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

**STRATEGIC PLANNING COMMITTEE**

**Date: 28-Apr-2021**

**Subject: Planning Application 2019/93658 Erection of 122 dwellings, landscaping and associated infrastructure Land at, Whitechapel Road, Cleckheaton**

**APPLICANT**

BDW Trading Ltd/Charles  
Robert Hirst/J C Nevin/I H  
Brierley

**DATE VALID**

25-Nov-2019

**TARGET DATE**

24-Feb-2020

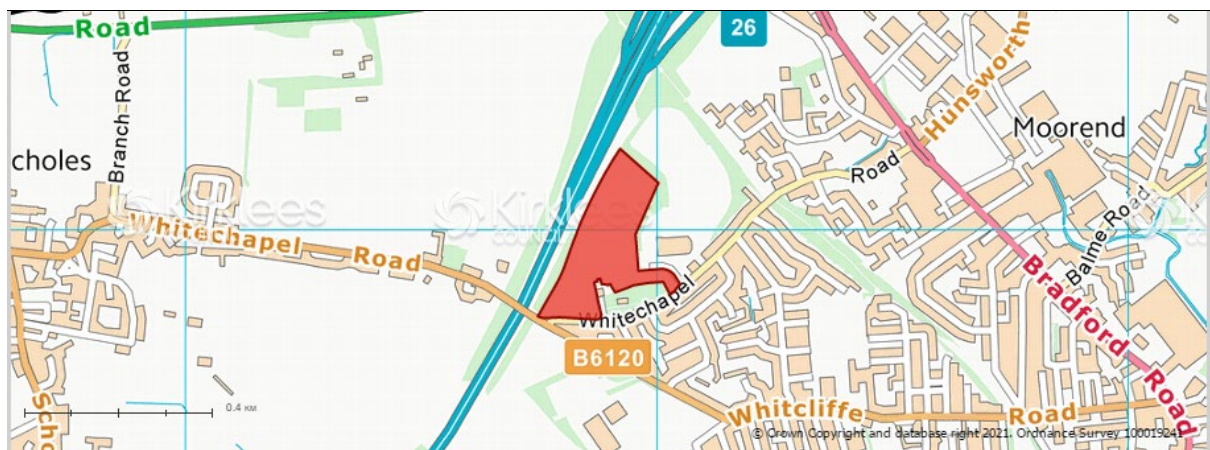
**EXTENSION EXPIRY DATE**

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

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

**LOCATION PLAN**



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

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**Electoral wards affected: Cleckheaton**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

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

- 1) Affordable housing – 24 affordable housing units (tenure split to be 20 units would be discount for sale and 4 units would be for social or affordable rent) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £71, 397 to address shortfalls in specific open space typologies.
- 3) Education – Off-site contribution of £470,709, based on 122 dwellings to be spent on upon priority admission area schools within the geographical vicinity of this site to be determined. Payments would be made in instalments and on a pre-occupation basis, per phase. Instalment schedule to be agreed.
- 4) Junction monitoring – Off-site contribution of £10,500 for 5no. Bluetooth journey time detectors at the Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction.
- 5) Core walking and cycle network improvements – Off-site contribution of £20,000 towards the improvement of a link between the site and the Spen Valley Greenway.
- 6) Bus stop improvements - £23,000 towards the provision of a bus shelter and real time information to bus stops on Whitechapel Road.
- 7) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring and a sustainable travel fund of £62,403.
- 8) Off-site Biodiversity Net Gain requirements – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 9) Multi-modal link route to be delivered between the proposed estate road and the boundary of the application site, adjacent to plots 83-87.
- 10) 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).

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 application for full planning permission is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.
- 1.2 The full planning application is made by PB Planning Ltd on behalf of BDW Trading Ltd, Charles Robert Hirst, Julia Claire Nevin and Ian Hirst Brierley.
- 1.3 The planning application was initially submitted for the "*Erection of 133 dwellings, landscaping and associated infrastructure.*" During the course of the planning application, the applicant revised the planning application to show the erection of 124 dwellings, landscaping and associated infrastructure.
- 1.4 The planning application was taken to the Strategic Planning Committee on 27<sup>th</sup> January 2021 Strategic Planning Committee, where the committee resolved to defer the application on the following grounds:
  1. Further information be provided to understand the noise impact and the proposed detailed mitigation measures.
  2. Further information be provided to understand the air quality impact and the proposed detailed mitigation measures.
  3. That further details be provided in relation to the proposed relationship with the motorway including the existing and proposed landforms and any mitigation features, including landscaping.
  4. That steps be taken to include community involvement in the development of a construction management plan.
  5. That steps be taken to look at the retention of on-site trees and for the submission of further information on the proposed tree mitigation strategy
  6. To allow officers and the applicant an opportunity to review the scheme with the aim of reducing the numbers of dwelling numbers to reflect the numbers and the heritage zones as outlined in the Local Plan.
- 1.5 To address the above matters, the applicant has revised the planning application to now show the erection of 122 dwellings, landscaping and associated infrastructure. In addition, supporting documentation has been provided in relation to the above matters:
  1. An amended site layout plan, with properties near to Whitechapel Road sited further away from the motorway edge as advised by Environmental Health. An amended Noise Assessment (SLR, Reference: 405.03696.00038 Version No: 9 Dated: March 2021) providing further details of the noise levels and the proposed mitigation measures.
  2. An amended Air Quality Impact Assessment (SLR, Reference: 410.04993.00063 Version No: Revision 6 Dated: March 2021) clearly showing the air quality situation of the site and how the development has positively responded to this constraint.
  3. Indicative site sections (JRP, Reference: 17:5076:10 Revision A, Dated: March 2021 and Reference: 17:5076:10 Revision B, Dated March 2021) have been provided showing the existing ground level and the proposed changes where there is existing 'made ground'.
  4. The applicant has agreed to work with community representatives in the development of a construction management plan.

5. An amended site layout plan has been received showing the retention of a group of trees nearest to the motorway. In addition, an Arboricultural Impact Assessment and Arboricultural Method Statement (Ecus Ltd, Reference: 16628, Version 1.1) and Tree Mitigation Strategy has been provided (Ecus Ltd, Reference: 16628 V1.2, March 2021)
6. The applicant has reduced the number of dwelling houses from 124 dwellings to 122 dwellings in line with the housing site allocation box H97 indicative capacity.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located to the north of Whitechapel Road, sited behind a Public House and Whitechapel Church (Grade II listed); to the west of Whitechapel Church of England Primary School and to the east of the M62. The application site forms part of the north-western edge of Cleckheaton.
- 2.2 The site area measures 4.5 hectares and consists of several small-medium size, irregular shaped fields which are currently unmanaged. The site generally slopes from south-west to north-east from around 125m AOD to 115m AOD. There is a notable change in topography to the north west of the site which consists of part of a motorway embankment.
- 2.3 Mature trees and woodland areas can be found in and immediately adjacent to the site. Trees can be found along the site's southern boundary with Whitechapel Road and the Priory at Whitechapel Public House, as well as two groups of trees within the southern field and one group within the northern field. Many of the mature trees in the south were subject to a Tree Preservation Order in January 2020. (TPO Reference: TPO NO 1 2020" (KIRKLEES COUNCIL REF. DEV/SJH/ML/D26-1375))
- 2.4 A Public Rights of Way dissects the site (Reference: SPE/42/10 and SPE/24/40) and connects Whitechapel Road in the south to Snelsins Lane in the north, as well as with Spen Valley Greenway.
- 2.5 The site is well contained, with no residential properties adjoining it. The residential properties found in the immediate area can be found along Whitechapel Road and were built between 1958 and 1965. The residential properties are generally characterised by 2-storey detached and semi-detached buildings with hipped roof forms, some with front gable bay features, chimneys, constructed in a variety of building materials. These properties generally have spacious front and rear gardens with the properties adjacent to the site having in-curtilage parking.

## **3.0 PROPOSAL:**

- 3.1 The applicant seeks full planning permission for the erection of 122 dwellings comprising 12x 1-bedroom dwellings; 10x 2-bedroom dwellings; 59x 3-bedroom dwellings; and 41x 4-bedroom dwellings. The proposal would also consist of 24 dwelling houses which would represent 20% of the total number of dwellings on-site, comprising 12x 1-bedroom dwellings; 10x 2-bedroom dwellings and 2x 3-bedroom dwellings.
- 3.2 Vehicular and pedestrian access to the site would be provided via a new priority-controlled T-junction with Whitechapel Road to the south of the site, approximately 80 metres to the east of the junction with B6120 Turnsteads

Avenue. A separate pedestrian link would also be provided to the south-west of the site and will meet with Whitechapel Road circa 200 metres to the east of the vehicular access. The existing Public Right of Way (PRoW) which runs through the site in a north to south direction, named as public footpath No. SPE/42/10 and SPE/24/40 would be diverted as along proposed footways within the application site. The application to divert this PRoW would be made separately to the planning application.

- 3.3 The dwellings have been arranged around a hierarchy of roads. At the access with Whitechapel Road, the proposed spine road is defined by a standard carriageway design, which splits into a number of secondary roads defined by shared surface principles and then private driveways.
- 3.4 Regarding parking requirements, the planning layout shows that each 2-bed dwelling would be provided with a minimum 1 dedicated parking space, and each 3-bed and 4-bed dwelling would be provided with a minimum 2 dedicated parking spaces. Any additional parking space would be provided via on-street parking if required.
- 3.5 Majority of the dwelling houses are 2-storeys, however, there are some 2.5 and 3-storey dwelling houses. A variety of dwelling house typologies are proposed in either in a detached, semi-detached, terrace (block of 3 dwellings) as well as apartment block (block of 4 apartments) form. Limited information is provided regarding the specific building materials. However, it is proposed to construct those dwellings within the immediate vicinity of the Church with reconstituted stone.
- 3.6 The layout shows a large public open space between Whitechapel Road, the Public House, the Church and the Primary School. Public open space is also proposed adjacent to the motorway and to the north east corner of the site. The total public open space accounts for 27% of the total application site area.

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

- 4.1 None relevant.

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

- 5.1 The applicant sought pre-application advice with regard to the residential development of the site (Reference: 2017/20325). Site layout plans and supporting information were provided, initially showing 160 dwelling houses, then 133 dwelling houses. A number of meetings between officers and the enquiry team took place and letters were subsequently provided on 25<sup>th</sup> October 2017 and 20<sup>th</sup> May 2019.
- 5.2 For the 160 dwellings scheme, the following main concerns and matters were raised as part of this enquiry process:
- Principle of residential development at the site is acceptable if the site becomes a housing allocation.
  - The proposal represents overdevelopment
  - Need for a clear road hierarchy
  - Landscaping required between plots and along street frontages
  - Car dominated design
  - Use of character areas and way marker buildings

- Boundary treatments – concern about the use of 1.8m closely timber boarded fencing adjacent to streets and spaces
- Clear, unobstructed access for pedestrians and mobility impaired running directly from the front door of properties to the footway.
- Outlook of the proposed properties adjacent to the M62
- Public Rights of Way diversion and proposed alignment/design, as well as links with the wider footpath infrastructure
- Consideration will need to be given to the mobility impaired in terms of the general layout, including gradients
- Public open space requirement
- Air quality and noise considerations due to proximity with M62
- Highway design, transport, parking considerations
- Flood risk and drainage considerations, including Yorkshire Water apparatus that crosses the site.
- Appropriate ecological survey work and net gain requirements

5.3 Following the submission of a 133 dwellings scheme, similar concerns and matters were raised, as outlined above, in addition to the following:

- Acknowledgement by Design and Conservation team of the heritage considerations and the applicant's proposed areas of high and moderate significance
- The proposed access and layout should be designed to minimise the loss of mature trees on site.
- The proposed housing mix, including the provision of 20% affordable housing (54% Social or Affordable Rent to 46% Intermediate) should be justified against Local Plan policy LP11
- A high pressure gas pipeline runs along Whitechapel Road and consultation should be sought with Northern Gas and Health and Safety Executive
- The site falls within a Development High Risk Area and thus consultation should take place with the Coal Authority
- The proposed layout should be designed in accordance with the Highways Design Guide
- Consultation with Highways England regarding the site's potential impact on the motorway bund
- Ensuring that there are positive relationships between houses and the proposed public open spaces

5.4 The planning application was submitted for the "Erection of 133 dwellings, landscaping and associated infrastructure" with a similar site layout as was submitted with the pre- application enquiry. In numerous email correspondence and meetings, officers raised the same concerns with the applicant, particularly with regards to those associated with 'overdevelopment.' In addition, objections/concerns/queries were raised and additional information sought by Northern Gas, Highways England, KC PRoW, KC Crime Prevention, KC Lead Local Flood Authority, KC Waste Strategy, KC Ecology, KC Highways Development, West Yorkshire Archaeology Advisory Service, Yorkshire Wildlife.

5.5 The planning application was subsequently amended to the "Erection of 124 dwellings, landscaping and associated infrastructure" and supporting information updated, accordingly, to try and address these concerns.

5.6 Since the submission of the 124 dwellings scheme, further email correspondence and meetings have taken place between officers and the applicant team around the following matters:

- Securing dwelling houses that accord with the National Described Space Standard
- Relevant planning obligations
- Loss of on-site mature trees and mitigation measures
- Surface water drainage strategy, with preference to discharge into off-site watercourse
- Securing a biodiversity net gain
- Agreement of the proposed landscape typologies
- Agreement of the design and diversion of the Public Rights of Way
- Section 38 highway requirements regarding highway adoption
- Ensuring the necessary waste storage and presentation facilities
- Crime prevention regarding the mid-terrace dwelling houses and suitable boundary treatments

5.7 Amended/additional plans and documentation has been received in response to the above matters.

5.8 The planning application was deferred by Strategic Planning Committee on 27<sup>th</sup> January 2021 for the reasons set out in paragraph 1.4 of this report.

5.9 After the planning committee the applicant held discussions with officers regarding the reasons for deferral and the application was amended to show 122 dwelling houses and further information was subsequently submitted. However, after concerns were raised by Environmental Health that an unacceptable number of dwelling houses would suffer from adverse noise implications, the site layout was amended and further information was provided regarding noise and air quality.

## **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 Relevant Local Plan policies are:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP4 – Providing infrastructure
- LP5 – Masterplanning sites
- LP7 – Efficient and effective use of land and buildings
- LP9 – Supporting skilled and flexible communities and workforce
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking

LP23 – Core walking and cycling network  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP65 – Housing allocations

6.3 The application site is allocated for housing development in the Local Plan (site allocation HS97). HS97 relates to 4.5 hectares (gross) / 3.12 hectares (net, excluding an area of open land from the developable area), sets out an indicative housing capacity of 122 dwellings.

6.4 HS97 identifies the following constraints:

- Public right of way crosses the site
- Noise source near site - M62 motorway
- Site affected by hazardous installations
- Site is close to a listed building
- Part/all of the site is within a High Risk Coal Referral Area

6.5 HS97 identifies other site specific considerations:

- The site can be accessed through the area of land identified as of high significance within the council's Heritage Impact Assessment. There should be a sensitive approach to the design of the access in order to minimise harm to the character of this area and the setting of the church. The remainder of the area of high significance should be left "open" for community uses.
- The area of moderate significance as defined in the council's HIA should be retained as open land.
- There should be a sensitive approach to building orientation, massing, height, density and layout on the site in order to minimise harm to the significance of the Church and its setting, taking into account the evidence presented in the Council's Heritage Impact Assessment or any updated Heritage Impact Assessment submitted by the applicant as part of the planning application process.



## Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

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

## Climate change

6.7 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:

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

6.9 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 – national described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

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

7.1 The planning application was advertised via five site notices posted on 12/12/2019, an advertisement in the local press dated 12/12/2019, and letters were sent to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement.

7.2 22 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

### Principle, conservation and design

- No green field sites should be developed until all brown field sites in the area have been developed first.
- Cleckheaton has had its fair share of new housing over the last few years and it's time that this stopped, Kirklees is a big area please share things instead of impacting on a site that has significant heritage and history including the church and trees.
- There is a 900 year old church with a conservation order on it which would be a shame to spoil it as I'm sure any building work will effect the foundations.
- This application is for 133 houses which is 11 more than agreed by the Local Plan.
- The applicant should respect the decision of the Local Plan Inspector and the Council should ensure that this is reflected in the decision of the planning committee.
- The Council should also ensure that the detail of its Heritage Impact Assessment used in determining the net developable area and indicative capacity during the Local Plan is reflected in the design and layout, and accords with the requirements of the HIA (i.e. the high and moderate areas of significance should remain open).
- Plans show the applicant have moved the developable area boundary with dwellings in the area of the Local Plan HIA high significance area. The applicant have no interest or regards for any damage in what this development would have on a Heritage site of high historical significance for the local and surrounding areas.
- Whilst the new plan is an improvement on the previous one, the number of houses is still far too many for this area. Why is it that the plan overrides the HIA Report of 30/1/2019 by increasing the site area from their recommended 3.12 Ha to 4.4 Ha and the number of houses from 122 to 133? Where are the 2 copses of trees off Whitechapel Road on the plan, or is it planned to remove them? The Arboricultural Survey allows for the felling of certain trees in one of the copses (G8) but retention of the rest. If the plans should eventually go ahead can it be ensured that these 2 copses will not be destroyed? What about the boundary wall on Whitechapel Road, we

hope this would be constructed in stone - as are all the surrounding walls in the vicinity.

- The church We are lucky to have such a beautiful and popular church so well preserved. The church the Priory public house and adjacent fields are part of Cleckheaton History. The picturesque view has remained unchanged for centuries. This new development would doubtless intrude on this Heritage Asset.
- We are aware that this site has already been considered by through the local planning process and it was identified that the site should be reduced in size from 4.2 to 3.12 hectors and a reduction in dwellings to 122 however this doesn't appear to have been taken into account to by the developer who had submitted plans for 133 dwellings of which 11 are still shown on the plans to be erected in an area classified as of high significance in the Heritage Impact Assessment which HIA states should only be used for access if sensitively done in keeping with the environment and to maintain the landscape and protect the views of the Heritage asset Whitechapel Church also land of moderate significance should not be built on and retained as open land. The plans submitted clearly show that the boundary recommended by HIA has been moved and has drawings of dwellings of dwellings in the area of high significance clearly showing the planners have no interest or regards for any damage in what this development would have on a Heritage site of high historical significance for the local and surrounding areas or for the current residents of Whitechapel Road .
- The plans show that the boundary wall is planned to be brick which is not in keeping with the area and should be made of stone.

#### Environmental quality and pollution

- Air quality must be an issue with the houses being approx. 60 metres from the M62, particularly during the morning and evening rush hours, with traffic congestion (8 lanes of stationary and slow moving traffic emitting toxic fumes) and the prevailing westerly winds will make the situation worse. This will burden the already overstretched NHS.
- The air quality at Chain Bar roundabout shows alarming results and I believe the air quality will be far worse at Whitechapel Road.
- Existing residential properties suffer from noise pollution from the motorway so it is likely that the proposed houses will also suffer and even more so being located closer to the motorway.
- The proposal will result in additional traffic which will have an unacceptable impact on noise and air quality in the local area, impacting on school children, residents and the general public.
- Many parents wait in their vehicles with the engine running ( sometimes up to 30 minutes. Not only is this illegal, it also represents an unpleasant health hazard for residents pedestrians and for the children at the nearby school.
- Current studies show that there is a significantly higher risk of respiratory disease for people (particularly children) living near busy roads. This development puts 133 houses right next to the very busy M62. Not to mention the noise of the traffic!
- The Air Quality Assessment shows that they would be living in levels of pollution often above those of the centre of Leeds and Manchester Piccadily. These figures will only rise in the future with more and more slow moving heavy traffic.

- Serious concerns about the air and noise pollution associated with the development, because of the proximity to the M62. The residents of the houses on the perimeter of the motorway will be condemned to ever increasing levels of traffic fumes and noise.
- 133 homes are likely to have at least one car each, adding to air pollution and traffic congestion in an already heavily polluted and congested area.

#### Infrastructure

- Reduce the amount of houses proposed as there is currently too many houses proposed which will have an adverse impact on the local infrastructure – schools, doctors, roads.
- As Cleckheaton has a very close link to the motorway surely some of the new buyers will be from out of town and not locals re allocating- so therefore will have to access local amenities.
- Local schools are oversubscribed
- GP surgeries and dentists patient lists are full. By increasing number of individuals would make it more difficult to make appointments.
- We feel very strongly that this site on this road after the 3 developments at the bottom of Whitechapel Road will add to more traffic chaos, more pollution, more toll on Cleckheaton's infrastructure.
- Negative impact on the quality and availability of local services.
- Many modern homes have 2 or 3 toilets and/or bathrooms placing strain on sewage, drainage and water provision. Much land is likely to be paved over, leading to flooding risks.
- There are no leisure facilities in Cleckheaton since the demise of the sports centre, the local library is run on a shoestring by volunteers, and the town hall offers only limited services.
- Local shops are small and are mostly quite specialist.
- This development is out of place and not needed. How will it meet a housing need? How does it provide an economic benefit for Cleckheaton?
- Together with other developments (e.g. Hunsworth Lane) in the local area, it would require a substantial investment in additional local services to make these developments feasible- something that I feel as we are on the extremity of the council boundary Kirklees are unwilling to make.

#### Highways and transportation

- How can a narrow road like Whitechapel road accommodate the addition number of cars. At peak times, the road reduces to a single car width, how is this safe?
- The new residents will commute to Leeds or Manchester as there are not the jobs or facilities in Cleckheaton.
- The garages will not even accommodate a small car.
- Whitechapel Road is used as a rat run to junction 26 of the motorway, particularly when there is an accident on the M62, with ever increasing traffic particularly at peak times. More houses mean more traffic on this road.
- Whitechapel Road is already an extremely busy road since they extended Whitechapel School, there is also another school/college above the road which adds to the chaos.
- The development will worsen the school opening and leaving times where there are serious traffic and parking issues as well as highway safety issues on Whitechapel Road, which also impact other local roads at least 200 metre either side of Whitechapel School.
- Residents on Whitechapel Road opposite (the only access road to the development) need to be able to park vehicles outside their houses. Surely

in the interest of safety there can be no parking either side of this access road. This will result in 15 to 20 fewer parking spaces for parents picking up or dropping off and push the chaos further down the road.

- Potential residents are not likely to walk and cycle to work in Leeds and buses are not regular enough to use, thus more car use and greater impact on the M62 junction 26.
- Whitechapel Road suffers from speeding traffic and residents find it difficult to get out of their driveways.
- There is currently a parking issue on local roads (being monitored by highways and the police) which this development will impact on.
- The proposal will result in a greater number of accidents on Whitechapel Road.
- How will we manage with trucks up and down, mud everywhere making it slippery and accident prone. Is someone going to ensure the road is clean and our cars on the roadside are safe.
- Adding a number of properties and therefore more families to the area will make traffic worse, potentially dangerous, especially now the council has removed the crossing patrol.
- There are also 5 bus stops, used by the 259 and the 256. These buses often cannot access the stops because of parked cars (often associated with school pick up/drop off), leading to more congestion. The subsequent use of Kenmore Drive and Turnsteads Drive as rat runs to avoid this, becomes extremely hazardous for those living in these residential streets. The development will exacerbate this issue.
- Local roads are a patchwork of potholes.
- All the roads are B roads.
- Travelling to school be adversely impacted.

#### Biodiversity and trees

- Concerns about the wildlife that live in the identified area: squirrels, bats, owls that will be adversely affected due to a reduction in their habitat
- There are also trees that are 100's of years old in this area. I strongly oppose any building work of this size at this site.
- There is plenty of wildlife living in the fields and it will disrupt their living leaving them homeless.
- There will be significant tree loss at the site. Well established old trees will be lost which provide vital habitat for wildlife.
- The potential loss of the ancient trees that surround the field and provide a vital wildlife link to the Greenway and the open areas beyond. The trees are vital to the dozens of species that we regularly see, including tawny owls, bats, hedgehogs, woodpecker, nuthatch, fieldfares, sparrow hawk, dunnock, waxwing, goldcrest, greenfinch, tree sparrow, thrushes, chaffinch, rooks and so many more too numerous to mention. This precious habitat should not be destroyed at the very time when we should be so aware of how we treat our environment.

7.3 The following comments were also received from the following organisations:

#### Spen Valley Civic Society

This site was considered through the Local Plan process – we believe the reference number to be H508 - and was approved as a housing allocation. The civic society made representation in respect of this site and we participated in the hearing, and consequently respect the decision to allocate as housing. A number of major modifications were made following the hearing, by The

Planning Inspector, one of which does not accord with the detail of this application. These included a reduction of the net site area from 4.5 to 3.12 ha, and a reduction in the indicative capacity from 170 to 122 dwellings. This reduction was required to take account of the Heritage Impact Assessment undertaken by the council which identified areas of high and moderate significance, with the area of moderate significance as defined in the council's HIA being retained as open land. The area of high significance was to be made available for access to the site provided there was a sensitive approach to the design of the access in order to minimise harm to the character of this area and the setting of the church. The rest of the area of high significance should be left open. This application is for 133 houses which is 11 more than agreed by the Local Plan. The applicants should respect the decision of the Local Plan Inspector and the Council should ensure that this is reflected in the decision of the planning committee. The Council should also ensure that the detail of its Heritage Impact Assessment is reflected in the design and layout, and accords with the requirements of the HIA.

Whitechapel Church of England Primary School (Headteacher)

Thank you for your email regarding the planning application for a significant number of houses on the land directly next to our primary school.

As a home owner myself, I appreciate the need for houses to be built so would only wish to raise concerns linked to the safety and safeguarding of children at our school whilst the houses are being built and after they have been completed.

My main concerns would be:

1. There is a right of way through our main drive to the fields and I would need reassurance that builders would not use this access.
2. Linked to this access the fields itself are open to the school carpark and grounds and therefore would request that the building firm/company erect the security green fencing before starting works in order to seal the entrance to the field and therefore stop children accessing the building site. This would need to be permanent green fencing as once the house are built they would be able to access the school grounds if fencing is not erected.
3. Linked to the security green fencing the fields to the back of school are also accessible from the grounds. Should the housing development go ahead – then the perimeter green fencing would also need erecting here in order to safeguard the children and the site. This is not something school would afford to do under current budgets and therefore I would request the company to erect/provide the cost for the fencing to safeguard the children in our school.

These are my main concerns regarding the development and I would like reassurance that the safeguarding of the children in school would take high priority. I would be happy to meet to discuss and a visit to school may be beneficial in order to show you the areas as discussed above.

7.4 In response to the consultation, the applicant submitted revised plans and documentation showing a reduction of dwelling numbers from 133 dwellings to 124 dwellings. The planning application was re-advertised via five site notices erected on 22/07/2020. Emails and letters were sent to interested parties and addresses adjacent to the application site.

7.5 10 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

### Principle, conservation and design

- There have been a lot new homes built on Whitechapel Road in recent years and I think the local residents have already had more than our fair share of noise and road disruption.
- Surely in 2020 we should be able to find sites which are more suitable for building homes which are healthy to live in for the residents than this site so close to the M62
- A 900 year old church in the area which will surely suffer structural wise with all the earth moving equipment
- Still contrary to the Heritage Impact Assessment (HIA) as the plan still shows the boundaries in the HIA have been changed which will mean houses built on land of moderate significance which was to be left open to protect the views and setting of Whitechapel Church
- The size of the housing development is far too large to not have a negative increase on noise disruption, air pollution, traffic congestion and a irreversible negative impact on the significance of the heritage site and surrounding landscape: copses that needs protecting.
- We still believe that green field sites should not be developed until brown field sites have been developed first.
- On viewing the revised plans for this development it is obvious that they still show no consideration for local residents or the surrounding area, by adding flats to the development it will undoubtedly mean even more vehicles using Whitechapel Road.

### Environmental quality and pollution

- Unethical to sell houses on the proposed site as family homes, as they will be so close to the noisy and fume-laden M62 motorway.
- The proposed houses would not have the luxury of the existing houses that are sited away from the motorway and benefit from a number of mature trees protecting them from noise and air pollution.
- The proposed homes will be harmful to the physical and mental health of the residents - it is likely they will have to keep their windows closed at all times due to the noise pollution.
- Building houses near to the proximity of an 8 lane motorway is condemning the next generation to health problems and diseases linked to toxic air pollution as the stretch of motorway is regularly at a standstill.
- The building of dwellings in close proximity to an 8 lane motorway and
- adding to the congestion of the roads near the proposed site is condemning the new residents to a ticking time bomb of health conditions: asthma or worse due to poor air quality which will add increased burden on the already over subscribed NHS health services in the area.
- From what we have deduced the Toxic fumes have been monitored in the Summer when the leaves are in full bloom and the absorption of fumes is much better due to all the leaves on the trees It is hard to ascertain from the new plans what the boundary wall will be constructed from but it should be stone as in keeping with the area
- From the reports it's stated that the junction of Whitechapel Rd/A638 Bradford Rd/Hunsworth Rd is expected to operate marginally over capacity in the design year in the absence of the development proposal so with increased traffic generated from a development of 122 dwellings approximately 200 additional cars congestion will be significantly increased and the proposed site will increase noise disturbance and increase poor air pollution that has already failed in the area due to toxic fumes.

