns at why a traffic survey has not been afforded for Wentworth Drive, yet I note a traffic study for Warburton has been - albeit somewhat out of date.*
- *The geographical nature of Emley Village means that using the car for many people is vital. Cycling or walking to work is not an option, and public transport here is not as frequent as some of the more urban communities across Kirklees.*
- *I along with many residents are also concerned that Emley First School will not see the benefit of any extra educational funds from this development.*
- *I am not aware that an ecological survey has been undertaken either of the site or the Millennium Green, where rescued wildlife including hedgehogs are being released post-injury and rehabilitation. I have particular concerns about the protection of hedgehogs. The hedgehog is an extraordinary creature with a long and celebrated history in this country. The Government's 25 Year Environment Plan sets out the Government's ambition for nature recovery and our threatened and iconic species. The framework is clear that local authorities must "identify, map and safeguard" wildlife sites as part of their local plans.*
- *Hedgehog numbers are declining in numbers, and I am therefore concerned about the role habitat loss plays. The destruction of habitat due to construction traffic accessing via Warburton/Green Acres is something that concerns me and that an ecological survey has not been undertaken exacerbates this concern.*
- *Given the concerns outlined above (and I know there are many more that others have raised which I have not touched upon). A significant development such as this, in my opinion, should at the very least be afforded a new public consultation. Transparent, open discussion with residents is at the heart of responsible development, and this is particularly relevant when regular working practices are disrupted, as has happened with the coronavirus outbreak.*

7.8 Denby Dale Parish Council objected to the proposed development, referring to drainage, parking and highways issues, and making the following points:

- *Excess traffic on Wentworth Drive.*
- *Dangerous junction from Wentworth Drive into Beaumont Street, due to the bus stop, on street parking and brow of the hill adjacent.*
- *The roads in Emley have been neglected for years and as a result the main out road to Wakefield which is Upper Lane is riddled with hollows. The lane is used for on street parking, reducing the flow of traffic to just one lane. This results in traffic queueing. The other road out of the village Church Street is also neglected and sunk in places.*
- *On the plan the turning circle for dustbin wagons is too small.*
- *There will be a tendency for traffic to try and get out down Warburton which is only one lane wide and has no pavement.*

7.9 Shortly before, and following, the Sub-Committee's deferrals on 04/11/2020 and 17/02/2021, 12 further representations were received, including a further representation from the Emley Millennium Green Trustees. Concerns already made (and summarised at paragraph 7.3 above) were raised, and the following further points were made:

- No evidence that ransom strip issue has been resolved. Land is still in fragmented ownership. Details are needed, as access is not a reserved matter. Risk that unresolved issue would result in Warburton being used for access. Ransom strip is not adopted highway. Incorrect to say it has been re-designated as adopted highway. Only constructed highway can be adopted. Section 38 application to adopt the land could only follow approval of planning permission. Council is ignoring misuse of information.
- Maintenance access rights for Emley Millennium Green have still not been addressed.
- Millennium Green is within zone of influence of application site. Impact on Millennium Green must be fully assessed. Ecological survey of Millennium Green has not been carried out.
- Traffic survey was carried out during lockdown.
- Local roads flood, or are impassable when it has snowed.
- Number of proposed dwellings should be reduced, to reduce traffic at Wentworth Drive / Beaumont Street junction. 20 dwellings would be preferable.
- Double yellow lines at Wentworth Drive / Beaumont Street junction would only move the problem elsewhere, and would not slow down traffic.
- Proposed improvements to public right of way DEN/21/20 are welcomed.
- DEN/21/20 meets Upper Lane where there is no footway. Unsafe crossing point. Council has previously rejected improvements to this public right of way.
- Occupiers of the development would be wholly reliant on private vehicles.
- Sustainable development not proposed.
- No guarantee that education contribution would be put towards local school.
- British hedgehogs are now classified as officially vulnerable to extinction by the International Union of Conservation of Nature (IUCN). Millennium Green is a hedgehog release site. Proposed development would have an effect on hedgehogs and their habitat.

- Recommendations and suggestions made by officers have not been listened to.
- Full planning application, rather than outline, is required.

7.10 Cllr Simpson stated that the concept of a Traffic Regulation Order (for the Wentworth Drive / Beaumont Street junction) had his support, and that yellow line markings were essential. He added that whoever draws up the TRO scheme should attend the site at a peak times to see how that area operates with the parked vehicles, and given the multiple junctions. Cllr Simpson stated that the details need to be right so as to not create more issues in the vicinity.

7.11 The additional information submitted during the life of the application (including the recently-submitted Wentworth Drive / Beaumont Street junction parking surveys, speed survey and solicitor's letter) did not necessitate public re-consultation.

7.12 Responses to the above comments are set out later in this report.

8.0 CONSULTATION RESPONSES:

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

8.1 Statutory:

Coal Authority – No objection, however further, more detailed considerations of ground conditions, foundation design and gas protection measures may be required at a later stage. Application site falls within the defined Development High Risk Area, therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority's information indicates that the site is located in an area where historic unrecorded underground coal mining is likely to have taken place at shallow depth. Applicant's Geoenvironmental Appraisal draws upon appropriate sources of coal mining and geological information along with the results of an intrusive site investigation. The Coal Authority would recommend that further comments be sought from the council's Environmental Health / Public Protection Team regarding gas monitoring requirements and any resultant need for the incorporation of gas protection measures within the proposed development.

Sport England – Objection withdrawn, subject to conditions. Analysis and recommendations in applicant's ball strike risk assessment are satisfactory. Applicant's assessment demonstrates that it will be possible to develop new housing to the south of the cricket ground without the latter's continued existence being prejudiced, provided ball-stop netting is installed along the development's boundary in accordance with the assessment's recommendations. The absence of an objection from Sport England is subject to the following conditions being attached to the decision notice should the Local Planning Authority be minded to approve the application:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563. The fencing shall be erected and brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development a scheme for the management and maintenance of the approved ball-stop netting shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone, and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

Any amendment to the above wording, or use of another mechanism in lieu of the above conditions, should be discussed with Sport England. Sport England does not object to amendments to its recommended conditions, provided they achieve the same outcome and it is consulted on any amendments. If the council decides not to attach the above conditions (or an agreed variation), Sport England would wish to maintain its objection to the application.

KC Highways – Having regard to the applicant's December 2020 and March 2021 parking surveys, the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order.

Previous comment: In summary, Highways Development Management (HDM) concluded that the proposals are acceptable and recommended the imposition of conditions regarding internal adoptable roads and improvements to a Public Right of Way. The sequence of negotiations is set out below:

The initial highways consultation response made several comments requiring further clarification as follows:

- 1) The 2019 application included footpath improvement works including surfacing and lighting which are not included as part of this application. The applicants were asked to explain why these are not considered necessary with this application.
- 2) Whilst it is acknowledged that the number of proposed dwellings is at a level that would not usually even require a Transport Statement, given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction HDM recommended that a PICADY assessment of the junction be undertaken to demonstrate that the junction has sufficient capacity.
- 3) A stage 1 Road Safety Audit together with designer's response was required to consider the road safety implications associated with the proposed access from Wentworth Drive, the Wentworth Drive / Beaumont Street junction and the route from Beaumont Street to the proposed site.