### Infrastructure

- New residents are unlikely to be locals and as such there would be an adverse impact on local amenities – schools, doctors, dentists, etc
- With other new builds, this development will overload the small town of Cleckheaton
- The local infrastructure can't cope with anymore large building developments: schools, roads and health care provisions are all at breaking point.
- I understand the need for housing but this road is not the place for it two developments have been built at lower down Whitechapel Road in recent years and I think enough is enough
- There is also the possibility of an industrial estate being built up the road which will further impact on the local area

### Highways and transportation

- Rat run traffic between Scholes and Cleckheaton accessing the motorway and other roads which this scheme will worsen
- Impact on already parking issues associated with Whitechapel Primary School
- Regardless of the number of houses being reduced, this road cannot take such an increase in traffic. I'm pleased to read that the Highways department seem to agree on this.
- I urge the planning department to view the road at various times on different days to see how the traffic already has navigate the parked cars on this road. In particular at the times when the local school starts and finishes
- Most households now have at least 2 cars per household, that would result in over 200 extra cars using Whitechapel road in either direction
- The main road through Scholes would be impacted by this increase.
- Buses and cars stuck between parked cars at school opening and closing times, which this development will affect.
- Concern about the accuracy of the supporting highway information - the reports on traffic are saying that the traffic impact would be minimal when at busy times Whitechapel Rd already has queuing at the junctions at the top and bottom of the road and at school times drop off and pick up the road is impassable with residents having to time leaving and returning home.
- Concern that the highway /traffic reports and data have been updated and assessments completed during these unprecedented times when traffic movement was at an all time low due to the government lockdown Stay at Home, which will have given a false recording of the problem of traffic congestion on Whitechapel Rd.
- Traffic congestion will significantly increase with 124 properties with on average 1/2 cars per household, and only one entry/exit onto Whitechapel Rd which will then continue to significantly add to the already failing air pollution and increase of noise
- Also it's worrying that traffic data is only collected once residents have moved in, which is too late to reverse planning permission
- I'm also objecting to the PROW which currently goes through fields encouraging walking which on the plans has been addressed and moved to go down the road on the development this is not a compromise as anybody can walk down a road but who wants to.
- The new submitted plans the only road for the development has been moved lower down which will significantly impact on our privacy as every vehicle leaving will directly look onto our property with headlights shining into our windows.



- I understand that traffic surveys have been carried out but a few random checks do not give the full picture.

#### Biodiversity and trees

- We also have concerns about the wildlife that live in the identified area: squirrels, bats, owls that will be adversely affected due to a reduction in their habitat.
- The plans to build a development of 124 houses will have considerable negative effects on the area taking away the natural habitat for animals and open fields for encouraging walking and exercise which within the area is becoming a very limited resource.
- Barratts seem intent on ignoring the area of high significance and the Tree Preservation Order. The 2 groups of trees, numbers G7 and G8 have a TPO on most of the trees within them
- Reference provided to KC Trees response
- If Barratts are allowed to chop down these trees along with those which must be removed for the site entrance, no matter how many trees replace them, they will take many years to achieve the same filtering effects as these mature trees.
- There are TPO's on trees that are shown on the plans to be felled this includes the copses which are of historical value and interest to the area and should be protected. The plans show new trees to be planted in place of trees to be felled which have been around for decades but this would have no beneficial benefits to minimising noise from the M62 in the way of a buffer or more importantly to reduce air pollution for years adding to the already failing air pollution in the immediate area which is linked to the high volume of traffic within the area.
- At least 30 species of birds will be affected by this development with the loss of their habitat, particularly with the loss of the mature trees.

7.6 The following comments were also received from the following organisations:

#### Spen Valley Civic Society

We consider the comments we made in respect of the original application remain valid. We note that the number of houses proposed has reduced to 124, which is positive, but we remain of the opinion that the number built should be the same as that agreed at the Local Plan ie 122. We cannot see what is the difficulty in sticking to this number, and respecting the outcome of the Local Plan process. Similarly we would expect the requirements as outlined in the Council's Heritage Impact Assessment to be fully complied with, to ensure that the design and layout accords with the requirements of the HIA and Local Plan. We are relying on the officers of the Council to ensure that this happens, and so ensure the heritage of the site is properly protected.

- 7.7 After the receipt of amended plans and additional information that included a revised drainage strategy another re-consultation exercise was carried out by letter, including residents further afield along Whitechapel Road and at Laithe Hall Avenue.
- 7.8 8 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

### Principle, conservation and design

- There will be a detrimental effect on the character of the area with a large housing estate, especially close to a heritage area.
- No consideration for protecting a significant heritage site of Whitechapel church and the copes that need to be protected.
- In October 2020 the police said they cannot support the plan. Have their concerns been addressed?
- Irreversible negative impact on the significant Heritage site and surrounding landscape including the copes which need protecting for historical value to the area.
- Very little has changed in the plans.
- According to the Consultation responses the Police Crime Prevention department are not supporting the application what is being done about their concerns?

### Environmental quality and pollution

- Negative increase in noise and air pollution from an increase in traffic in an already heavily congested area.
- The use of the proposed public open spaces would be detriment to the health of residents as they would be exposed to the proposed noise and air pollution associated with the motorway
- Future residents will suffer from long-term negative health impacts due to noise and air pollutions.
- The re-distribution of the spoil mound, created when the motorway was constructed, to the northern lower lying area would lift that area by 2 - 2.5 metres. This would mean that the houses on the M62 boundary would be brought down to a correspondingly lower level, bringing them nearer to the level of the motorway, and nearer to the associated noise and air pollution. Has the issue of proven noise and air pollution been resolved? We think not.
- The increase in traffic obviously emits toxic fumes and so will contribute to the increase of breathing related illnesses or worse an increase burden on an already over stretched NHS.
- Detrimental effect on the character of the area with a large housing estate, especially close to a heritage area and how can this be in keeping with the UK government A Green Future: plan launched in January 2018 a 25 Year Plan to Improve the Environment The Plan lays out a range of goals and policies designed to 'help the natural world regain and retain health.'

### Infrastructure

- Oversubscribed local amenities.
- Negative impact on already over- subscribed amenities and on the local infrastructure.
- Cumulative impact on local infrastructure as a result of other developments in the locality, including 80 apartments off Kenmore Drive and 203 houses on land in Westgate, Cleckheaton, between Robert Street and Quarry Road.

### Highways and transportation

- Whitechapel Road will be increase traffic, increase pollution and increase "rat run" And there will be more cars parking on roads when school hours, perhaps on path if really narrow for roads, such as like bus go through also I am concern for wheelchairs will be struggle to access through it on the path.

- The proposed “No waiting at any time” restriction be put on Whitechapel Road. This would be an additional problem for current residents - where would their visitors or any delivery drivers be expected to wait?

#### Biodiversity and trees

- Negative impact on the natural habitat for wild animals with removal of open space and removal of TPO trees.
- Disregard of biodiversity and thus, contrary to the NPPF.
- Net loss of biodiversity that is inconsistent with the NPPF.
- The plans feature the removal of a number of mature trees, some of which are subject to TPOs which is inappropriate.
- In December 2020 Yorkshire Wildlife Trust said that the loss of biodiversity made the plan currently unacceptable. Has this been addressed?
- Concerns raised about the loss of the two areas of protected trees as per KC Trees comments.
- Public right of way moved to the road not acceptable, removal of healthy TPO trees and natural habitat being taken away from wildlife not acceptable.

7.9 Spen Valley Civic Society, provided the following comments:

*“We think it will be considered as lobbying, and is not our preferred method of communicating our views, but feel we have no alternative. We have already submitted written comments during the consultation period. We continue to support the principle of housing on this site; however the Council’s report, which has only become available for us to consider on publication of the agenda, contains details relating to ecology/biodiversity that had not previously identified as being problematic. Specifically our concerns are the proposals to remove a large number of mature trees, many of which (18) are subject to TPO’s. We see this email as the only effective way of communicating our concerns at this stage in the proceedings.*

*Spen Valley Civic Society spends many hours planning, raising funds and planting trees in the Spen Valley in order to improve and extend the limited green infrastructure and biodiversity in our area. It is very distressing and disappointing for us to see our efforts being undermined by recommendations such as the ones presented in this report. It must also be very demoralising for Council officers and experts from other organisations such as Yorkshire Wildlife to have their conclusions, based on their professional knowledge and local and national guidance and policy in respect of the Climate agenda, completely disregarded.*

*Are we the only ones to think it is absurd that the Council placed TPO’s on the trees in January 2020 with the specific intention to prevent their destruction in the subsequent housing development, only to recommend their removal 12 months later, to permit the housing development to proceed based on the preferred site plan of the developers. What has changed? The TPO’s are doing what it was intended they would do – protect the trees! The Council has got its priorities completely wrong, and needs to acquaint itself with the national and regional climate change agenda and direction of travel. It should be for the site developers to come up with a design plan which promotes and protects the existing green infrastructure. If that means building fewer houses on the site, then so be it. If the Council needs to make up the shortfall, we can direct them to a number of unused (Council owned) sites in the Cleckheaton area which are suitable for housing.*

*The suggestion by Development Management that the proposed planning conditions can deliver an appropriate tree mitigation strategy and deliver ‘an*

*overall biodiversity gain', is frankly unbelievable. The condition referred to is as follows – a contribution, amount to be confirmed, towards off-site measures to achieve biodiversity net gain. Or to put another way, an unknown amount of money for somewhere not yet identified. The Development Management Group must be the only people who still think that the planting of new trees (ie saplings), fully compensates for the loss of mature trees – or at least not for the next 30 years or so. The Local Plan identified that Kirklees is way below the national average for tree cover, and North Kirklees is even further down. We need more trees, not inferior compensatory planting. This site in particular needs all the trees it can get. It is immediately adjacent to the M62 at the point where it is joined by the M606. Consequently it suffers noise and air pollution. All the existing trees have an important role in combating the air pollution and dampening down the noise, not just for the new residents on this site, but for those existing residents in nearby properties, who have benefitted from their presence.*

*The Planning Committee should refuse to endorse this application until plans are presented which retain all the mature trees on site, and truly deliver a net gain in biodiversity.”*

7.10 After the receipt of an amended site layout plan showing 122 dwellings, emails and/or letters were sent to interested parties and addresses adjacent to the application site. Consultation took place between 25<sup>th</sup> February 2021 and 11<sup>th</sup> March 2021.

7.11 9 letters of representation were received, and redacted versions are available online. The following is a summary of the comments received in relation these specific amendments:

#### Principle, conservation and design

- We have not seen any reference to the boundary wall/fence. What form would this take, design, material, height, etc?
- Why can we not require Barrett Housing (profits in 2019 of 95 million) to make good the neglected stone wall boundary and save as many of the trees as possible?
- Who has decided on the position of the arbitrary line, called the 'zone of heritage influence'. I think this heritage asset should include the old established tree circles.
- Inarguably, this development chops off the church and the pub from the wildlife corridor to NW. Massive loss of habitat. Not so bad if the top field is left alone.
- The designers have no real appreciation of our area.
- Although in the amended plans one of the copse is shown to remain the other copse is still at risk of felling not for road access but to accommodate dwellings in a highly significant area that should be protected and only used for access if sensitivity done to protect the views of the Heritage asset of Whitechapel Church and surrounding landscape.

#### Environmental quality and pollution

- A reduction in numbers still does not address my concerns regarding noise and air pollution, in relation to its proximity to the motorway.
- Unethical to grant planning permission for houses near to a motorway on health grounds.
- Committee members should stand on the embankment and LISTEN and "appreciate" the motorway.

- What is the point of me taking individual responsibility towards the environment; recycling, composting garden waste, planting trees, having a pond etc. when my council seems unwilling to press developers to do the same?
- Planning permission should be rejected as the site albeit fields is not suitable to meet the basic rights and needs of any of the residents and there must be more suitable alternatives so that Kirklees can uphold their duty of care in prompting healthy and sustainable lifestyles for their residents.
- The Barratts site at Morley is not comparable to this development site.
- There are no other development sites nearer to a busier motorway junction - Most other housing along the motorway is set well back from it, with good reason.

#### Infrastructure

- Lack of amenities and infrastructure to cope with this scale of development.
- A reduction in houses does not address issues of road congestion and oversubscribed services – The Council should put forward a plan to revive services in Cleckheaton before this development is allowed.
- The high pressure gas main running under the site entrance needs all workers to be well informed of it's presence.

#### Highways and transportation

- Whitechapel Road has one of the best road surfaces around. Barratt's must be made to ensure it remains so
- The setting of Spenborough Greenway will be adversely affected and will now wind through housing estate roads.
- What about the additional traffic?
- I'm also concerned that Highways have stated no deliveries to and from the site via the M62 J26 during peak hours which again indicates the road infrastructure is unable to cope.

#### Biodiversity and trees

- The amended plans still shows the loss of TPO trees to accommodate houses, which is not acceptable as outlined in the NPPF regarding biodiversity and green infrastructure, management, protection and enhancement.
- Why doesn't the plans show the retention of both copses of trees?
- Loss of trees would impact on birds, owls, bats and insects.
- The loss of mature native trees with non-native species of trees surely goes against your environmental policies.
- Loss of mature trees is contrary to Council policy and numerous national agendas to plant more trees.
- The bat surveys are not thorough enough and could be inaccurate. They should have been carried out more frequently and for a longer duration.
- Veteran trees should be protected as the saplings shown to be planted are not native species and will take decades to start to show any benefit to the net biodiversity and green infrastructure of the area.
- Loss of trees doesn't fit well within Kirklees Climate Emergency 2019.

#### Other matters

- There still remains a number of outstanding concerns by several official bodies.
- Unfair process as comments regarding the previous plans submitted had to be submitted by the end of the first week of Jan although not all information had been put online prior to this time and where only uploaded onto the site after the comments date had closed.

7.12 Since the planning committee, ward members have provided the following observations and comments:

Summary of Cllr Andrew Pinnock observations and queries:

- Keen to preserve the two clumps of trees due to their local historic significance, where they were probably planted before WW2 for farm animals to shelter.
- Does the layout comply with the separation distance that the Inspector said should be maintained between the development and the church? And does this separation apply just to buildings or to any kind of development?
- Request for additional information regarding the existing 'made ground' that is parallel with the motorway.
- Questions raised regarding what the improvements are to the Public Rights of Way network, outside the northern edge of the site as the actual line goes through the school's playing fields.

Cllr Kath Pinnock concerns:

1. The site is right next to the motorway and a row of houses will be built parallel to it. I am very concerned that the noise from the M62 will make living there unbearable unless measures to mitigate noise and air pollution are in place. The detailed plans for this were NOT available at the previous meeting. I see that some mitigation is in place but how far will this reduce noise levels for occupants of those houses? Is triple glazing being required?
2. A lot of the soil from earthworks when the M62 was constructed is piled as a mound along the side of the motorway exactly where these homes are to be built. The plans on the website do not show what underground conditions are like and how houses there can have firm foundations. I am very concerned about this and expected the developer to provide full details of how firm foundations can be achieved. So far that has not been made public.
3. To the east of this mound is a steep slope on which houses are proposed. There is insufficient information to explain whether or not the site will be levelled. All this is standard information for this sort of application but not yet provided.
4. The developer has changed the plans to retain one of the two circular clumps of trees on the site which is positive. I hope the other clump of trees to be retained as well.
5. I do not like the current plan to re-route the PROW to run parallel to the M62. Why can't it be routed along the other boundary which will mean it will be away from the noise and fumes from the traffic on the M62.

7.13 After the receipt of another amended site layout plan showing 122 dwellings, emails and/or letters were again sent to interested parties and addresses adjacent to the application site. Consultation took place between 30<sup>th</sup> March 2021 and 14<sup>th</sup> April 2021.

7.14 To date, 5 letters of representation were received, and redacted versions are available online. The following is a summary of the comments received in relation these specific amendments:

#### Principle, conservation and design

- Disregard of the negative impact on the Heritage site: Church and copses.

#### Environmental quality and pollution

- The Barratts site at Morley is not comparable to this development site as the houses are sited further away from the motorway.
- This site is not appropriate for new housing due to being sited adjacent to the motorway.
- Concerns remain the same as previously submitted which are increased noise and air pollution in an area already failing on air pollution due to heavily congested roads due to the close proximity of the M62 motorway.
- In the current and foreseeable future due to having to learn to live with COVID 19 and the government guidance is fresh air and opening of windows to minimise the risk of catching/spreading the virus I cannot see how new homes failing on internal noise can be considered and or approved for planning.

#### Infrastructure

- Overpopulating a small community with inadequate amenities and infrastructure.
- Concerns have still not been addressed with regards to the increase in traffic, noise and air pollution, oversubscribed amenities: schools, GP and Dentists
- The plans do not adhere to the conditions by Yorkshire Water regarding the existing public sewer and will effect the intended replacement of mature trees on site.

#### Highways and transportation

- Public right of way on the amended plans is still walking through the development following the roads not acceptable.
- Major concerns as the proposed site only has one entry/ exit on Whitechapel Road which will inevitably increase the volume of traffic as indicated in the results of assessments undertaken showing that the main junction of Whitechapel Road/ Bradford Road/ Hunsworth Lane is predicted to operate over capacity within the next few years due to background traffic growth and committed development.
- Concerned that Highways have stated no deliveries to and from the site via the M62 J26 during peak hours which again indicates the road infrastructure is unable to cope.

#### Biodiversity and trees

- Residents would like the retention of both copses of mature trees and not build on either.
- KC Trees do not support the removal of either of the 2 copses of trees for the sake of 3 houses.
- Loss of trees doesn't fit well with Kirklees Climate Emergency 2019.
- Disregard for the habitat of birds and wildlife living within the designated area.

7.15 Although fewer representations have been received after each round of consultation, it is not assumed that those residents who previously objected no longer have the same concerns.

7.16 Responses to all these comments are set out later in this report.

## 8.0 CONSULTATION RESPONSES:

8.1 The following provides a summary of consultee advice. It should be noted that some consultees have chosen not to provide further comments on the latest 122 dwellings scheme, given the changes made. Where necessary, further details are contained within the appraisal below (Section 10).

### 8.2 Statutory:

Health and Safety Executive: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Highways England: No objection, subject to conditions requiring further details regarding works 15 metres from the Highway England boundary; consultation on a Construction Management Plan; drainage to not connect or impact on the Strategic Road Network drainage systems; and construction cannot commence until Highways England has provided written confirmation that boundary fencing arrangements as well as its maintenance regime are acceptable.

KC Highways Development Management: No objection subject to planning conditions for internal adoptable roads, measures to manage parking, construction access, residential travel plan and planning obligations for blue tooth journey time detectors, bus stop improvements, core walking and cycling improvements, multi-modal link route and provision of sustainable transport measures. Notwithstanding, and for completeness the following requests have been made:

- The layout incorporates 4 formalised visitor parking spaces, it is accepted that in developments of this type, visitor parking will take place on street. The layout should show where potential visitor parking can be accommodated on street and demonstrate using swept path analysis that this will not obstruct refuse vehicle access.
- Clarify access arrangements for proposed pumping station in northeast corner of site. Access will be required for inspection and routine maintenance.

KC Lead Local Flood Authority: No objection, subject to the necessary planning conditions and obligations:

1. Enabling works – in principle agreement between the applicant and LLFA. Subject to agreeing details around the criteria for exhausting option A, working up the details of the design and works proposal and agreement with landowner;
  - a. Prior to commencement Condition offsite works;
  - b. Prior to commencement Condition Design and details of the works;
2. Drainage – in principle agreement:
  - a. Prior to commencement Condition required for fully worked up design with long sections;
  - b. Prior to commencement Condition require to manage any volumes up to 1 in 100 year plus climate change specifically the flooding noted in microdrainage calculations at the head of systems;
  - c. Prior to first occupation Condition requiring management and maintenance agreement (this must be in the S106 too);



- d. Prior to commencement Condition for temporary works information and management and maintenance during construction phase;

The Coal Authority: No objection.

### **8.3 Non-Statutory:**

Historic England: No comment.

Natural England: No comment.

KC Building Control: A building regulations application will be required.

KC Conservation and Design: This application has been the subject of much discussion at Local Plan Inquiry Examination and preapplication discussions in regard to the impact upon the setting of the Grade 2 listed Whitechapel Church. Has part of the Local Plan inquiry the Council produced a Heritage Impact Assessment which is referred to in allocation HS97 of the adopted Local Plan. The inspector stated, comments are in the allocation, that the area of high significance and of moderate significance should be retained as “open land” apart from forming an opening to the development through the area of high significance. However, during the inquiry the and subsequent pre-application discussions it was agreed that the boundaries of the HIA areas of significance were somewhat arbitrary since they did not follow defined boundaries and did not necessarily protect the views and setting of the church. In terms of the high significance area it was agreed to pull the boundary further south to the front edge of the former public house and form a similar diagonal to the west to the low point of the land. In terms of the moderate area the line was pulled south to follow the line of the school boundary. These changes are now accurately reflected submitted site layout. In terms of the layout and its impact upon the setting of listed church I am of the opinion that opportunities have been taken to minimise the harm to the setting and this is the case in terms of the massing and orientation. I am therefore of the opinion that the requirements of the allocation have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church.

KC Ecology: No objections, subject to conditions regarding ecological harm. Request for the submission of amended biodiversity metric 2.0 calculations to reflect the new site layout and the above amendments to demonstrate a biodiversity net gain in habitat units post-development. If a biodiversity net gain cannot be achieved on-site, submit a suitable biodiversity offsetting scheme or agree to a commuted sum for the LPA to facilitate the required biodiversity off-setting.

KC Education: Financial contributions sought (£254,403) & (£216,306).

KC Environmental Health: No objection, subject to the imposition of planning conditions for noise and ventilation, air quality, electric vehicle charging points, land contamination, construction environmental management plan.

KC Landscape: No objection, subject to the necessary conditions securing hard and soft landscaping details, which also secure the necessary tree mitigation planting and biodiversity net gain. The management and maintenance of the on-site Public Open Space as well as a financial contribution of £72,608 towards off-site Public Open Space shall also be required to be secured by section 106 agreement.

KC Policy: Commentary provided regarding which policies to consider in the determination of the planning application.

KC Public Health: No objection. A number of observation comments provided.

KC Public Rights of Way: No objections, subject to the necessary planning conditions securing further details on the proposed changes to the PROW. In addition, planning obligations are sought seeking to secure a multi-use link route to the north west of the site and a contribution of £20,000 towards the improvement to off-site PROW network.

KC Strategic Housing: Unable to support an affordable housing provision that doesn't adequately address the need for affordable rented accommodation.

KC Trees: Objection due to the loss of protected trees, contrary to Local Plan policies LP24 and LP33, as well as NPPF paragraph 127.

Northern Gas Network: No objection and willing to rely on their statutory powers if necessary.

KC Waste Strategy (Refuse and Cleansing): No objection, subject to resolving outstanding highway adoption issues. Concerns are expressed about bin storage for mid-terraced properties. A condition is recommended for a temporary waste collection strategy.

West Yorkshire Archaeology: No objection.

West Yorkshire Police Designing Out Crime Officer: Concerns expressed regarding the proposed shared rear access for mid-terrace properties, relationship between some plots and the public rights of way, boundary treatments and position of gates. Request also made for further security information regarding cycle stores and lighting of the private drives. Acknowledge that these matters can be secured by planning conditions.

Yorkshire Water: No objection subject to securing the necessary planning conditions to protect the local aquatic environment and Yorkshire Water infrastructure.

Yorkshire Wildlife Trust: Welcome the submission of a biodiversity net gain assessment, though queries are raised regarding how the site has been assessed.

## **9.0 MAIN ISSUES:**

- Land use and principle of development
- Climate change and sustainability
- Heritage
- Design
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Impact on the Public Rights of Way
- Flood risk and drainage issues

- Trees
- Biodiversity
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Other matters

## **10.0 APPRAISAL:**

### Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 In accordance with Local Plan policy LP65, full weight can be given to site allocation HS97, which includes the application site's red line boundary, and which allocates the site for housing. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H508) explained how the site's relationship with the wider countryside is restricted due to the presence of the nearby M62 motorway and local roads to the north and south. It was considered that the motorway and existing buildings to the east would create strong new defensible Green Belt boundaries. The Inspector concluded that there were exceptional circumstances exist to justify the removal of the site from the Green Belt.
- 10.4 Therefore, the principle for the proposed delivery of a housing development on the land within the red line boundary is accepted in accordance with the land's allocation in the Local Plan.
- 10.5 The Local Plan Site Allocation box HS97 set out a number of constraints and site specific issues for these housing sites. These are all addressed within this appraisal.

### Climate change and sustainability

- 10.6 The applicant's Planning Policy Statement, Design and Access Statement as well as Health Impact Assessment refer to climate change and sustainability policies, and also refer to the drainage measures to combat climate change. The applicant has also submitted a Climate Change Statement acknowledging the Council's climate change emergency. The statement explains how the potential housebuilder is reducing its carbon emissions and its climate change

commitments. Site-specific features have also been identified that will protect and improve the environment, which officers acknowledge. Officers note, that measures would be necessary to encourage the use of sustainable modes of transport. Adequate enhancement and connection with the core walking and cycling network, provision for cyclists (including cycle storage for residents) and electric vehicle charging points would be secured by condition and obligation, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would be required to account for climate change and an underground storage attenuation tank is proposed to ensure the site achieves the necessary 30% climate change factor.

- 10.7 The application site is a sustainable location surrounded by an established residential area, it is adjacent to a Primary School, a Church and there is a newsagent/off licence as well as a Secondary School nearby. The supporting information also shows that there are also other shops and services within 2km of the application site, including Cleckheaton town centre. In addition, the site is located on Whitechapel Road, which is a bus route that provides access to Brighouse and Bradford. The site is also located on a public rights of way network that connects to the Spenn Valley Greenway, which are part of the borough's core pedestrian and cycle network. Therefore, some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.8 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

### Heritage

- 10.9 One of the main site's constraints is the neighbouring Whitechapel Church, which is a Grade II listed building and together with its graveyard denotes the site's southern boundary with Whitechapel Road. The Historic England listing explains that the Church is listed for the following principal reasons:
- *"Date: the church, on the site of earlier chapels, pre-dates the Victorian period and contains several fragments of the earlier buildings on the site;*
  - *Architecture: the style of the building is a modest Gothic Revival, but has added interest in a corbelled tower at the western end with bell-chamber and restored spire. The exterior is largely unaltered apart from the addition of a south porch of 1923 that commemorates the fallen of the First World War;*
  - *Fittings: fittings of interest include a substantial carved Norman font, a sundial of 1606, several fragments of earlier fabric, a gallery of 1821 and an oak chancel screen and altar of 1924."*
- 10.10 Impacts on a heritage asset can manifest themselves in two ways; those of a direct impact on the asset themselves, and the impact on their setting. There are no direct impacts on the listed church or its graveyard but there is the potential to impact on their settings. Setting is defined in the NPPF as *"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral."*

- 10.11 The setting of a Listed Building is required to be considered for any development under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is also a requirement for consideration under paragraphs 189 and 190 of the NPPF as well as policy LP35 of the Local Plan.
- 10.12 As part of the Local Plan Inquiry, the Council prepared a Heritage Impact Assessment (HIA) which is referred to in site allocation box and detailed in paragraph 6.5. The HIA identified areas of high and moderate significance within the site which provide an important open setting to the adjoining listed Whitechapel Church. The Local Plan Inspector considered that these areas should be retained as 'open land' to conserve the open and rural setting of the listed Church. As detailed in the site allocation box, these areas should also be left "open" for community uses.
- 10.13 The site layout plan shows public open spaces are largely proposed within areas designated as high and moderate significance. A Heritage Desk Based Assessment also accompanies the planning application which has been reviewed by the Council's Conservation and Design officer. It is considered to be proportionate to the assets' importance and in addressing the provisions of paragraph 189 of the NPPF. The document concluded that *"The proposed development will represent a change in the surroundings of the church. There is some development proposed in the areas which contribute more to the significance of the asset however, these additions have been carefully designed to ensure they do not cause significant harm to the significance of the heritage asset."*
- 10.14 The Conservation and Design officer who was involved with the Local Plan Inquiry, held subsequent pre-application discussions with the applicant team. It was subsequently agreed that the boundaries of the HIA areas of significance were somewhat arbitrary since they did not follow defined boundaries and did not necessarily protect the views and setting of the church. In terms of the high significance area it was agreed to pull the boundary further south to the front edge of the former public house and form a similar diagonal to the west to the low point of the land. In terms of the moderate area the development line was pulled south to follow the line of the school boundary. The officer considered these changes to be accurately reflected in the submitted site layout. However, Development Management acknowledge that the agreed boundary changes would also result in the loss of existing mature trees that have gained protected status during the planning application process.
- 10.15 The Conservation and Design officer also considered that in terms of the layout and its impact upon the setting of listed church that opportunities have been taken to minimise the harm to the setting, in terms of the massing and orientation. In addition, the officer considered that the requirements of the site allocation box have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church.
- 10.16 Overall, it is considered that the proposed development, would have a 'less than substantial harm' to the significance of the setting of Whitechapel Church. The proposed development would represent a change in the surroundings of the church, from rough grazing fields to a residential development, with the loss of existing trees. Although, not entirely reflecting the HIA, the areas which contribute more to the significance of the asset would remain largely free from

built form and have been sensitively designed with additional tree planting. Thus, not causing any further harm to the significance of the asset. Paragraph 196 of the NPPF requires that where a development proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. It is considered that public benefits associated with the delivery of this housing allocation would outweigh any harm caused to the setting of the listed building, including:

- Contribution towards the district's housing land supply.
- Contribution to the investment of Cleckheaton.
- Provision of 20% affordable housing.
- Employment opportunities, including the applicant's apprenticeship scheme for the building trade and to involve local tradesmen and businesses in the supply chain.

10.17 During the course of the planning application the West Yorkshire Archaeology Advisory Service requested further archaeological information be submitted. Records indicated some potential for earlier activity or settlement on the site, possibly medieval activity and a Roman Road, as well as evidence of early mining may also be present. A Geophysical survey and trial trenching was subsequently carried out and no evidence of significant archaeological remains was encountered. As such, West Yorkshire Archaeology Advisory Service require no further archaeological works within the boundary of the site.

10.18 It is not anticipated that the proposed development would adversely affect the significance of designated and non-designated heritage assets. This assessment is supported by the applicant's supporting information. As such, this proposal would accord with the policy LP35 of the Local Plan, site allocation box HS97, and chapter 16 of the NPPF.

### Design

10.19 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7, and LP24 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide.