Following these comments, the applicant provided further information in response to the comments of HDM, as follows:

- 1) PROW Improvements – Improvements are proposed to PROW DEN/21/20, which include widening to 2m, tarmac surfacing and the provision of street lighting. This footpath runs diagonally through the site, connecting to Upper Lane opposite Church Street. Both PROW DEN/21/20 and 96/10, which runs along the eastern boundary of the site, are shown to be improved within the extents of the application site.

2) Capacity of the Wentworth Drive / Beaumont Street junction – Guidance states that no assessment is needed for developments between 0 and 50 dwellings, a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The development comprises 44 dwellings and is therefore below the threshold even required for a Transport Statement. The level of traffic generated, whether applying our bespoke trip rates or your robust internal, trips rates remain low. No capacity assessment of the Wentworth Drive / Beaumont Street junction is therefore provided.

3) A Road Safety Audit has been prepared by Via Solutions. The scope of the Road Safety Audit is to consider the safety implications of the proposed highway works to provide a new access to serve a new residential development on the site. The works considered within this Audit are related to the proposed access junction and its linkage to the remainder of the highway network and the improvements to part of the PROW (DEN21/20).

In response, HDM summarised the recommendations of the Road Safety Audit, as follows:

1) A corner radius should be provided to northern footway of the access road leading into the site from Wentworth Drive.

2) The pedestrian route along north side of Wentworth Drive leading into the new access road could be affected by turning vehicles using the existing turning head if it not taken out.

3) Potential use of PROW DEN/21/20 by motorcycles and a recommendation that staggered barriers are provided to both ends of the improved section of the footpath.

4) A designer's response to the Road Safety Audit generally accepts the comments of the Audit and recommended suitable amendments to the proposals.

HDM concluded by stating that the proposals are now considered acceptable and suggested the following conditions should accompany any approval:

Internal adoptable roads: No development shall take place until a scheme detailing the proposed internal adoptable estate roads including works to tie into the existing adopted section of Wentworth Drive have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audits covering all aspects of work. Before any building is brought into use the scheme shall be completed in accordance with the scheme shown on approved plans and retained thereafter.

Reason: To ensure that suitable access is available for the development.

Improvements to public right of way DEN/21/20: Prior to development commencing, a detailed scheme for the provision of a improvements to public right of way DEN/21/20 which include widening to 2m, tarmac surfacing and the provision of street lighting with associated signing and white lining shall be submitted to and approved in writing by the LPA. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. Unless

otherwise agreed in writing by the LPA, all of the agreed works shall be implemented before any part of the development is first brought into use.

Reason: In the interests of highway safety and to achieve a satisfactory layout.

March 2021 comment: Applicant's March 2021 parking surveys are noted. Highways Development Management have also undertaken surveys on Wednesday 31/03/2021 (06:45 and 18:00).

At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.

The updated parking surveys undertaken over seven days show a slight increase when compared to the previous results, however based on the findings of these surveys, no specific highway safety concern resulting from on street parking has been identified sufficient to justify any specific mitigation or interventions as a direct result of the proposed development.

Notwithstanding the above, the applicant has confirmed that should officers or Members still consider it necessary to implement parking restrictions in the vicinity of the junction, the applicant is willing to offer a contribution to fund the implementation of a Traffic Regulation Order (TRO) to control parking in the vicinity of the junction.

Highways Development Management views regarding this proposal are unchanged and based on the survey information it is our view that the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a TRO. However, given the nearby public house was closed at the time of the surveys, funding should be secured for the TRO to enable the junction to be monitored after Covid 19 restrictions are lifted.

KC Lead Local Flood Authority – No objection, subject to conditions requiring details of drainage system, overland flows and flood routing, and temporary drainage.

Overall, the amount of information provided is suitable for outline stage (with only approval of access sought). Applicant has assessed the surface water discharge options using the hierarchy of preference, and carried out infiltration testing, showing that infiltration methods of discharge are likely to be feasible on site, especially in the northern part of the site. LLFA has no objection in principle to provision of soakaways on site, providing it is shown that they are feasible through further assessment, as stated in section 5.3.3 of the applicant's Flood Risk Assessment. If the soakaways are not feasible, discharge into the watercourse (as stated in section 5.3.4) would be accepted. However, a condition survey of the watercourse will be expected, to ensure that it is in a suitable condition to accept the flows. If the infiltration solution is not feasible, the LLFA would have no objection in principle to a 3l/s discharge rate, as proposed in section 5.3.5, providing an appropriate assessment of discharge point is carried out (as above). Section 5.3.6 states that attenuation for up to the 1 in 30 year event will be provided in underground tanks. The

applicant will need to ensure that the 1 in 100 + climate change event is managed on site, no buildings are flooded and there is no risk to the users of the development.

Section 38 road adoption by Kirklees as a Highway Authority cannot take place unless sewerage located under the carriage way is adopted first.

As part of a Section 106 agreement the council are required to ensure the site is managed in a safe and suitable way up until adoption by a regulatory body. This requirement should also apply to drainage on the site.

8.2 **Non-statutory:**

KC Biodiversity Officer – Preliminary Ecological Appraisal (PEA) report provides an adequate baseline to determine the current application and that the proposals are unlikely to result in significant ecological harm. Applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the post-development value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. Condition requiring Ecological Design Strategy recommended.

KC Education – £35,301 education contribution required (assuming 50 units, all with two or more bedrooms).

KC Environmental Health – Regarding air quality, condition requiring electric vehicle charging points recommended. Conditions regarding site contamination recommended. Noise report lacks background noise information and is unacceptable, therefore condition requiring noise report recommended. Condition securing Construction Environmental Management Plan recommended.

KC Landscape – Concern that no existing vegetation would be retained. Retentions should be shown on plan, and should be reinforced with additional planting. Some dwellings appear close to existing hedgerow and trees, which may cause maintenance problems and nuisance. Root protection areas should be recognised and shown. Opportunities exist for treeplanting along new routes. Enhanced landscaping scheme expected. 44 dwellings would trigger a need for open space and a Local Area of Play. Given local deficiencies, £82,927 off-site contribution (towards the nearby facility at Warburton) required, without prejudice. Details of bin storage required. Condition recommended regarding landscaping.

KC Public Rights of Way – No objection, if it is clarified and confirmed that "access" consent is sought only for agreement to the proposed main site all-purpose access.

KC Strategic Housing – Nine affordable housing units required (five social/affordable rent, four intermediate).

KC Trees – No objection to principle of development. Adjacent trees may be impacted by the development of this site. Some of the properties along the southern boundary may be too close to the trees, however with minimal design changes this could be overcome. Any detailed application will need to be supported by sufficient arboricultural information to show that the adjacent trees have been taken account of in any finalised design.

KC Waste and Recycling – Detailed advice provided regarding layout, and conditions recommended.

West Yorkshire Police Crime Prevention Design Advisor – Support principle of development. Comments made regarding indicative layout, boundary treatments and other aspects of the development.

Yorkshire Water – Recommend conditions regarding separate surface and foul water drainage systems, and completion of surface water drainage works. Developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. No objection in principle to applicant's Flood Risk Assessment, whereby surface water will drain to a watercourse located to the south of the proposed development. A new surface water sewer would have to pass through the adjacent Millennium Green – if this land has the status of Common Land and/or Village Green, Yorkshire Water's powers to lay pipes in private land are likely to be impacted. The landowners' consent will be required for the construction of a new outfall structure to a watercourse. No assessment of the capacity of the local sewerage has been undertaken with regard to its capacity for surface water arising from the development.