10.20 The proposal is described in section 3.0 of this report. As detailed in paragraph 6.4, the application site has a number of site constraints, in addition to other site constraints including tree preservation orders. These site constraints has affected the net developable area and the proposed site layout. As a result, the proposed residential dwelling houses are set back from Whitechapel Road and from the listed church in the south, behind Public Open Space to respect its setting. The development is set in from the motorway to the east, in line with the guidance regarding air quality and noise buffers. Dwellings have been sited away from the northern and eastern boundaries so that they do not have an adverse impact on the trees found within the school grounds. Public Open Space has been proposed within the north east corner (lowest point of the site) to accommodate the necessary drainage infrastructure. Finally, the existing Public Rights of Way network (public footpath No. SPE/42/10 and SPE/24/40) that crosses the site is proposed to be diverted and incorporated either within the proposed estate roads, denoted by grass verges and within Public Open Spaces.

- 10.21 Local Plan policy LP7 requires housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme. Developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings. The importance of making effective use of land is also recognised in Chapter 11 of the NPPF, section B1 in the recently published National Design Guide and guidance on the effective use of land within the Planning Practice Guidance, which was updated on 22nd July 2019.
- 10.22 It is understood that during the Local Plan Inquiry, based on the site constraints and regard to average densities, the net developable area was reduced to 3.12 hectares and the indicative site capacity was subsequently reduced from 170 dwellings to 122 dwellings. At the pre application enquiry stage and on initial submission, the proposal was for 133 dwellings, which represented a net density of approximately 43 dwelling per hectare. Officers subsequently raised concerns associated with 'overdevelopment' and as such the proposal was revised to 124 dwellings, which represents a net density of approximately 40 dwellings per hectare. After the deferral at Strategic Planning Committee, amended site plans have been submitted showing 122 dwelling units, which represents 39 dwellings per hectare and is in accordance with the indicative site capacity. Officers consider that this quantum of development is acceptable in achieving the efficient and effective use of land, in accordance with policy LP7 of the Local Plan.
- 10.23 The proposed single vehicular access onto Whitechapel Road is considered acceptable to serve 122 dwelling units. The proposed use of a movement hierarchy, transitioning from Whitechapel Road through primary streets, to secondary and tertiary routes, characterised by different street widths and surface treatments is welcomed as it would aid legibility and a 'sense of place.' The proposed dwelling houses have also been laid out within perimeter blocks which would mean that the proposed streets and spaces benefit from the necessary activity, visual interest and natural surveillance. Furthermore, it could be said that although the Public Rights of Way has to be diverted within the site, its incorporation would provide potential residents with the opportunity to use it.
- 10.24 Car parking has been designed so that the majority of which is located within the curtilage of individual properties. Parking spaces that are not within domestic curtilages are overlooked from adjacent residential properties allowing an adequate level of surveillance. During the planning application process, officers continually raised concerns about the visual dominance of the parked car caused by the over reliance of driveways to the front of the dwelling houses, with little or no mitigating planting. This issue has now in the main been addressed with the reduction in dwelling numbers but to some extent still exists along the western edge.
- 10.25 A mixture of dwelling types including apartments, terraces, semi-detached and detached units are proposed, which in turn provide a range of 1-bed, 2-bed, 3-bed and 4-bed dwelling units as detailed in paragraph 3.1. It is considered that this development would be suitable for different household types which reflect changes in household composition in Kirklees, in accordance with policy LP11 of the Local Plan.

- 10.26 The application site is relatively well contained and the proposed dwelling units would be set behind a landscape area. Therefore, the proposed dwelling houses would not immediately abut the nearest mid-20<sup>th</sup> century residential estate to the south. Thus, the site lends itself to establishing a new built development with a different character and appearance.
- 10.27 A variety of built forms are proposed with hipped and/or gable end roof forms. The Design and Access Statement includes drawings showing that majority of the dwellings to be 2-storey, interspersed with 2.5 and 3-storey dwellings, which would create the necessary visual interest to the proposed street scenes. Drawings also show the use of single storey detached garages set back from the building line, particularly within the eastern block.
- 10.28 Although, the proposed dwelling types are relatively simple in appearance, elevational drawings show that the proposed front and side elevations would be defined by several features, including window and door surrounds, string courses, door canopies, front gables, dormer windows and garages. Building materials are yet to be agreed and could be secured by condition. However, the Design and Access Statement indicates that the dwellings adjacent to the Public Open Spaces could be constructed from art-stone and the rest could be constructed using brick, which officers believe could also add to the visual interest.
- 10.29 The proposed site layout plan shows that the site's southern edge would be defined by a new Public Open Space. Officers consider the Public Open Space would be accessible, safe, overlooked and strategically located within the site and locality, between the school and the church. However, officers would have preferred if such spaces could have also accommodated all of the existing trees considered to be of value to maximise visual amenity and environmental benefits. Nevertheless, since committee, Development Management acknowledge the improvement to the scheme with the retention of additional protected trees and consider there to be sufficient space within these spaces to seek the necessary tree mitigation.
- 10.30 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to shared rear access footpaths for mid-terrace properties, boundary treatments, access gates, lighting, surveillance and home security. All of the comments made are advisory and have been referred to the applicant. Additionally, all these considerations need to be weighed against future residents' preference. For instance, future residents of mid-terrace properties may prefer the proposed rear access arrangements as it will allow for waste and dirty bicycles to be moved outside rather than through their homes. The applicant has suggested lockable gates and alternative boundary treatments and is willing to accept the necessary planning conditions to address these matters. Therefore, subject to the imposition of conditions, it is considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24 (e).
- 10.31 Therefore, the proposed design is considered to be acceptable in line with policy LP24 of the Local Plan, Chapter 12 of the NPPF and the National Design Guide.



## Residential amenity and quality

- 10.32 NPPF paragraph 127 clause (f) and Local Plan policy LP24 clause (b) requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.33 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties on Whitechapel Road. The proposed distances, with an intervening landscape area would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and overdominance.
- 10.34 Outlook is also a material consideration relevant to this application. However, private views currently enjoyed by existing residents of Whitechapel Road across the green fields of the application site cannot be protected by the Council in its determination of planning applications.
- 10.35 In terms of noise, residential development would increase activity and movements to and from the site. However, given the site's location adjacent to Whitechapel Road (which is already used by through-traffic) it is not considered that neighbouring residents would be significantly impacted. Residents of some existing properties on Whitechapel Road could experience greater levels of everyday noise and disturbance, however these impacts are not considered so great as to warrant refusal of planning permission. Furthermore, the proposed residential use is not inherently problematic in terms of noise and is not considered incompatible with existing surrounding uses.
- 10.36 Residents have expressed concern regarding headlights (of vehicles moving out of the proposed development and onto Whitechapel Road) shining into neighbouring properties. This is acknowledged as a potential impact (and, therefore, attracts some negative weight), however the impact would be momentary, it would only happen when vehicles are moved during dark hours, and it is therefore not considered so problematic as to warrant refusal of permission. Headlights momentarily shining on a property opposite a street entrance in this way is not an uncommon occurrence.
- 10.37 To accord with Local Plan policy LP52, a condition requiring the submission and approval of a Construction Management Plan (CMP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site. Details of dust suppression measures and temporary drainage arrangements would need to be included in the CMP. The applicant has also agreed to work with representatives of the local community to try and address any concerns and this can be included as a requirement of the CMP condition. An informative regarding hours of noisy construction work is recommended.
- 10.38 With regard to the West Yorkshire Low Emission Strategy, Environmental Health Officers have recommended a condition, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies will be secured by planning conditions and obligations.

- 10.39 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home.
- 10.40 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.
- 10.41 At pre-application stage, officers expressed concern that not all of the proposed dwellings would meet the minimum unit size figures set out in the Government's NDSS guidance. The applicant, however, advised that full compliance with the Government's standards would not be proposed. Therefore, using the lowest resident numbers set out in the NDSS the initial proposal showed that only 60 (45% of the total) out of the 133 dwelling houses were compliant with the NDSS.
- 10.42 During the course of the planning application and after discussions with officers, the applicant has amended the proposed scheme to acknowledge the NDSS. Using the lowest resident numbers set out in the NDSS, a greater level of NDSS compliance is now proposed. In the current, amended (122-unit) proposal, 84 dwelling units (69% of the total) would exceed NDSS. Most of the other 38 dwelling units (31% of the total) are close to compliance, and they include three house types (i.e. Maidstone (77 sqm), Moresby (79 sqm) and Denby (82 sqm) house types), which are all 3-bedroom dwelling houses. All of the 25 affordable units would exceed NDSS. A full breakdown of the proposed unit sizes is provided in the tables below, with figures in sqm (gross internal area). Grey shading and an asterisk highlights the non-compliant units.

#### **OPEN MARKET HOUSING:**

<b>House Type</b>	<b>House Type Description</b>	<b>Number of units</b>	<b>Sqm</b>	<b>NDSS based on min. bedroom nos. (GIA)</b>
Maidstone*	2-storey, 3-bed terrace house / semi detached house	19	77	84
Lockton	2-storey, 3-bed semi detached house	4	87	84
Moresby*	2-storey, 3-bed terrace house / semi detached house / detached house	11	79	84
Kingsville	2.5-storey, 3-bed terrace house / semi detached house	14	100	90
Brentford	3-storey, 3-bed terrace house	1	108	90

Woodcote	2.5-storey, 4-bed, terrace house / semi detached house	17	113	97
Denby*	2-storey, 3-bed detached house	8	82	84
Kingsley	2-storey, 4-bed detached house	3	101	97
Ashburton	2-storey, 4-bed detached house	6	137	97
Alderney	2-storey, 4-bed detached house	6	114	97
Radleigh	2-storey, 4-bed detached house	9	122	97

#### **AFFORDABLE HOUSING:**

<b>House Type</b>	<b>House Type Description</b>	<b>Number of units</b>	<b>Sqm</b>	<b>NDSS based on min. bedroom nos. (GIA)</b>
60	1-bed apartment	6	42	39
61	1-bed apartment	6	42	39
Kewdale	2-storey, 2-bed terrace house / semi detached house	10	79	70
Kirkbridge	2-storey, 3-bed semi detached house	2	86	84

- 10.43 The applicant has previously explained that in order to increase the amount of NDSS-compliant house types within the scheme they have had to reduce the overall numbers (to 122 dwellings). This has led to a reduction in the number of larger 4-beds proposed (from 49 to 41 dwellings) in order to create sufficient space to increase the size of the 1-, 2- and 3-bedroom homes on the site to meet NDSS standards. The applicant has also stressed that in doing so they have managed to retain the same level of on-site POS within the scheme, which accounts for 27% of the total site area.
- 10.44 Officers have queried whether more of the units could be made compliant (for example, adding just 2sqm to the Denby units would result in another 8 units being compliant), however the applicant has advised that this is not possible for viability reasons (although no supporting viability evidence has been submitted by the applicant). Officers would have preferred all of the units to be properly NDSS-compliant, however these amendments are still considered to be a significant improvement on the previous proposals, and – noting the other matters that influence amenity (considered elsewhere in this report), and again noting the policy position in relation to NDSS, as well as paragraph 018 of the “Housing: optional technical standards” section of the Government’s online Planning Practice Guidance (ref: 56-018-20150327) – it is considered that the proposals are acceptable in relation to unit sizes.
- 10.45 All of the proposed dwellings would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. Adequate separation distances would be provided within the proposed development between the new dwellings. Public representations have raised concerns that some of the future residents would have a poor outlook over the motorway and would suffer

from any associated noise and air pollution. However, officers consider that the site layout plan has been designed to take into account these matters and any mitigation measures can be secured by the imposition of planning conditions.

- 10.46 All of the proposed houses would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Several areas of open space are proposed, which total 1.2 hectares, the main one being to the south adjacent to Whitechapel Road, which would also include a Locally Equipped Area for Play (LEAP). The LEAP would be within 400m walking distance of all the homes it serves, and would be positioned to provide a buffer zone between it and the habitable room façade of adjacent dwellings. Further details of the LEAP would be required by condition.
- 10.47 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protect those of existing occupiers. It would therefore comply with the objectives of NPPF paragraph 127 clause (f) and Local Plan policy LP24 clause (b).

#### Affordable Housing

- 10.48 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development. There is significant need for affordable 1, 2, 3 and 3+ bedroom homes in Batley and Spen SHMA Market Area, along with 1 and 2-bedroom properties for older people specifically.
- 10.49 In this instance, 24 of the proposed 122 units would be affordable, which would accord with this policy objective. The site layout plan shows that 20 dwelling units that are either 2-bed or 3-bed and would be discount for sale. The site layout plan also shows that 4 x 2-bed dwelling units would be for social or affordable rent. This represents a tenure split of 17% social or affordable rent / 83% intermediate. Development Management acknowledge Strategic Housing officer's concerns regarding the applicant not addressing the Council's preferred tenure split. However, the proposal would still accord with Local Plan policy LP11. Thus, the applicant's proposed deviation from the Council's preferred tenure mix attracts limited negative weight. It is also considered that such proposal would assist in meeting a known need as set out in the 2016 Strategic Housing Market Assessment. In addition, officers will negotiate with the applicant team as to whether all of the affordable houses can be provided in perpetuity.
- 10.50 Local Plan policy LP11 explains how affordable housing should be indistinguishable from market homes, and evenly distributed across the development. The site layout plan shows that three house types would be used and would be located in three groups across the site (rather than grouped together). Similar detailing and the same materials are proposed for all dwellings, which would help ensure that the affordable units would not be visually distinguishable from the development's market units.

- 10.51 Taking all these matters into account, the proposal is therefore compliant with Local Plan policy LP11.

#### Highways and transportation issues

- 10.52 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.
- 10.53 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe
- 10.54 To address these policy considerations, a Transport Assessment (TA), Appendices, and an Addendum prepared by Bryan G Hall, as well as an Interim Travel Plan prepared by TPS accompanies this planning application. These documents have been amended during the course of the application after comments made by consultees. However, they have not been updated for the latest 122-dwellings scheme. These documents also include the necessary traffic survey work of the local highway network, carried out in the peak hours (7:00am – 10:00am and 4:00pm – 7:00pm) on Thursday 10<sup>th</sup> January 2019. All local schools were within term-time at the time of the surveys and therefore the observed flows are considered to be representative of typical conditions.
- 10.55 Vehicular and pedestrian access to the site will be provided via a new simple priority-controlled T-junction with Whitechapel Road to the south of the site, approximately 80 metres to the east of the junction with B6120 Turnsteads Avenue. The TA provides a drawing showing that the proposed access design of 2.4 metres x 43.0 metres visibility splays to the east and west can be provided within the highway boundary to the nearside kerb. Whitechapel Road is a two-way carriageway with single lanes in each direction. The road has an approximate width of 7.5 metres, with footways on the northern and southern sides with approximate widths of 1.3 metres and 1.8 metres respectively. Whitechapel Road is a residential distributor type road and also provides direct frontage access to residential properties. Some 250 metres to the east of the junction with Turnsteads Avenue and in the vicinity of Whitechapel Primary School, there is localised traffic calming in the form of three separate speed tables. Whitechapel Road is street lit, has no parking restrictions and is subject to a 30mph speed limit. A separate pedestrian link will be provided to the south-west of the site and will meet with Whitechapel Road circa 200 metres to the east of the vehicular access, near to the school. Highways Development Management (HDM) officers consider that a suitable access point to the site can be achieved for 122 dwelling houses at this location, without the need for a second access point.

- 10.56 Using the TRICS database (an industry standard tool) the Transport Assessment predicts that a development size of 124 dwellings, the proposed development is likely to generate a total of 117 and 109 person trips in the morning and evening peak periods respectively. When applying HDM vehicular trip rates of 0.7, a development size of 124 dwellings is likely to generate some 87 total vehicle movements in both the morning and evening peak periods. Officers accept the vehicular trip generation figures for the development and consider that the additional vehicle movements on the highway network can be safely accommodated.
- 10.57 Taking into consideration other committed developments outlined in the Local Plan (i.e. Site allocations: HS96 Merchant Fields, Hunsworth Lane, Cleckheaton (413 dwellings), HS101 Land Adjacent to Rooks Avenue, Cleckheaton Rooks Avenue (58 dwellings) and ES6 Land to the north and west of, The Royds, Whitechapel Road, Cleckheaton (37,380m<sup>2</sup>)) the Transport Assessment and Addendum provides a full junction capacity assessment using industry recognised computer modelling software for the following key junctions:
- The site access junction
  - Whitechapel Road / B6120 Turnsteads Avenue Simple Priority Controlled Junction
  - Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction
  - A638 Bradford Road / A643 St Peg Lane / A638 Dewsbury Road / A643 Parkside Traffic Signal-Controlled Junction
- 10.58 The computer modelling software indicates that the Whitechapel Road / A638 Bradford Road / Hunsworth Lane traffic signal-controlled junction is predicted to operate over its theoretical capacity in the 2024 sensitivity base scenario due to background traffic growth and committed development. The TA explains how development will add 47 two-way trips through this junction during both peak periods. This results in an increase in traffic flows of 2.2% during the morning peak period and an increase of 2.1% during the morning peak period. This equates to an additional vehicle through this junction every 77 seconds, or less than one vehicle every minute. The impact of the development proposals at this junction is considered not to be severe to warrant a refusal. Officers have considered whether any physical alterations could be incorporated at this junction to reduce this impact. It is not considered that there are any measures that could practically be provided to significantly alter the delay. However, it is recommended that a financial contribution secured by Section 106 agreement is sought from the applicant towards Bluetooth journey time detectors so that the junction time situation can be accurately monitored. Based on the computer modelling software the other junctions are predicted to operate within maximum theoretical capacity.
- 10.59 The site benefits from being located adjacent to a frequent bus route and consists of a public footpath that connects to the Spen Valley Way to the north, which is part of the Local Plan core walking and cycling network. Officers are of the opinion that the proposal's minor impact on the highway network can be mitigated through maximising the use of these facilities. A robust Travel Plan would facilitate a modal shift to sustainable travel modes and thereby reduce reliance on private cars. A Travel Plan has been submitted but officers consider this an 'interim framework,' which would have to be developed into a full Travel Plan. The Travel Plan would be monitored for five years with the cost of this

borne by the applicant. Contributions are also sought towards a package of sustainable transport measures. These include the upgrade of nearby bus stops, the provision of a sustainable travel fund (which could include residential Metro Cards) and a contribution towards the improvement of the existing public footpath network.

- 10.60 Furthermore, it is noted that in terms of the Local Plan allocation sites, the Kirklees Local Plan sets out a sustainable strategy for planned growth currently up to 2031, including proposals for planned mitigation to the local road network. This is underpinned by an extensive district wide strategic modelling exercise of the transport network (which takes into account current local road network/public transport use and forecasts planned growth). The strategic modelling also takes into account local, cross-boundary road network issues connecting into neighbouring authority areas.
- 10.61 From the perspective of transport, the cumulative transport impacts of the Local Plan land allocations, (together with existing local road network use and development which has planning permission but which is not yet built) are understood. This evidence provides a significant material planning consideration in the determination of planning applications and has informed the council's Infrastructure Delivery Plan that identifies potential mitigation measures at current and forecast areas of congestion. In summary, officers accept the vehicular trip generation figures for the development and consider that the additional vehicle movements on the highway network can be safely accommodated, subject to the necessary planning obligations and conditions.
- 10.62 The Waste Strategy officer initially raised concerns regarding the appropriateness of the location of bin storage and presentation points for a number of properties. Concern is still expressed about the proposed location and convenience of the bin facilities for the mid-terrace properties with the officer explaining that they are unlikely to be used. Initially, further clarification was also sought regarding swept path analysis of an 11.85m refuse collection vehicle, particularly demonstrating that an 11.85m vehicle and a car can pass through bends. These matters have largely been addressed with the submission of the latest site layout plan. A condition is recommended for details of temporary waste collection arrangements to serve occupants of completed dwellings, whilst the remaining site is under construction.
- 10.63 During the course of the planning application, the Highway Section 38 team explained how a number of amendments would be required for the proposed internal road layout for to be adopted by the Council. The main amendments requested included the widening of some roads and junctions to ensure that visibility envelopes are within the highway and not within private curtilages and so that a refuse vehicle can safely pass a car. The latest site layout plan has largely addressed such matters.
- 10.64 Highways England initially objected to the planning application and requested further information regarding drainage, slope stability, boundary treatments, retaining features and construction traffic. Further information has been provided and it is understood that discussions have taken place between Highways England and the applicant team. Highways England has subsequently removed their objection, subject to conditions requiring a construction management plan, drainage not impacting on the strategic road network and a suitable boundary fencing arrangements.

- 10.65 No objections have been received by Highways Development Management from a highway safety perspective. Subject to planning conditions and obligations, officers consider that the proposal would accord with Local Plan policies LP20, LP21, LP22 and the Highways Design Guide SPD, as well as NPPF chapter 9.

#### Impact on the Public Rights of Way

- 10.66 The red line boundary consists of an existing public footpath that is recognised as being part of the Public Rights of Way (PRoW) network, SPE/24/40 and SPE/42/10 (Spenborough 24 and 44). However, on site it appears that the pedestrian desire line does not follow the definitive route. Instead, there is a more direct pedestrian desire line of tread to a stile and path found in the north western corner of the site, near to the motorway. Also, there is an obstruction in the form of a boundary fence between the site and the Whitechapel Church of England Primary School playing fields. At the pre application stage, PRoW officers requested that the site plan clearly show the existing definitive public footpath alignment and any proposed alternative alignment. Officers explained that the subsuming of the path into the estate roads as suggested in the submissions at pre application enquiry would not be appropriate or acceptable. Officers requested a proposal that had better regard to pedestrian access throughout the site.
- 10.67 The initial planning application and subsequent submissions did not address the above concerns. Numerous meetings have taken place and subsequent designs submitted to achieve a more appropriate and acceptable proposal. However, prior to the strategic planning committee in 27<sup>th</sup> January 2021, a site layout plan was submitted that was considered acceptable by the Public Rights of Way officer. Although, the PRoW officer has not commented on the latest site layout plan, the amendments made have not changed the proposals to the PRoW and thus the same comments apply. For the last committee meeting, the officer provided the following commentary:
- “When considering the development as a whole and the proposed change to public footpath Spenborough 24, members are asked to take into account DEFRA circular 1/09, paragraph 7.8 *“In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.”* Members may consider whether the site constraints, the alternative provisions of public footpaths and other public access routes to the northwest and southeast of the site mean that the proposed public footpath provision is adequate and appropriate. Such matters may be relevant in the required diversion order process, if the development is to go ahead.”*
- 10.68 Officers consider that an acceptable layout and quantum of development cannot be designed around the current Public Rights of Way alignment. The latest site plan shows the existing public footpath alignment (blue dashed line) and two proposed public footpath alignments (green dashed lines). The proposed eastern public footpath alignment is defined by an estate road, delineated in some places from the carriageway by grass verges, as well as a public open space to the north west corner. The proposed public footpath also shows potential connectivity with the existing PRoW to the red line boundary to



the north, as well as to an existing path in the north west corner. The proposed western public footpath alignment is also defined by an estate road delineated in some places from the carriageway by a grass verge with fewer driveway intersections. The applicant has previously explained that the footpaths would be aligned with the road gradients with a maximum gradient of 1:16, which is agreed in principle in assessing feasibility. The relevant conditions are considered necessary to secure further details regarding the:

- provision, agreement, implementation and retention of appropriate PRow provision and treatment
- necessary cross and long sections of the proposed PRow
- constructional and design details for public access
- path on site north of the Priory public house, how it meets and works with the estate road layout
- provision, agreement, implementation and retention of scheme regarding safety of public footpath and users during and after construction.

10.69 At the request of the PRow officer, a 3 metre wide multi-modal link (yellow dashed line) is proposed between the estate road and the red line boundary outside plots 83 and 87 to enable the route to be used by cyclists and horse riders in the future. This 3 metre wide multi-modal link would be secured by a Section 106 Agreement. In addition, the applicant has agreed to the provision of £20,000 towards the upgrade of towards the improvement of an off-site link between the site and the Spen Valley Greenway, which would also be secured by a Section 106 Agreement.

10.70 The current PRow does not prevent planning permission from being granted for this proposal. However, it should be noted that any planning application granted does not allow the interference of the public footpaths and any proposed diversion of a PRow would be required under a separate legal process and at the applicant's costs. Development Management consider that subject to the necessary conditions and obligations the proposal would be in accordance with Local Plan policy LP23.

#### Flood risk and drainage issues

10.71 NPPF paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.

10.72 The site was larger than 1 Hectare and therefore a Flood Risk Assessment (FRA) and Surface Water Management Strategy by ID Civils Design Ltd was submitted that considered the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water. During the application process, this document was amended to provide further information in relation to the Lead Local Flood Authority (LLFA) comments in relation to surface water management

- 10.73 The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
  - 2 – to a surface water body
  - 3 – to a surface water sewer, highway drain, or another drainage system
  - 4 – to a combined sewer
- 10.74 A site investigation report confirms that the site is underlain by stiff clay strata and as such will be unsuitable for infiltration surface water drainage. The original FRA, proposed only a pump solution for surface water to a culverted watercourse at Whitechapel Road. The amended FRA, in addition to the pump solution now also proposes an option for a potential gravity solution. Historical OS plans show that there was a watercourse crossing the northern part of the site, across the adjacent school playing field and into a culvert prior to the railway embankment north east of the site which in turn runs through a property known as 'The Sidings'. Recent survey work by the LLFA of this section of culvert confirms that it requires repair and improvement work to reduce the risk of flooding, regardless of the development. The applicant has agreed in principle that this necessary works could be undertaken by themselves at their costs and CDM responsibility under the banner of enabling works.
- 10.75 No revised FRA has been provided for the 122 dwelling scheme. However, the amended FRA for the 124 dwelling scheme explains though that timing of the gravity solution is however fundamental to the development progress and, the enabling works to achieve a gravity connection would need to be achieved at a suitable point in the build programme. In that situation the applicant claims that the only option would be to pump flows to the culvert in Whitechapel Road. As such, planning conditions and/or obligations may be required to allow for further off-site exploratory and/or enhancement work, as well as discussions and agreements with the necessary parties to secure the most appropriate drainage strategy.
- 10.76 Yorkshire Water has confirmed that foul water flows from the development can be discharged to the sewer network crossing the site at point to be agreed once the layout is finalised. The amended FRA explains that plots within the southern area have been connected to the foul sewer in Whitechapel Road for phasing purposes and also to reduce the number of pumped plots. Due to site levels, the majority of the site (central and northern area) is below the level of the sewer crossing the site, and therefore plots in this area will require pumping. A new pumping station will be constructed to adoptable standards in the north eastern corner of the site. A pump main will pump flows from the lower two thirds of the site up to the new gravity foul sewer prior to outfalling to the existing public sewer.
- 10.77 There is a public foul water sewer that crosses the southern part of the site in an east west direction. The amended FRA explains how a diversion of the public foul sewer is required. This diversion can be accommodated via the new public highway in the route shown on the strategy plan. The diversion will have to be agreed under section 185 with Yorkshire Water and constructed at the applicant's expense under supervision by Yorkshire Water.
- 10.78 The Lead Local Flood Authority and Yorkshire Water have not commented on the latest site layout plan. However, given the amendments to the proposal, it is considered that the same comments for the 124 dwelling scheme still apply.

Thus, there are no objections subject to the necessary planning conditions and obligations and the proposal accords with Local Plan policies LP27, LP28 and NPPF chapter 14 with regard to its potential impact on local flood risk and drainage.

### Trees

- 10.79 Trees can be found along the site's boundary edges with many located on third party land. Many of the trees found along the site's southern boundary with Whitechapel Road and with the adjacent PRoW and Public House have Tree Preservation Orders (TPO). In addition, there are three groups of trees within the open fields, the two groups found within the southern field also have trees with Tree Preservation Orders. During the course of the planning application the Council made a Tree Preservation Order on these trees in January 2020 (Reference: Land off Whitechapel Road, Cleckheaton TPO No.1 2020). The TPO lists 42 trees for protection which include trees recorded as Groups G1, G2, G4, G5, G7 and G8 in the applicant's supporting information. The application site is not situated within a conservation area and there is no ancient woodland or veteran trees on-site.
- 10.80 The planning application was supported by an Arboricultural Impact Assessment (AIA) Report and a Tree Mitigation Statement (TMS), both prepared by BWB Consulting, as well as a Landscape Masterplan prepared by Barnes Associates. These documents were amended and/or provided in response to consultee comments. In addition, a letter, dated 18<sup>th</sup> February 2020 by PB Planning was also submitted which details the reasoning disputing the council's making of the Tree Preservation Order. (TPO) NO 1 2020" (KIRKLEES COUNCIL REF. DEV/SJH/ML/D26-1375) Since the planning committee meeting, an amended site layout plan has been received showing the retention of a group of trees nearest to the motorway. In addition, another Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS) (Ecus Ltd, Reference: 16628, Version 1.1) and Tree Mitigation Strategy (TMS) has been provided (Ecus Ltd, Reference: 16628 V1.2, March 2021).
- 10.81 The planning application would still result in the loss of mature trees, some of which have a TPO. The latest proposed site layout plan shows the loss of trees at Whitechapel Road (including TPOs: 01/20/t1 and 01/20/t2), those located behind the Public House (including TPOs: 01/20/t27, 01/20/t28, 01/20/t29, 01/20/t30, 01/20/t31) and two of the three groups of trees within the open fields (including TPOs: 01/20/t22, 01/20/t23, 01/20/t24, 01/20/t25, 01/20/t26). Supporting information details shows that the trees to be removed includes 18 individual trees and 1 group of trees that are category C (i.e. Trees considered to be of low quality and value), 26 trees that are category U (i.e. Trees considered to be unsuitable for retention) and 9 trees that are category B (i.e. Trees considered to be of moderate quality and value).
- 10.82 As explained above, during the planning application a number of trees were listed as a TPO due to their amenity value. Therefore, by listing the trees as TPO, the Council considers that their removal would have a significant negative impact on the local environment and enjoyment by the public.
- 10.83 During the course of the application, the applicant provided a letter that was submitted to the Council during the designation of the TPO. The letter provides a detailed response disputing the TPO, highlighting the timing of the making of the TPO, the implications of the delivery of the site allocation, the lack of

amenity, arboricultural and heritage value justification, lack of specific identification of the trees to be retained during the Local Plan inquiry and pre application process. The letter also explains how there is sufficient space within the site for replacement planting opportunities and a number of socio-economic benefits associated with the scheme that should be considered in the planning balance, including:

- Creating sustainable communities through meeting market and affordable housing needs, offering existing and potential residents of the District the opportunity to live in the house and location they desire.
- Delivering significant financial contributions towards the improvement of Cleckheaton's and the District's infrastructure.
- New capital expenditure in the region of £19m creating substantial direct and indirect employment opportunities of approximately 48 new direct jobs and 67 new indirect jobs of which 70% are usually retained in the local area.
- Sustaining and improving the District's labour market through delivering the right homes in the right locations.
- Increasing retail and leisure expenditure in the local area by approximately £3.3m per annum, creating 19 jobs in these sectors.
- Provision of funding towards public services from an estimated figure of £900k from the Government's new homes bonuses & annual council tax payments of circa £225k per annum.
- Safeguarding and enhancing areas of environmental quality through creating on-site and off-site management schemes.