9.0 MAIN ISSUES

- Responses to reasons for deferral
- Land use and principle of development
- Sustainability and climate change
- Urban design issues
- Residential amenity and quality
- Point of access
- Highway and transportation issues
- Flood risk and drainage issues
- Ecological considerations
- Trees
- Environmental and public health
- Sport England
- Ground conditions
- Representations
- Planning obligations
- Other planning matters

10.0 APPRAISAL

Responses to reasons for deferral

Land at the terminus of Wentworth Drive

- 10.1 In response to the Sub-Committee's deferral of 17/02/2021, officers have prepared the relevant adoption documentation regarding the status of the strip of land at the terminus of Wentworth Drive, and will include extracts from these documents in the committee presentation. Additional commentary is also provided in the following paragraphs.
- 10.2 Of note, the adoption documentation does not contradict the HM Land Registry information that local residents have obtained. The strip of land is indeed still in fragmented, third party ownership, however the land is *also* adopted highway. In relation to the current application (and the council's consideration of it), the key question here is not who has registered title to the strip of land (which, in this case, is a grassed verge), but whether the verge forms part of the public highway. Where a verge forms part of the public highway, the title which is registered with HM Land Registry is "subsoil" title only. In other words, the registered title holders own the subsoil, but the surface is part of the public highway.
- 10.3 On large residential developments such as Wentworth Drive, the highway layout and extent is usually agreed between the developer of the land and the local highway authority. This is then drawn up in an agreement under the Highways Act. Under the terms of the agreement, the developer agrees to construct the highway and dedicate it to public use, while the local authority agrees to adopt the new highway upon satisfactory completion. When the highway authority adopts the new highway upon satisfactory completion, it issues a certificate of completion and adoption.
- 10.4 In this case, the relevant documents (in determining if the grassed verge at the terminus of Wentworth Drive forms part of the public highway) are 1) the historic Highways Act agreement between the developer and the highway authority, and 2) the subsequent certificate of completion and adoption which was issued by the highway authority upon satisfactory completion of the new highway.
- 10.5 The Highways Act agreement in this instance was made under Section 40 of the Highways Act 1959 between Kirklees Council's predecessor (in this role): the former West Yorkshire Metropolitan County Council, and the developer of Wentworth Drive: Dunford Building Services Ltd. The agreement was dated 06/04/1979.
- 10.6 The certificate of completion and adoption, issued upon satisfactory completion of the works by Dunford Building Services, was issued on 18/05/1981 by the former County Council.
- 10.7 It is clear that the grassed verge was part of the highway extent dedicated by the developer and subsequently adopted by the County Council. This is not unexpected, as the former County Council is likely to have insisted on the verge forming part of the highway, to avoid blighting future development opportunities on the adjoining land.

- 10.8 Further commentary (similar to the above) was set out in the applicant's solicitor's letter dated 01/04/2021, which additionally stated that the grassed verge has the same adopted status as the carriageway, that the above-referenced documentation establishes that Wentworth Drive is an adopted highway, and that once a highway is created and adopted it can only cease to be a public highway if there is a due process of stopping up (a formal statutory procedure with formal requirements which, at Wentworth Drive, has not occurred).
- 10.9 The solicitor's letter goes on to state that it would be wrong to assert that if land was owned by some party other than the council, this would be inconsistent with the land being adopted highway. The letter notes that the concept of ownership and adoption are separate matters, and that the question of ownership is no bar to public use of the road (or verge, which has the same status) or indeed to doing works to such a road for connections to development sites. It is indeed common for third party ownership to apply to land that is adopted highway – in such scenarios, the local highway authority's responsibility is often referred to as being applicable to the "top two spits" (i.e., the surface and such part of the subsoil required for the maintenance of the highway).
- 10.10 In a final key point, the solicitor's letter states that the council (as Local Planning Authority) should not withhold planning permission on the grounds that the proposed development would be reliant on access via land in third party ownership. The letter states:
- "...there is no principle in law that requires the planning decision maker to be satisfied that the development, if approved, can be lawfully carried out. Planning permission does not alter or in any way interfere with land ownership. The planning process works in law so as to allow applications to be made and permission to be granted on land which the applicant does not own or even control. Any individual can apply for planning permission on land which is outside their ownership".*
- 10.11 Of note, and as detailed in section 24 of the submitted application form, prior to submitting the current application for outline planning permission, the applicant served formal notice on the third party owners of the land in question, as well as on the council as Local Highway Authority. No representations were received by the council (as Local Planning Authority) from those parties in relation to the current application.
- 10.12 Some of the concerns of local residents regarding the proposal to provide vehicular access via Wentworth Drive are based on an assumption that the applicant would attempt to revert to proposing access via Green Acres Close and Warburton at a later date, should vehicular access from Wentworth Drive prove not to be possible. However, notwithstanding the certainty of the status of the strip of land at the terminus of Wentworth Drive (as set out in the above paragraphs), it is noted that the applicant has only applied for approval of vehicular access from Wentworth Drive, and that vehicular access via Green Acres Close and Warburton has been firmly rejected at appeal on highway safety grounds. Furthermore, a relevant condition is recommended, limiting the use of the Green Acres Close gate to that required for the Millennium Green and the emergency services. In light of the above-mentioned appeal decision, it is considered that this condition would be fully enforceable.

Wentworth Drive / Beaumont Street junction

- 10.13 As noted in the previous committee report, following the Sub-Committee's deferral on 04/11/2020, the applicant carried out parking surveys at the Wentworth Drive / Beaumont Street junction. The surveys were undertaken on Thursday 17/12/2020 (06:00 to 10:00 and 15:00 to 19:00) and on Saturday 19/12/2020 (17:00 to 23:00). The surveys recorded all parked vehicles within the agreed study area every 15 minutes. Low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane. The extent of the survey area will be illustrated in the committee presentation.
- 10.14 Of note, the nearby public house (the White Horse) was closed at the time the surveys were carried out.
- 10.15 Upon submitting the parking survey findings, the applicant stated:
- “Based on the findings of these surveys, no specific highway safety concern resulting from on street parking has been identified sufficient to justify any specific mitigation or interventions as a direct result of this development.*
- Notwithstanding the above, should Highways/Members still consider it necessary to implement parking restrictions in the vicinity of the junction Highstone are willing to offer a contribution (sum to be agreed but anticipated to be in the order of £5,000) to fund the implementation of a Traffic Regulation Order to control parking in the vicinity of the junction”.*
- 10.16 In light of concerns expressed by some Members (at the meeting of 17/02/2021) regarding these findings, the applicant carried out additional parking surveys at the Wentworth Drive / Beaumont Street junction. These related to the same survey area as the December 2020 surveys, were undertaken over a seven-day period between Wednesday 10/03/2021 and Tuesday 16/03/2021, and recorded the location of all parked vehicles every 15 minutes on weekdays (06:00 to 10:00 and 15:00 to 19:00) and at the weekend (17:00 to 23:00). Again, the nearby public house (the White Horse) was closed at the time the surveys were carried out, however the applicant has pointed out that schools were open following the relaxation of restrictions on 08/03/2021, and additionally noted that as a high proportion of residents would have been working from home due to lockdown restrictions, the surveys are likely to have recorded greater volumes of resident parking on street than would ordinarily occur.
- 10.17 Officers remain of the view that it is unfortunate that post-lockdown/epidemic survey data is not available, however given the announced reopening dates for pubs and other hospitality (partial/phased, beginning with pub gardens reopening on 12/04/2021, with further relaxations due on 17/05/2021 and 21/06/2021, all subject to tests being met), it would be unreasonable to delay the determination of the application until after the nearby pub has resumed normal business.