10.84 At the pre application stage and during the course of the planning application, officers recommended the protection of the site's mature trees worthy of retention, particularly those at or near the site access. This was reiterated after the strategic committee meeting. Since the strategic planning committee meeting, the applicant has explored a number of design options to retain more of the protected trees. However, the applicant has explained that the loss of the protected trees is still necessary to help facilitate the proposed access with Whitechapel Road, the proposed internal road layout and the proposed plots 1-3. The applicant has also now proposed the retention of a group of protected trees nearest to the motorway, with the loss of units and a slight design amendment of the southern development block. The applicant has stated that the other group of protected trees cannot be retained as this would mean a further reduction in dwelling houses and thus development viability would be compromised (although no supporting viability evidence has been submitted by the applicant).

10.85 Development Management acknowledge the submission of another AIA, AMS and TMS, by Ecus. The TMS concludes that it is not possible to immediately mitigate the value of a mature tree with replacement trees. However, it is believed that a carefully planned, executed and maintained tree planting scheme, can in the medium to long term increase the amenity, diversity and environmental capital services of a tree population on the site. In addition, the TMS demonstrates that there is the opportunity to provide 65 high quality trees in the public realm within the new development, with around 74 opportunities for tree planting within private gardens. The TMS explains that the Council do not have a target tree replacement ratio. However, the current proposals offer a replacement ration of close to 1.2:1 of public open space trees (with the assumption at least 30 trees will be included in group planting). If all trees

planted on the scheme, then the replacement value would be in the range of 2.6:1.

- 10.86 The Tree Officer welcomes the retention of additional protected trees and with regards to the latest mitigating tree planting scheme has stated that it “*appears to be a reasonable landscaping proposal in places.*” However, the officer would still like the retention of the other group of protected trees near to Whitechapel Road and is not convinced that the landscaping proposals would fully mitigate the loss of protected trees. Thus, the officer still cannot support the planning application and considers it to be contrary to Local Plan policies LP24 and LP33 as well as NPPF paragraph 127.
- 10.87 Development Management acknowledge the Tree Officer concerns and the loss of mature trees worthy of retention attracts negative weight. Development Management welcome the latest site layout plan that now shows the retention of additional protected trees. It is considered that the necessary planning conditions can deliver an appropriate tree planting scheme that alongside the socio-economic benefits (as stated in paragraph 10.83 of the scheme) outweighs the harm identified by the Tree Officer. As such, Development Management advise that subject to the necessary planning conditions, the proposal is in accordance with Local Plan policy LP24, LP33 and NPPF paragraph 127.

#### Biodiversity

- 10.88 A Preliminary Ecological Appraisal (PEA) (which has been amended in response to consultee comments) and a Bat Survey, prepared by Brooks Ecological were initially submitted with the application. These documents identified the need for further ecological surveys, which were provided during the course of the planning application. Also, during the course of the planning application, an Ecological Impact Assessment by Brooks Ecological and a Biodiversity Net Gain Assessment by BSG ecology were provided.
- 10.89 The site is within a Biodiversity Opportunity Zone (Pennine Foothills). A south western portion of the site between the Public House and Church with the School can be found within a bat alert area. In addition, the land along the M62 corridor immediately west of the site is part of the Kirklees Wildlife Habitat Network (KWHN).
- 10.90 The supporting information explains that all of the habitats on the site were considered to be of ‘site level importance.’ The details of the following habitats found on the site and their condition were considered as follows:
- Neutral grassland - Habitat of medium distinctiveness in poor condition;
  - Broadleaved woodland, with two plantations located to the south of the site - Habitat of medium distinctiveness in moderate condition;
  - Hedgerows - Habitat of low distinctiveness in good condition;
  - Lines of trees to the south of the site - Habitat of low-medium distinctiveness in moderate condition;
  - Off-site broadleaved woodland - Habitat of medium distinctiveness in good condition.
- 10.91 The supporting information acknowledges the proposed loss and effect on some of the on-site habitats due to development but considers that such loss would be at worst ‘significant at site level only.’ The supporting information explains that the necessary compensatory and mitigation measures would be

required to off-set any impact and to ensure a biodiversity net gain. Surveys submitted, have concluded that there would be no significant direct or indirect impacts expected by the development proposal on protected species.

- 10.92 The planning application has been reviewed by Yorkshire Wildlife Trust and the Council's Ecologist who have raised concerns regarding the biodiversity net gain assessment. They have both requested that a measurable biodiversity net gain be secured in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Net biodiversity gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. As a biodiversity net gain has yet to be satisfactorily demonstrated by the applicant, a condition and Section 106 obligations are recommended. This will require the applicant to provide the necessary calculation, and to explore all options for on-site compensatory works. If adequate compensatory works cannot be achieved on-site, the applicant must look for nearby, available sites where compensatory works can be implemented with the agreement of the relevant landowner. If no such sites can be found by the applicant, a financial contribution can be made which the Council would be required to spend on compensatory measures at an available site. Conditions requiring the submission of a Landscape and Ecological Management Plan (LEMP) and a Construction Environmental Management Plan are also recommended to ensure the proposal is policy compliant.

#### Environmental and public health

- 10.93 The application site is adjacent to noise generating sources, such as the M62, a Public House and a School. As such, the planning application is accompanied by a Noise Assessment, prepared by SLR Consulting. This assessment has been amended to try and address officer and committee member comments. In addition, the site layout plan has been amended with some dwellings in the southern block now located further away from the motorway and now benefiting from necessary additional acoustic boundary features.
- 10.94 The report advises that satisfactory indoor sound levels can be achieved assuming the buildings have standard masonry cavity wall construction, tiled roof with appropriate mineral wool insulation together with the attenuation required to be achieved by the glazing as specified in appendix 4 of the report. It also recommends acoustic trickle ventilators for background ventilation (as detailed in table 5-3) for rooms where windows need to be kept closed.
- 10.95 The amended Noise Assessment advises that for 96% of plots, the noise at the outdoor amenity area will be under the upper British Standard (BS) guidance level of 55dB LAeq (16hours) with many of these being lower than the 50dB BS guidance level. However, it advises that at just 4 plots the noise at the outdoor area will marginally exceed the upper BS guidance level of 55dB. It provides more detail in figures 5-2 to 5-5 which show that at three of these plots there are areas within the garden that are under 55dB and in the other plot there are areas that are only marginally above at 56dB. These levels are achieved with the provision of acoustic barriers as detailed in part 5.1 and figure 5-1 of the report.
- 10.96 Environmental Health consider the Noise Assessment is a satisfactory assessment of noise affecting the site. It is also considered that the Noise Assessment provides satisfactory proposals for noise mitigation measures to achieve satisfactory indoor sound levels at all plots and also at the outdoor

amenity areas most plots. Taking into consideration the proximity to the M62 it is considered that for the four plots where the outdoor levels marginally exceed the upper guidance level of 55dB, it is still acceptable because a usable part of outdoor area will be below 55dB at three plots and only marginally above 55dB at the fourth.

- 10.97 It is therefore considered that the applicant has designed the site, including proposals for acoustic barriers, to achieve the best practical outdoor sound levels at plots. It would appear likely that the only way that outdoor noise levels of under 55dB can be achieved at all plots would be to reduce the number of plots, but this may affect the overall viability of the development. Considering the high noise levels that this site is exposed to it is considered that the proposed noise mitigation measures will provide best practical indoor and outdoor sound levels at the development. In accordance with Local Plan policy LP52, conditions are necessary to ensure the noise mitigation measures proposed in the report are provided.
- 10.98 The application is accompanied by an Air Quality Assessment (AQA), prepared by SLR Consulting, which has been amended to try and address officer and committee member comments. In addition, the amended AQA takes into consideration the proposed design amendments, including the additional acoustic barrier features. The assessment explains how passive diffusion tube monitoring of NO<sub>2</sub> concentrations at the site was undertaken over a 6-month period in order to provide an assessment of baseline air quality. This was to determine site-specific baseline annual mean NO<sub>2</sub> concentrations to assess the suitability of the site for residential development, and the spatial extent of any monitored exceedance to determine required buffer-zone / stand-offs from the adjacent M62 carriageway to inform future development layouts.
- 10.99 The latest amended report provides further up to date analysis and evidence that the 2.1m high acoustic barrier reduces the NO<sub>2</sub> concentrations at the facades of future properties. This has been undertaken using the ADMS-Roads dispersion model in accordance with DEFRA Guidance using two scenarios, with, and without the 2.1m high acoustic barrier on the western boundary of the site. The assessment concludes that the predicted modelling results with the acoustic barrier will reduce NO<sub>2</sub> concentrations at sensitive receptors along the western boundary of the site to  $\leq 38\mu\text{g}/\text{m}^3$ , well below the national air quality objective of  $40\mu\text{g}/\text{m}^3$ , with no predicted exceedances of the air quality objectives at any locations of relevant exposure. This is clearly demonstrated on Drawing AQ1 that accompanies the assessment and shows the model contour output of the annual mean nitrogen dioxide concentration of  $38\mu\text{g}/\text{m}^3$  and illustrates that no dwellings are sited within the identified zone. In addition, the modelling results confirm that due to the acoustic barrier the original air quality 15m buffer zone can be reduced to 12.25m and that no dwellings are to be sited within this zone. The report also goes on to explain that an analysis of aerial imagery indicates that the motorway carriageway (the M606 south-bound slip road onto the M62 west-bound) is a further 10.6m away from the western boundary of the proposed development site.
- 10.100 Environmental Health officers have reviewed the report. They agree with the approach, the methodology, and concur with the conclusions of the assessment providing that a 2.1m high acoustic fence is constructed on the western boundary of the site as shown on the latest site layout plan. A condition is recommended securing the 12.25m air quality buffer zone with the M62 to ensure that the planning application accords with Local Plan policy LP51.

10.101 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed affordable housing, public open space, cycling provision, pedestrian connections (which can help facilitate active travel), accessibility, dementia-friendly design, measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health. The applicant has submitted a Health Impact Assessment. The Council's Public Health team have not commented on the latest site layout plan but have previously raised no objection in principle to the proposed development and have expressed support for majority of the aspects of it.

#### Ground conditions

10.102 Phase I and II Geo-Environmental Report, as well as a Permanent Gas Assessment, prepared by Groundtech Consulting have been provided with respect to potential site contamination. The reports conclude that the site has only been used as fields for grazing animals and the only contaminants elevated above screening levels for residential end use are thought to be naturally occurring and in the topsoil. A single arsenic and two lead exceedances were recorded in separate locations. Both exceedances were very minor and when statistical analysis was undertaken on the topsoil population it was determined that no remediation action is required in relation to arsenic or lead. Based on the conceptual site model and concentrations recorded, the risk to controlled waters is considered to be low. The soils natural and made ground soils on site are classified as non-hazardous. The ground gas regime has been confirmed in the Gas Assessment Report and no gas precautions are required. Environmental Health officers have reviewed these documents and agree with the findings and have recommended a condition for reporting of unexpected contamination at the site during construction.

10.103 The application site falls within the defined Development High Risk Area. Therefore, within the application 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 records indicate that the site is in an area of probable shallow mine workings. As detailed above, the applicant has provided a supporting geo-environmental assessment based on intrusive site investigations, as well as a Gas Assessment Report. The geo-environmental assessment concludes that the site is not considered to be at risk of subsidence from shallow mine workings and therefore, no mitigation measures (e.g. consolidation by drilling & grouting) would be required. These documents have been reviewed by the Coal Authority who accept these findings.

10.104 The application site falls within an area designed as a Mineral Safeguarded Area (Surface Coal Resource with Sandstone and/or Clay and Shale) in the Local Plan. Local Plan policy LP38 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. In addition, officers consider that, whilst it is likely that these minerals may be present at the site, local constraints such as being located adjacent to a school would be such that mineral extraction in this location would not be viable.



Consequently, officers believe that it would also not be feasible to extract mineral from this site.

- 10.105 It is therefore considered that this proposal accords with Local Plan policies LP38 and LP53, as well as NPPF chapter 15 with regard to potential contaminated and unstable land and minerals safeguarding issues.

### Representations

- 10.106 A total of 54 representations over several consultation periods were received in connection with this proposal and are summarised in Section 7 of this report. An officer response to the main points that have been raised is provided below.

#### Principle, conservation and design

**Officer response:** Contrary to some of the comments made, the application is not Green Belt land and it is not afforded any particular protection in planning terms. Representations have stated that Cleckheaton has already had its fair share of housing development but the land is allocated for housing. Therefore the general principle of development has already been established through the Local Plan which was adopted in 2019. It has been suggested that brownfield sites should be developed first and concerns raised with the loss of this greenfield site. There is not a 'brownfield first' policy and the proposal is bringing forward allocations that are set out in the Local Plan. The development now shows 122 dwelling houses in line with the indicative capacity stated in the site allocation box HS97. It is important to understand that this number is not a minimum or a maximum figure and just an indication of the number of houses that could be achieved on site. Officers consider the quantum of development has been demonstrated in line with Local Plan policy LP7 and NPPF chapter 11. Conservation, visual amenity and design issues have been addressed in the report. Comments are noted about boundary treatments and the preference for the retention and improvement of the existing stone boundary wall at Whitechapel Road. It is recommended that a boundary treatment condition is imposed to secure such design details and where considered necessary protects such features. The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to shared rear access footpaths for mid-terrace properties, boundary treatments, access gates, lighting, surveillance and home security. All of the comments made are advisory and have been referred to the applicant. Additionally, all these considerations need to be weighed against future residents' preference. For instance, future residents of mid-terrace properties may prefer the proposed rear access arrangements as it will allow for waste and dirty bicycles to be moved outside rather than through their homes. The applicant has suggested lockable gates and alternative boundary treatments and is willing to accept the necessary planning conditions to address these matters. Therefore, subject to the imposition of conditions, it is considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan policy LP24 (e).

#### Environmental quality and pollution

**Officer response:** These matters have been addressed within the report. Concerns are noted in relation to more people living closer to the motorway. However, the site is a housing allocation, thus the principle of housing at this site has already been established. In addition, the site allocation box HS97 does not include any specific design requirements regarding the siting of houses in relation to the motorway, other than recognising it as being a noise source

constraint. The submitted amended assessments have thoroughly assessed the noise and air quality impacts particularly those associated with the motorway and have suggested a number of mitigation measures. Environmental Health officers have reviewed the amended assessments and have raised no objections subject to the imposition of planning conditions to secure the necessary mitigation measures. The impact of the construction of the development can be mitigated through construction management plans and conditions are recommended to this effect.

#### Infrastructure

**Officer response:** With regard to the impact on education provision, the applicant is providing a financial contribution in line with the advice from the Council's Education section. In terms of the impact on medical facilities, the scale of development is not at a level that would require new healthcare facilities to be required under Policy LP49. Local healthcare provision is a matter for those particular providers and population data would form part of their planning for the delivery of services. The impact on drainage and road infrastructure has been assessed as being acceptable as set out in this report. Officers consider that the proposed development would help to support existing local shops and services. The quantum of development, its sustainability and its potential cumulative impact with the other recent and proposed developments within the Cleckheaton area were considered as part of the Local Plan site allocation process.

#### Highways and transportation

**Officer response:** Highways Development Management have carried out a thorough technical assessment of the application and have no objection in relation to the matters raised. It is understood that school run parking associated with the nearby Primary School is known to stretch from the school entrance, and past the site of the proposed access. The Highway Safety section therefore recommend that a Traffic Regulation Order be promoted for a stretch of 'No Waiting at Any Time' restrictions on Whitechapel Road to either side of the proposed access. This would be secured under a separate process at the applicant's cost and would be secured by planning condition. Any development proposal would effect the setting of the existing Spenborough Greenway given its location though the centre of the development site. Furthermore, officers acknowledge that any proposal would likely require the diversion of the PRow that crosses the site. In this instance, PRow officers have not raised any objections subject to the necessary conditions and obligations set out in this report.

#### Biodiversity and trees

**Officer response:** These matters are addressed in the report. The necessary survey work have been carried out to understand the ecological implications associated with this development, which are considered acceptable by the Council's Ecologist. Concerns are noted about the loss of trees and habitats associated with this proposal. A detailed landscape plan secured by planning condition would ensure that any proposed tree planting would not conflict with any public sewer. Development Management believe that the necessary planning conditions and obligations would ensure that the development delivered a suitable tree mitigation strategy and an overall biodiversity net gain.

#### Other matters

**Officer response:** Officers acknowledge residents' comments with regards to the amendments and the consultation process.

Spen Valley Civic Society

**Officer response:** These matters are addressed in the report. The Council's Conservation and Design officer who was involved with the Local Plan Inquiry and pre application enquiry discussions raised no objections to the issues raised. Furthermore, the officer is of the opinion that the requirements of the allocation have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church. With regards to securing a measurable biodiversity net gain through planning condition and obligation this approach has been considered acceptable by committee members previously. Furthermore, it must be noted that NPPF paragraph 54 states that: "*Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.*" Thus, this approach is considered acceptable by officers.

Whitechapel Church of England Primary School (Headteacher)

**Officer response:** A planning condition would secure a construction management plan that would ensure that construction workers would not use the school site and that the necessary temporary fencing would be erected at an appropriate stage of the development process to ensure that children did not have access to the site during the construction period. The potential housebuilder has also been in contact with the school to discuss ways of how to inform school children of the dangers of entering a building site, with a likely future school visit. The applicant has confirmed that new boundary fencing would be erected between the site and the school grounds. However, a condition is necessary to secure a suitable fence type that is acceptable to the potential housebuilder, the school and officers.

Ward Councillors (Cllr Andrew Pinnock and Cllr Kath Pinnock)

**Officer response:** Observations, preferences and comments noted. Officers passed on these comments onto the applicant to consider. The applicant has chosen to respond as follows:

*"With regard to the clump of trees located on the western (opposite) side of the M62 to the application site, from a heritage point of view there is no "link" between the trees located within the application site. This is confirmed by the heritage evidence which was submitted as part of the Local Plan process and the heritage work that we have submitted with the planning application. Notwithstanding this position, as requested by members at the January planning committee, the amended scheme seeks to retain additional trees located at the frontage of the application site. The retention of the western clump of trees located at the site's frontage will also provide additional screening/landscaping between the M62 and the proposed new homes, whilst also framing any views towards Whitechapel Church when approaching the site from the west.*

*The retention of the western clump of trees has resulted in a further reduction of homes at the site to 122, which aligns exactly with the indicative site capacity outlined within the Local Plan. You will recall that the proposed number of homes to be delivered at the site has reduced from 170 at the start of the Local Plan process, to 133 at the original point of submission and to 124 homes when the application was heard at the January planning committee. The retention of the eastern clump of trees at the site's frontage would therefore result in a reduction of homes below the indicative capacity stipulated in the Local Plan, as due to other site constraints we would be unable to replace these homes*

*elsewhere within the site. A further reduction of homes at the site would also raise doubts against the overall deliverability of the development and the ability to fully deliver on the substantial planning obligations that the scheme is currently seeking to deliver including 20% affordable homes on-site, education contributions of £480k and £72k towards improvements to existing areas of open space. Furthermore, following feedback from the Council's Tree Officer, we have revised and updated our proposed Tree Mitigation Strategy for the site to improve the quality of replacement trees that we are seeking to deliver. Which will not only result in a robust level of mitigation, but will provide biodiversity benefits by increasing the distribution of tree planting across the whole of the application site.*

*Overall, when everything is considered holistically, we believe that the updated proposals for the site provide an acceptable form of development which fully delivers the requirements of the site allocation, whilst providing substantial socio-economic benefits and fully mitigating the impact of the proposals.*

*With regards to Made Ground, a Phase 1 & Phase 2 site investigation has been submitted with the planning application and these reports are available on the Council's website. The reports identify that Made Ground is encountered on the site at depths between 1.9m to 3.3m within the mound located on the north-western boundary of the site. The Made Ground is identified as having a low level of pollutant risk, with no remediation needed. The borehole logs identify that the ground below the Made Ground is predominantly clay, with some sand in places. However, as can be seen from the submitted Site Sections (enclosed), the Made Ground is due to be removed from site following further isolated testing of it. A new bund/buffer area will be created along the site's western boundary to improve the amenity/outlook of the proposed new homes, whilst also providing robust mitigation in respect of noise and air quality as agreed with the Council's Environmental Health Officers. The new homes will be located over 32m from the edge of the Motorway and will be screened/protected by existing and proposed landscaping and acoustic bund. With regards to groundwater, some of the borehole investigations found groundwater seepage into areas of the site, including from the area of Made Ground, but the reports conclude that due to the impermeable cohesive strata being present across the majority of the site the groundwater conditions are classified as static. This has been taken into account in the proposed drainage strategy of the site which seeks to positively drain future rain/surface water into below ground attenuation storage tanks prior to being released at a controlled/restricted rate to the agreed discharge point. Furthermore, as a further robust measure, a silt water management strategy will be delivered to ensure that during construction groundwater is contained within the development and does not cause any contamination risk to adjacent water courses.*

*Finally, in respect of the PROW, Cllr Pinnock is correct in that the "walked footpath" does not align with the definite PROW. A number of discussions have taken place with the Council's PROW officer in order to provide a comprehensive response to this matter from a theoretical and practical point of view. The latest submitted plans show an annotation (green dashed line) for the agreed diverted route for the PROW and a formalisation of the "walked footpath" through the development. Which links from the existing PROW route to the north of the Church through to the site's northern boundary. We agree that we wouldn't want people to walk across the School fields and thus the diverted route directs people to the north-west corner of the site to connect with*

*the existing “walked route” which takes people to the Spen Valley Greenway. To further encourage the use of this preferred route the development will deliver a “Multi-Modal Link” from the proposed footpath located along the western edge of the development through to the north-west boundary of the site. We will also be providing a contribution of £20k to enable improvements to the area of the footpath located between the site and the Spen Valley Greenway, which could include re-surfacing should the Council wish. The funding will be transferred to the Council via the Section 106 Agreement, meaning that the Council will then have the powers to progress in the manner they wish to.”*

### Planning obligations

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

- 1) Affordable housing – 24 affordable housing units (tenure split to be 20 units would be discount for sale and 4 units would be for social or affordable rent) to be provided in perpetuity. In accordance with Local Plan policy LP11.
- 2) Open space – Off-site contribution of £71,397 to address shortfalls in specific open space typologies. In accordance with Local Plan policy LP63.
- 3) Education – Education – Off-site contribution of £470,709, based on 122 dwellings to be spent on upon priority admission area schools within the geographical vicinity of this site to be determined. Payments would be made in instalments and on a pre-occupation basis, per phase. Instalment schedule to be agreed.
- 4) Junction monitoring – Off-site contribution of £10,500 for 5no. Bluetooth journey time detectors at the Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction. In accordance with Local Plan policies LP4 and LP21.
- 5) Core walking and cycle network improvements – Off-site contribution of £20,000 towards the improvement of a link between the site and the Spen Valley Greenway. In accordance with Local Plan policies LP4, LP20 and LP23.
- 6) Bus stop improvements - £23,000 towards the provision of a bus shelter and real time information to bus stops on Whitechapel Road. In accordance with policies LP4, LP20 and LP21.
- 7) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring and a sustainable travel fund of £62,403. In accordance with Local Plan policies LP4, LP20 and LP21.
- 8) Off-site Biodiversity Net Gain requirements – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain). In accordance with Local Plan policy LP30.
- 9) Multi-modal link route to be delivered between the proposed estate road and the boundary of the application site, adjacent to plots 83-87. In accordance with Local Plan policies LP4, LP20 and LP23.

10) 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 private surface water drainage until formally adopted by the statutory undertaker). In accordance with Local Plan policies LP4, LP27, LP28 and LP63.

10.108 The Community Infrastructure Levy (CIL) is not yet adopted in Kirklees, therefore the council is unable to secure contributions at CIL rates at this stage.

10.109 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers have asked the applicant to agree to provide a training or apprenticeship programme to improve skills and education. 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. For this application, the applicant has confirmed that any developer partner would be expected to maximise opportunities for apprenticeships, the employment of long-term jobseekers, and training. Officers have suggested that an Employment and Skills Agreement be entered into.

#### Other matters

10.1010 A regional high-pressure gas pipeline runs underneath Whitechapel Road, immediately adjacent to the site's southern boundary. The Health and Safety Executive (HSE) does not advise, on safety grounds, against the granting of planning permission in this case. Northern Gas Networks initially objected to the planning application, due to the potential adverse impact on this apparatus. The agent has been in contact with Northern Gas Networks and as a result further clarification and reassurances have been provided regarding the proximity of the houses to the pipeline and proposed use of the proposed development access point. After receipt of this information, Northern Gas Networks are now willing to rely on their statutory powers and so withdraw their objection.

### **11.0 CONCLUSION**

11.1 The application site is allocated for housing development in the Local Plan under site allocation HS97, and the principle of residential development at this site is considered acceptable.

11.2 Officers consider that the applicant has submitted the relevant information as outlined in paragraph 1.5 to address the reasons for deferral at the 27<sup>th</sup> January 2021 strategic planning committee.

11.2 Officers acknowledge consultees preference for biodiversity net gain to be properly demonstrated prior to the determination of the application. It is understood that the applicant is still in the process of updating the Biodiversity Net Gain calculations in association with the latest layout. Officers believe that the necessary planning conditions and obligations can secure a biodiversity net gain. This approach has been considered acceptable by strategic planning committee previously for other major development sites.

- 11.3 Development Management acknowledge concerns raised by consultees regarding an affordable housing tenure mix that is heavily weighted in favour of affordable home ownership and the loss of protected trees. These would attract negative weight in the balance of relevant planning considerations. The proposed development's benefits (including the provision of 122 dwellings of which 24 would be affordable homes, construction-phase employment, planning obligations that would benefit the public as well as residents of the development), however, attract significant positive weight.
- 11.4 The site has a number of constraints in the form of the public rights of way that crosses the site; noise and air quality considerations associated with the neighbouring motorway; the regional high-pressure gas pipeline found at Whitechapel Road; the neighbouring Grade II listed Whitechapel Church; surface and foul water drainage considerations; on-site protected trees and neighbouring mature trees; and ecological considerations. These constraints have been sufficiently addressed by the applicant or can be addressed at conditions stage.
- 11.5 Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.6 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 the signing of the section 106 agreement it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Approval of building and external materials.
4. Full details of hard and soft landscaping including a detailed planting schedule. Proposals should accord with the principles set out in the Ecus Ltd Tree Mitigation Strategy.
5. Full details of boundary treatments within and around the site (including the protection and enhancement of the existing stone wall feature at Whitechapel Road).
6. Measures to prevent and deter crime and anti-social behaviour.
7. Submission of details as to the provision, agreement, implementation and retention of appropriate PRow provision and treatment.
8. Submission of details of the proposed PRow, including cross and long sections, constructional and details for public access.
9. Submission of details regarding the path on site north of the Priory public house, how it meets and works with the estate road layout.
10. Submission of details as to the provision, agreement, implementation and retention of scheme regarding safety of public footpath and users during and after construction.

11. Submission and implementation of an Landscape and Ecological Management Plan (LEMP)
12. Submission of details securing biodiversity enhancement and net gain.
13. Construction Ecological Management Plan (CEMP)
14. Development to be carried out in accordance with the submitted arboricultural method statement.
15. Full details of works within 15 metres of the Highway England boundary, including geotechnical and/or structural submissions of works that impose additional load or influence on the existing banking, gantry or boundary treatment.
16. Construction details of retaining features adjacent to the highway.
17. Construction details of surface water attenuation features within the highway footprint.
18. Submission of further acoustic barrier details as outlined in SLR report.
19. Implementation of the agreed noise mitigation measures detailed in SLR report.
20. Submission of details showing ventilation of habitable rooms if windows need to be kept closed.
21. Accordance with the M62 Separation Distance Buffer Zone, this is to be retained thereafter and no dwelling of any kind is to be sited within the 12.25m air quality buffer zone.
22. Reporting of Unexpected Contamination
23. Verification Report for any imported topsoil
24. Details of the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles
25. Submission of a construction management plan/s to mitigate the impact of construction on highway safety and amenity, with due regard to potential impacts on the M62 J26 and consultation with key neighbour representatives.
26. Submission of internal road details (full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audits)
27. Measures to manage parking to manage parking on Whitechapel Road to either side of the proposed access and all associated works, together with appropriate road safety audits.
28. Submission of a residential full travel plan
29. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
30. Measures to protect the public sewerage infrastructure within the site boundary shall be provided and agreed before implementation
31. Provision of site entrance and visibility splays prior to works commencing.
32. Provision of temporary waste storage and collection during construction.
33. Submission of details showing offsite drainage works.
34. Submission of detailed design and details of the drainage works. Finalised plans for site drainage must not connect into or impact on Strategic Road Network drainage systems;
35. Submission of fully worked up drainage design with long sections.
36. Submission of details to manage any volumes up to 1 in 100 year plus climate change specifically the flooding noted in microdrainage calculations at the head of systems.
37. Submission of details requiring drainage management and maintenance agreement.
38. Submission of temporary drainage works information and management and maintenance during construction phase.



39. The site shall be developed with separate systems of drainage for foul and surface water on and off site.
40. Submission of measures to protect the public sewerage infrastructure that is laid within the site boundary and subsequent implementation of such measures.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93658>

Certificate of Ownership – Certificate A signed.