- 10.18 The applicant's March 2021 surveys largely verified the earlier (December 2020) findings. As previously, low numbers of parked vehicles were recorded on Wentworth Drive, Beaumont Street and Chapel Lane, although slightly higher numbers (than in December) were recorded. During weekdays, a maximum of six vehicles were recorded within the survey area in the morning periods, and a maximum of eight were recorded in the afternoon/evening periods. On average, 3.8 vehicles were recorded within the survey area during weekdays. During the weekend survey period, a maximum of six vehicles, and an average of 4.5 vehicles were recorded.
- 10.19 To provide further verification of the applicant's findings, Highways Development Management officers carried out surveys on Wednesday 31/03/2021 (06:45 and 18:00). At 06:45, three cars were parked on Wentworth Drive away from the junction and two cars were parked on Beaumont Street. At 18:00 one car was parked on Wentworth Drive away from the junction, three cars were parked on Beaumont Street and one on Chapel Lane. Overall, when compared to the applicant's March 2021 surveys these results show just one additional car at the junction at 06:45 and the same number of vehicles at 18:00.
- 10.20 In response to concerns regarding highway safety in relation to existing traffic speeds, the applicant noted the findings of an earlier speed survey carried out close to the Wentworth Drive / Beaumont Street junction (specifically, Upper Lane westbound and Chapel Lane eastbound) on Wednesday 19/06/2020 (10:30 to 16:00) which recorded 85th percentile wet weather speeds of 30mph eastbound and 28mph westbound. In addition to that earlier survey, a further survey was carried out by the applicant on Thursday 11/03/2021, and this recorded "broadly comparable" speeds of 30.4mph eastbound and 31.9mph westbound. For completeness, the applicant has recalculated visibility splays using these slightly higher recordings, and has submitted drawing 19093/IN/04 which demonstrates that appropriate visibility can still be achieved at the Wentworth Drive / Beaumont Street junction.
- 10.21 In response to the applicant's December 2020 and March 2021 findings, Highways Development Management (HDM) officers advised that they remain of the view that the Wentworth Drive / Beaumont Street junction would continue to function safely (with the development implemented), without the need for junction improvements or a Traffic Regulation Order (TRO). HDM officers have, however, reiterated that as the nearby public house was closed at the time of the surveys, funding should be secured for the TRO to enable the junction to be monitored after the Covid 19 restrictions are lifted.
- 10.22 In light of the absence of evidence that the proposed development would cause a highway safety problem that requires mitigation it is not recommended that the applicant's offer (to fund a TRO) be accepted for evidenced highways safety reasons. It is, however, noted that fewer parked vehicles at this junction could assist in at least reducing fear of perceived highway safety risks. It is further noted that HDM officers have recommended that the matter be monitored – evidence of greater numbers of parked vehicles may be gathered once the nearby public house reopens, and adequate funding of a TRO would enable this monitoring to be carried out.

- 10.23 The approximate figure of £5,000 (offered by the applicant) is unlikely to cover the cost of the TRO. A more accurate figure would be included in the Section 106 agreement, once further advice from Highway Safety colleagues has been received. The funding of the TRO would need to be made payable prior to commencement of works.
- 10.24 Of note, the applicant's offer would not *guarantee* that parking restrictions would be introduced – implementation of such a change would be subject to local consultation. It is also noted that the hours and physical extent of parking restrictions (if deemed appropriate) would not be determined at this stage.

Land use, principle of development and quantum

- 10.25 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.26 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.27 Full weight can be given to site allocation HS137 (formerly H358), which allocates the site for residential development.
- 10.28 Regarding site allocation H358, the Inspector's Report of 30/01/2019 stated at paragraph 306:

H358, east of Wentworth Drive, Emley – The site is contained between dwellings off Wentworth Drive and Warburton Road, and is well related to the built-up form of the village. The Council's highways evidence indicates the main site access can be achieved from Wentworth Drive, and no other fundamental constraints to development have been identified. The site contains a PROW and provides access to the adjoining Millennium Green, and this should be referenced in the policy for reasons of effectiveness (SD2-MM213). Subject to this modification, I am satisfied that the proposal is sound.

- 10.29 Ordnance Survey maps from 1893 onwards annotate parts of Tyburn Hill as "Allotment Gardens", however these annotations do not clarify precisely which land was used as allotments. That use has ceased in any case, and aerial photographs from 2000 onwards do not indicate the application site was in use as allotments over the last 20 years. Therefore, it is considered that the proposed development does not conflict with the final sentence of Local Plan policy LP61 which protects small, valuable green spaces (including allotments) not identified on the Policies Map, or with policy LP47 which encourages the provision of allotments.
- 10.30 Subject to highways, design, residential amenity, public rights of way and other matters being appropriately addressed, it is considered that residential development at this site is acceptable in principle, and would make a welcome contribution towards meeting housing need in Kirklees.

- 10.31 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.
- 10.32 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the proposed residential use, and the principle of residential development at this site, is policy-compliant.

Sustainability and climate change

- 10.33 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.34 Subject to further details that would be submitted at Reserved Matters stage, it is considered that residential development at this site can be regarded as sustainable, given the site's location adjacent to an already-developed area, its proximity to some (albeit limited) local facilities, and the measures related to transport that can be put in place by developers.
- 10.35 Emley and the application site are not isolated and inaccessible, however it is noted that public transport provision in the village is limited – there is no railway station within walking distance, and a Huddersfield-Wakefield bus provides an hourly (at best) service. Although Emley has a relatively extensive network of public rights of way, it is noted that distances between settlements, topography, and shortcomings such as a lack of footpath lighting and footpaths meeting streets without footways mean residents of the proposed development are unlikely to travel on foot in large numbers on a daily basis when moving to and from their homes, workplaces and other destinations. Cycling, although possible along roads, is unlikely to be taken up in large numbers by residents, due to the area's topography and lack of dedicated cycle paths. A major residential development in Emley that was entirely reliant on the private car is unlikely to be considered sustainable, therefore at Reserved Matters stage the applicant would need to propose effective measures to discourage private car journeys, and promote the use of sustainable modes of transport. The council's proposals for the Core Walking, Cycling and Riding Network (which extends to the western edge of Emley) would need to be referred to in the applicant's proposals. It is recommended that the provision of electric vehicle charging points be secured by condition.
- 10.36 Regarding the social infrastructure currently provided and available in Emley (which is relevant to the sustainability of the proposed development), it is noted that local GP provision is limited, and this has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance requiring a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and

aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations. Several residents have pointed out that the applicant's description of other local facilities includes errors, and while these are noted, it is also noted that Emley currently has a shop offering Post Office services, two churches, two pubs, a school, and sports and recreation facilities, such that at least some of the social and community needs of residents of the proposed development can be met within Emley, which further indicates that residential development at this site can be regarded as sustainable.

- 10.37 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.

Urban design issues

- 10.38 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP7 and LP24 are relevant to the proposed development in relation to design, as is the National Design Guide.
- 10.39 The application site is located at the edge of an existing, well-established settlement. Residential development exists immediately to the east and west of the site, and this means the proposed development would sit comfortably within its context without appearing as a sprawling, inappropriate enlargement to Emley. Although the proposed development would be visible from several public vantagepoints, its visual impact would not be significant or adverse in the context of the surrounding development already built. Green belt land to the south of the site would continue to provide green framing around the enlarged settlement, and urban green space to the north would continue to provide relief in the form of an undeveloped green space between built-up areas.
- 10.40 The proposed site layout shown in drawing 3049-0-002 rev F, and the number of dwellings illustrated, must be regarded as indicative, given that the applicant does not seek approval of appearance, landscaping, layout and scale, and has not specified a number of units for approval. Any layout to be fixed at Reserved Matters stage would need to result in a policy-compliant, high quality development with local distinctiveness, would need to relate well to the public rights of way that pass through the site, would need to ensure areas of public realm are adequately addressed and overlooked, would need to be informed by the applicant's ball strike risk assessment, and would need to respond to the comments of the West Yorkshire Police Architectural Liaison Officer and other consultees.
- 10.41 With 44 units indicatively illustrated in a 1.18 hectare site, a density of approximately 37 units per hectare would be achieved. This is close to the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7 and it is noted that site allocation HS137 refers to an indicative capacity of 44 units, albeit for a 1.28 hectare site.
- 10.42 It is not anticipated that the proposed development would adversely affect the significance of nearby heritage assets, however this matter would need to be considered in detail at Reserved Matters stage.

- 10.43 Details of elevations, house types, materials, boundary treatments, landscaping and other more detailed aspects of design would be considered at Reserved Matters stage. Full details of any levelling and regrading works, and of any necessary retaining walls and structures, would also need to be provided at Reserved Matters stage.
- 10.44 In light of the above assessment, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP24 and LP35 would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Residential amenity and quality

- 10.45 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.46 The principle of residential development at this site is considered acceptable in relation to the amenities of neighbouring residential properties.
- 10.47 As noted above, the site layout shown in drawing 3049-0-002 rev F is indicative, however it is nonetheless appropriate to comment on it in relation to the amenities of existing neighbouring residents, to inform future design work. Based on this layout and the limited information submitted at this outline stage, it is considered likely that impacts upon the outlook, privacy and natural light currently enjoyed by neighbouring residents will be acceptable, or can be made acceptable through careful (re)design. The proposed positioning and likely heights of the proposed dwellings (in relation to the site's boundaries and to the habitable room windows and outdoor amenity spaces of neighbouring properties) would certainly affect existing outlook, but not to an unacceptable degree. The proposed dwellings would, or could, be positioned far enough away from neighbouring properties to not adversely affect the amenities currently enjoyed by existing residents.
- 10.48 In terms of noise, although residential development would introduce (or increase) activity and movements to and from the site, given the quantum of development that would be proposed at Reserved Matters stage, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and it is not considered incompatible with existing surrounding uses. The increased number of people and vehicles passing through Wentworth Drive would certainly affect the amenities of those existing residents, however it is considered that this impact would not be so great as to warrant the refusal of outline planning permission on amenity grounds.
- 10.49 A condition is recommended, requiring the submission and approval of a Construction Management Plan. The necessary conditions-stage submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time.

- 10.50 The amenities and quality of the proposed residential accommodation is also a material planning consideration, although it is again note that details of the proposed development's appearance, landscaping, layout and scale are reserved at this stage.
- 10.51 All units shown on the applicant's indicative layout would benefit from dual aspect, and are capable of being provided with adequate outlook, privacy and natural light. Dwellings could be provided with adequate outdoor private amenity space.
- 10.52 At Reserved Matters stage, the applicant would be encouraged to provide accessible bathrooms (and possibly bedrooms or adaptable rooms) at ground floor level in the larger units, providing flexible accommodation and ensuring that a household member with certain disabilities could live in this dwelling. Dwellings should have WCs at ground level, providing convenience for visitors with certain disabilities.
- 10.53 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, 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, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.
- 10.54 Should outline planning permission be granted, at the subsequent Reserved Matters stage the applicant will be advised to meet these standards.

Point of access

- 10.55 Following the dismissal of appeal ref: APP/Z4718/W/19/3239659 on 23/12/2019 and further research, the applicant team ascertained that land at terminus of Wentworth Drive (previously described by the applicant as a ransom strip in the ownership of three parties) was adopted highway, and that vehicular access could therefore be taken through it. Further detail regarding the status of this land is provided at paragraphs 10.1 to 10.12 of this committee report.
- 10.56 Of note, during the life of the previous application and appeal, the council did not accept that vehicular access via Wentworth Drive was not possible. The applicant did not demonstrate that the possibility of providing access from Wentworth Drive had been fully explored. Site allocation HS137 does not specify whether the site should be accessed from either Wentworth Drive or Green Acres Close, however the "Potential third party land required for access" text included in the site allocation indicates that the council expected access to be provided from Wentworth Drive, and this access point has always been preferred by the council.
- 10.57 For the avoidance of doubt, and given that relevant legislation defines "access" as "the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes..." (therefore, it can include access through a site), the applicant submitted an access points plan, which – along with the submitted location

plan – would be the only drawing listed on the council’s decision letter. Approval of this plan would confirm that only points of access (and not access through the site) are approved.

- 10.58 Residents have noted that a gated vehicular access from Green Acres Close is shown on the applicant’s drawings, and have expressed concern that vehicular access into the site at this point would not be prevented, nor would there be a way of ensuring that this access point remained gated. To address this concern, a relevant condition is recommended, prohibiting its use for everyday access by residents, and limiting its use to that required for the Millennium Green and the emergency services.

Highway and transportation issues

- 10.59 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.60 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.61 Existing highways conditions around the application site must be noted. The site meets the terminus of Wentworth Drive to the west and the terminus of Green Acres Close to the east. Wentworth Drive has footways on both sides of the carriageway, has no yellow road markings, and connects to the wider highway network at Beaumont Street (which is a continuation of Upper Lane) to the north. Green Acres Close serves nine dwellings, has vehicular and personnel gates at its terminus (providing access to the application site and the Millennium Green), and connects to the wider highway network via Warburton, which already serves over 80 dwellings, and which has no footways along the majority of its length, has poor sight lines in places, has existing driveways with poor sight lines, has houses with front doors opening directly onto the carriageway, and has reduced carriageway width (for both pedestrians and vehicles) in places due to on-street parking.
- 10.62 The majority of representations made in response to the council’s consultation have raised concerns regarding highway safety and congestion, with many raising concerns regarding additional traffic at the Wentworth Drive / Beaumont Street junction.
- 10.63 The applicant’s Transport Statement notes that, in order to calculate the level of traffic generated by the proposed development, a turning count was undertaken at the nearby junction of Upper Lane / Warburton on 20/06/2019

(a Thursday) and 22/06/2019 (a Saturday) over a 24-hour period. These counts have been used by the applicant to interpolate bespoke trip rates for the proposed development. Based upon these rates the proposed development is estimated by the applicant to generate 27 two-way movements in the morning peak (07:00 to 08:00) and 25 two-way movements in the afternoon peak (16.00 to 17:00).

- 10.64 A highways consultant commissioned by residents commented that the estimate of traffic generation produced by the applicant was unreliable as it was based on trips generated by properties on Warburton which were unlikely to be representative of the proposed development. With the site poorly located for access to public transport and local facilities, the consultant stated that the council's favoured trip rate of 0.7 vehicle movements per hour per dwelling was instead appropriate. This would indicate 35 additional vehicle movements per hour. The consultant stated that traffic generated by the proposed development would therefore exceed the relevant materiality threshold, with material impacts on safety and operation anticipated on Wentworth Drive and at the junction with Beaumont Street.
- 10.65 The council's Highways Development Management officers considered the above information, and agreed with the residents' consultant's conclusion regarding traffic generation (namely, that the bespoke trip generation figures quoted by the applicant may be unrepresentative and that 0.7 vehicle movements per dwelling referred to in the applicant's 2019 Transport Statement should be used). Officers noted, however, that this resulted in an increase of only seven two-way movement in the peak hours, which is not considered significant.
- 10.66 Vehicle speed surveys were undertaken along Beaumont Street on 11/03/2020 (a Wednesday) during sunny / intermittent shower weather conditions. The survey recorded 200 vehicles in each direction on the approach to the Wentworth Drive junction. The results show that the 85th percentile wet weather vehicle speeds were 30mph eastbound and 28mph westbound. The findings of later speed surveys are detailed at paragraph 10.20 of this committee report. No personal injury collisions have been recorded within the five-year period ending 20/03/2020 at this junction.
- 10.67 The highways consultant commissioned by residents has argued that the Wentworth Drive / Beaumont Street junction is characterised by sub-standard highway features in relation to visibility and stopping sight distance. The consultant went on to note that on-street parking is evident adjacent to the junction, with conflicting turning movements arising from the proximity of other junctions and accesses such that the material increases in traffic arising from the proposed development would be unacceptable on road safety grounds.
- 10.68 The council's Highways Development Management officers noted these concerns but have advised that the applicants have demonstrated that sight lines of 2.4m x 41m and 2.4m x 37m can be achieved at the Wentworth Drive / Beaumont Street junction, and have further illustrated acceptable visibility in the recently-submitted amended drawing 19093/IN/04. These are considered acceptable based on Manual for Streets guidance which is considered appropriate to this site.

- 10.69 However, notwithstanding the above conclusion (nor that the number of indicatively-proposed dwellings is at a level that would not usually even require a Transport Statement), given the level of objections to this proposal and concerns raised regarding the capacity of the Wentworth Drive / Beaumont Street junction, officers recommended that a PICADY assessment of the junction should be undertaken to demonstrate that the junction has sufficient capacity.
- 10.70 In response, the applicant referred to relevant guidance that states that no assessment is needed for developments of up to 50 dwellings, that a Transport Statement (which excludes junction capacity assessment) is required for developments of between 50 and 80 dwellings, and that a Transport Assessment (which includes junction capacity assessment) is only needed for developments of 80+ dwellings. The applicant noted that the proposed development indicatively comprises 44 dwellings and is therefore below the threshold even required for a Transport Statement. The applicant further argued that the level of traffic generated, whether applying the applicant's bespoke trip rates or the council's robust internal rates, remains low.
- 10.71 Notwithstanding the above response from the applicant, a capacity assessment of the Wentworth Drive / Beaumont Street junction was eventually provided. This demonstrates that the junction is operating well within capacity, and officers concurred with these findings.
- 10.72 Details of the applicant's further assessments of the Wentworth Drive / Beaumont Street junction (submitted following the Sub-Committee's deferrals of 04/11/2020 and 17/02/2021) are provided at paragraph 10.13 onwards of this committee report. The findings of these surveys have not attracted adverse comment from Highways Development (HDM) officer.
- 10.73 In response to other comments made by HDM officers, a Road Safety Audit and designer's response were submitted by the applicant. This recommended a minor change to the footway at the terminus of Wentworth Drive, and staggered barriers to public footpath DEN/21/20 to deter use by motorcyclists. The designer's response generally accepted the recommendations of the audit, and suitable amendments have been made to the proposals.
- 10.74 Improvement works to public footpath DEN/21/20 are also proposed in the form of widening to 2m, tarmac surfacing and the provision of street lighting. The proposed widening and resurfacing works are welcomed, and would help the development comply with Local Plan policies LP20, LP24dii and LP47e, which promote and require the creation of safer pedestrian environments, walkable neighbourhoods, good connectivity and permeability, and layouts that encourage active and sustainable travel.
- 10.75 The proposed provision of street lighting along the footpath has been given careful consideration, given the potential for amenity impacts upon adjacent residential properties, and given that lighting of part of a footpath could encourage people to use less safe sections of footpath that remain unlit. Bollard lighting was considered, however this would not normally be specified for a footpath, it would be more vulnerable to vandalism, it would not significantly improve safety (although it could help increase a *perception* of safety), and it would attract an objection from the West Yorkshire Police Designing Out Crime Officer as it would not provide sufficient upwards lighting

spread to illuminate a person's face for identification purposes and to establish intent. Potential light pollution and amenity problems can be limited by rear shields that would restrict light spill from 5m high columns. Illumination of a further section of the footpath (dotted green on drawing 19093/GA/02) is not proposed, however this is not considered problematic as the unilluminated section of footpath would be short and may borrow light from adjacent uses.

- 10.76 The applicant would prefer these footpath works to be costed at outline application stage, and included in the Section 106 agreement, however these works would be more appropriately secured via a condition and S278 agreement.
- 10.77 The provision of improvements at the point where this footpath meets Upper Lane were also considered (as the road lacks a footway here, and pedestrians step out from the footpath directly onto the carriageway), however there is insufficient space here to add a footway without unacceptably reducing carriageway width (which is already limited due to the position of the historic Emley Standing Cross, a Grade II listed building and Scheduled Ancient Monument).
- 10.78 Related to this point, residents have stated that the council (when considering application ref: 2019/90380 and making representations at appeal ref: APP/Z4718/W/19/3239659) had rejected earlier proposals for improvements to this footpath, and that officer advice has been inconsistent. To clarify, concerns were raised regarding improvements to footpath DEN/21/20 in the context of the previous application and appeal where the applicant proposed to introduce significant vehicular traffic to Warburton (which lacks footways for much of its length) and did not propose any pedestrian access to the site from Wentworth Drive. As part of those earlier proposals, the applicant attempted to rely (at least partly) on the proposed footpath improvements as a way of addressing concerns that pedestrians (moving north-south) would have to share carriageway space with vehicles using Warburton. Under the current proposals, the applicant is proposing access via Wentworth Drive (therefore, a pedestrian connection via existing and proposed footways would be created) and is not proposing to introduce additional vehicular traffic to Warburton (therefore, pedestrians using that road would be at less risk). In this current context, therefore, residents of the proposed development would have a wider choice of north-south walking routes, and there is now less concern regarding highway safety risk to pedestrians.
- 10.79 Alterations to public rights of way within the extents of the application site would be detailed at Reserved Matters stage. As regards the other well-trodden pedestrian routes that cross the site, any layout to be proposed at Reserved Matters stage should accommodate existing desire lines wherever possible, however it is noted that a public right of way does not currently exist where units 17, 31, 32 and 33 are indicatively shown.
- 10.80 Access to the adjacent Millennium Green would not be restricted by the proposed development.
- 10.81 Given that the submitted site layout plan is indicative, commentary on the detailed design of the internal estate roads is not necessary at this stage. Matters such as gradients, carriageway widths, forward visibility and refuse storage would be considered when a layout and quantum of development is

proposed. There is adequate space within the application site for policy-compliant provision of on-site parking (including visitor parking) and cycle parking for the indicative 44 units, however details of this provision would be considered at Reserved Matters stage.

- 10.82 A pre-commencement condition is recommended, requiring the submission of the above-mentioned Construction Management Plan. This would need to include details of construction traffic routes.

Flood risk and drainage issues

- 10.83 The site is within Flood Zone 1, and is larger than 1 hectare in size, therefore a site-specific Flood Risk Assessment (FRA) was submitted by the applicant. An amended FRA was submitted during the life of the application.
- 10.84 The applicant's earlier FRA appropriately recommended site investigation to ascertain whether infiltration (for the disposal of surface water) would be possible – infiltration would indeed be the preferred surface water disposal method, and Lead Local Flood Authority (LLFA) data suggests the site is likely to be highly suitable for infiltration. The applicant's later, amended Flood Risk Assessment (rev D) now includes details of the infiltration testing undertaken on site, as requested by the LLFA. The amended FRA confirms that the site may be suitable for soakaways as a means of surface water disposal. As soakaways have a bearing on site layout (as stand-off distances from buildings need to be maintained), discussion of a drainage strategy for the site will need to take place with officers when further design work is carried out. If infiltration systems are considered unfeasible for the site, then the development should drain to the identified watercourse to the south, or as a last resort to the public sewer.
- 10.85 Of note, notwithstanding what is stated at paragraph 3.4 of the applicant's initial and amended FRA ("It is understood that a route through adjacent land to the south of the site has been agreed to allow a discharge to the watercourse some 400m away from the site") and the comments of Yorkshire Water, no detailed drainage proposal including a connection to that existing watercourse has been submitted. Several residents have expressed concern that such a connection would involve excavation and the laying of pipework across the Millennium Green, and through farmland, causing disruption and losses of trees and hedgerows. Emley Millennium Green Trustees have also advised that no consent for such excavation and pipe laying has been issued.
- 10.86 In updated comments, the LLFA raised no objection to the granting of outline planning permission for residential development at this site.
- 10.87 It is not considered necessary to pursue further, detailed information regarding drainage and flood risk at this outline stage, given that a proposed site layout, and details of the number of residential units (and their locations in relation to potential sources and mitigation of flood risk) would not be fixed. A detailed drainage scheme would be required at Reserved Matters stage, as would details of flooding routes, permeable surfaces, rainwater harvesting, water butts, and rainwater gardens and ponds. In accordance with LLFA advice, conditions to secure these details are recommended.

Ecological considerations

- 10.88 The application site is greenfield land, and is grassed. Trees and shrubs exist along the site's edges. The site is within a Biodiversity Opportunity Zone (Pennine Foothills) and an Impact Risk Zone of a Site of Special Scientific Interest.
- 10.89 The applicant submitted a Preliminary Ecological Appraisal Report which states that on-site habitats do not represent a significant constraint to development, and that no protected species have been identified. The report does not recommend that any further, detailed ecological studies be carried out, but recommends "standard" precautions regarding nesting birds and hedgehogs.
- 10.90 For the previous application, the council's Biodiversity Officer raised no objection to the proposed development, stating that it was unlikely to result in significant ecological harm, subject to conditions. For the current application, the applicant has correctly calculated the site's ecological baseline value (4.81 habitat units and 0.47 hedgerow units), and it is noted that to achieve a 10% biodiversity net gain post-development, a minimum of 5.29 habitat units and 0.52 hedgerow units would need to be delivered. This should be taken into account when further design work is carried out, and the post-development value of the site (measured using the Biodiversity Metric 2.0 or latest version, if available) should be supplied at Reserved Matters stage. Of note, a 10% biodiversity net gain is not currently a planning policy requirement, but may become mandatory by the time a Reserved Matters application is submitted for this site, if the Environment Bill is passed.
- 10.91 Given that the site's ecological baseline value could change before a Reserved Matters application is prepared, and given the requirements relating to net biodiversity gain that may become applicable in the near future, it is considered that outline planning permission can be approved at this site subject to a condition stating:

Prior to the submission of the Reserved Matters referred to in Condition 1, details of the site's baseline ecological value shall be submitted to and approved in writing by the Local Planning Authority. These details shall inform the design of the development, and shall include details of measures needed to secure a biodiversity net gain. The development shall be implemented in accordance with the measures approved at Reserved Matters stage.

- 10.92 A condition requiring the submission of an Ecological Design Strategy is also recommended.
- 10.93 It is considered possible to develop the site for residential use while providing the required biodiversity net gain, in accordance with relevant local and national policy, including Local Plan policy LP30 and chapter 15 of the NPPF.

Trees

- 10.94 There are no protected trees on or immediately adjacent to the application site, however there are trees within the adjacent Millennium Green and

elsewhere around the edges of the site. Many of these are worthy of retention, some may overhang the site boundary, and some should be regarded as constraints at the application site.

- 10.95 Some of the dwellings indicatively shown along the site's southern boundary may be too close to existing trees, however with minimal design changes these concerns could be overcome. When a detailed layout is prepared prior to Reserved Matters stage, the applicant would need to provide a good level of separation between the proposed dwellings and these trees, and a full assessment of potential impacts upon these trees would need to be carried out.
- 10.96 The council's Arboricultural Officer has raised no objection in principle to residential development at this site.

Environmental and public health

- 10.97 The proposed development would cause an increase in vehicle movements to and from the site, however air quality is not expected to be significantly affected. To encourage the use of low-emission modes of transport, electric/hybrid vehicle charging points would need to be provided in accordance with relevant guidance on air quality mitigation, Local Plan policies LP21, LP24 and LP51, the West Yorkshire Low Emission Strategy (and its technical planning guidance), the NPPF, and Planning Practice Guidance.
- 10.98 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the adjacent sports and recreation facilities, the affordable housing that would be secured, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions and Reserved Matters stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

Sport England

- 10.99 As the application site is immediately adjacent to a cricket field, Sport England were consulted on the current application. Initially, the applicant did not submit a ball strike risk assessment in relation to the adjacent facility, and as with the previous application, Sport England submitted an objection in relation to ball strike risk.
- 10.100 Although officers were of the view that ball strike risk should not prevent the principle of residential development being accepted at this site (it is noted that no quantum or layout would be approved at this outline application stage, and that mitigation measures (if needed) can be detailed and considered at Reserved Matters stage), the applicant responded to Sport England's concerns by submitting a ball strike risk assessment during the life of the application. This states that "...all but the fastest shots for community-level cricket will be stopped by a 17m high mitigation system" and "In order to completely remove the risk of any ball surpassing the boundary, a 25m mitigation system would be required". The report goes on to state that a 17m height mitigation is a sensible and sufficient solution in reducing the risk of cricket balls surpassing the boundary and landing in the proposed residential area, although the report does not recommend the specific design of a mitigation.

10.101 Upon receipt of the applicant's ball strike risk assessment, Sport England were reconsulted, and their objection was withdrawn, subject to two conditions (set out under paragraph 8.1 above) being applied. Following further communication with the applicant, on 06/10/2020 Sport England agreed to their recommended conditions being modified as follows:

1) The Reserved Matters application shall detail ball-stop netting of a height and location specified within the mitigation approach section of the Labosport report reference LSUK.20-0563 or an appropriate alternative that delivers the required mitigation to protect the operation of the cricket ground and the approved dwellings. The approved scheme shall be brought into use prior to the occupation of any dwelling within the ball strike risk zone.

2) Prior to the commencement of development a scheme for the management and maintenance of the approved ball-stop netting or an appropriate alternative mitigation measure shall be submitted to and approved by the Local Planning Authority (following consultation and advice from Sport England). The approved scheme shall be brought into effect upon first occupation of any dwelling within the ball-strike risk zone, and shall remain in operation whilst the cricket ground and approved dwelling houses remain in use.

10.102 Officers recommend that these conditions be applied. Of note, the conditions as worded above do not necessarily require the erection of 17m high ball strike mitigation (such as netting or fencing). Such an installation would be of concern, given its visual impact. Furthermore, an installation of that height would require planning permission in its own right, such that it would be inappropriate to secure its provision by condition – instead, the development description for the current application would need to be changed and a re-consultation exercise would be necessary. However, with the “or an appropriate alternative” wording included in the first condition above, alternatives to netting could be proposed by the applicant at Reserved Matters stage, and members of the public would have an opportunity to comment on those proposals as and when the council carries out consultation on that application.

10.103 Of note, should Members resolve to grant outline planning permission without the above conditions, the current application would need to be referred to the Secretary of State for Housing, Communities and Local Government, who would have 21 days to advise the council whether the application is to be “called in”.

Ground conditions

10.104 With regard to ground contamination, the applicant submitted a Geoenvironmental Appraisal. Environmental Health officers requested details of gas monitoring carried out at the site. This had been submitted by the applicant, and the comments of Environmental Health officers will be reported in the committee update. Appropriate conditions are recommended to ensure compliance with Local Plan policy LP53.

10.105 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards. This is, however, not a reason for refusal of outline planning permission. The applicant's site investigation found the Flockton Thin coal seam to be intact coal across the site, and the deeper Second Brown Metal seam was not encountered. No evidence of mineworkings was identified during the investigation. In light of these findings, and the absence of an objection or contrary advice from the Coal Authority, no conditions relating to the site's coal mining legacy are considered necessary. However, as noted by the Coal Authority, further, more detailed consideration of ground conditions, foundation design and gas protection measures may be required at detailed design stage.

10.106 Residents have stated that four mine shafts close to the entrance to Wentworth Drive may not have been capped properly, however there is no evidence (currently before the council) that this is the case, nor has the matter been raised in the Coal Authority's consultation response.

Representations

10.107 A total of 240 representations were received from occupants of neighbouring properties. The comments raised, which are summarised in section 7 above, have been addressed in this report.

10.108 Representations have been made directly to Members and officers by representatives of the Millennium Green regarding legal obligations applicable to that open space. These concerns appear to have largely been triggered by the indicative layout plan submitted with the current application, however it is again noted that this plan would not be among the approved drawings and documents, if outline planning permission is granted. The indicative plan has only been submitted for information, to indicate how (in the applicant's opinion), a residential development might be laid out at this site. If the council grants outline permission, no layout or number of units would be fixed at that stage.

Planning obligations

10.109 Although affordable housing, education, open space and highways-related measures could be secured by condition at this outline stage, the applicant has asked that any approval of outline planning permission be subject to a Section 106 agreement, securing planning obligations. This is indeed possible, although without a number of units, layout or other aspects of the development being fixed at this stage, financial contributions cannot be included in the agreement (although, in some cases, caps based on the maximum number of units likely to be acceptable at this site, could be set out). To mitigate the development's impacts and to secure the public benefits of relevance to the planning balance, the following planning obligations would need to be secured:

- 1) Affordable housing – 20% of units, with a policy-compliant tenure and unit size mix, to be provided in perpetuity.

- 2) Education – Financial contribution to be calculated with reference to number of units proposed at Reserved Matters stage, unit sizes and projected pupil numbers.
- 3) Highways and transport – Measures to encourage the use of sustainable modes of transport, including a financial contribution to be calculated with reference to details and number of units proposed at Reserved Matters stage, the highway impacts of the proposed development, and consultee responses. Improvements to off-site public rights of way.
- 4) Open space – Financial contribution towards off-site provision, to be calculated with reference to details proposed at Reserved Matters stage.
- 5) Biodiversity – Contribution towards off-site measures to achieve biodiversity net gain, to be calculated with reference to details proposed at Reserved Matters stage and opportunities for on-site and near-site compensation.
- 6) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 7) Traffic Regulation Order – Funding of consultation on, and implementation of (if deemed appropriate, following consultation) a Traffic Regulation Order (TRO) to restrict parking at the Wentworth Drive / Beaumont St junction.

10.110 Notwithstanding the above references to Reserved Matters, it is in any case recommended to applicants that these details be submitted at Reserved Matters stage, so that each of these matters (and financial viability, if applicable) can be considered concurrently with the layout and quantum of the proposed development, and amendments (to improve viability) can be made if necessary.

Other planning matters

- 10.111 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.
- 10.112 Solicitors acting for the Emley Millennium Green Trustees have advised that there are no registered rights to access the Millennium Green for any purpose, including but not limited to the laying of pipes for any purpose. As noted above, access to the adjacent Millennium Green would not be restricted by the proposed development. Any other rights the Emley Millennium Green Trustees may have agreed with the Savile Estate are not a planning matter, and any dispute (arising from the proposed development) regarding those rights would need to be resolved between those parties.
- 10.113 The availability of houses for sale elsewhere in Emley is not a reason for withholding outline planning permission. Market churn is normal and is not an indication of a lack of demand for housing (or a certain housing type) in Emley.

10.114 Financial gains made by the landowner and applicant (should outline planning permission be granted) are not material planning considerations.

11.0 CONCLUSION

11.1 The application site is allocated for residential development under site allocation HS137, and the principle of residential development at this site is considered acceptable.

11.2 The site is constrained by public rights of way, the adjacent cricket ground, adjacent trees, coal mining legacy, ecological considerations, drainage and other matters relevant to planning. While these constraints would necessitate further, careful and detailed consideration at Reserved Matters stage, none are considered to be prohibitive to the principle of residential development at this site, therefore it is recommended that outline permission be granted.

11.3 The proposed vehicular point of access and pedestrian points of access are considered acceptable in highways terms.

11.4 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 and further consideration at Reserved Matters stage, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)

1. Standard OL condition (submission of Reserved Matters)
2. Standard OL condition (implementation of Reserved Matters)
3. Standard OL condition (Reserved Matters submission time limit)
4. Standard OL condition (Reserved Matters implementation time limit)
5. Development in accordance with plans and specifications
6. Flood risk and drainage – full scheme to be submitted
7. Separate systems of foul and surface water drainage to be provided
8. Details of access and internal adoptable roads
9. Restricted access from Green Acres Close
10. Section 278 works to public footpath
11. Ecology and biodiversity net gain (including submission of an Ecological Design Strategy)
12. Tree protection measures to be implemented prior to commencement
13. Restriction on timing of removal of hedgerows, trees and shrubs.
14. Landscaping – full details to be submitted

15. Construction Management Plan to be submitted
16. Electric vehicle charging points to be provided
17. Contaminated land
18. Coal mining legacy – details of intrusive site investigation to be submitted
19. Details of ball strike risk mitigation to be submitted at Reserved Matters
20. Details of management and maintenance of ball strike risk mitigation to be submitted pre-commencement
21. Submission of details of crime prevention measures.
22. Submission of details of noise mitigation measures.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91215>

Certificate of Ownership – Certificate B signed