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

**STRATEGIC PLANNING COMMITTEE**

**Date: 03-Jun-2021**

**Subject: Planning Application 2020/93071 Erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping Lady Ann Road, Soothill, Batley, WF17 0PY**

**APPLICANT**

C Noble, D Noble Ltd

**DATE VALID**

14-Sep-2020

**TARGET DATE**

14-Dec-2020

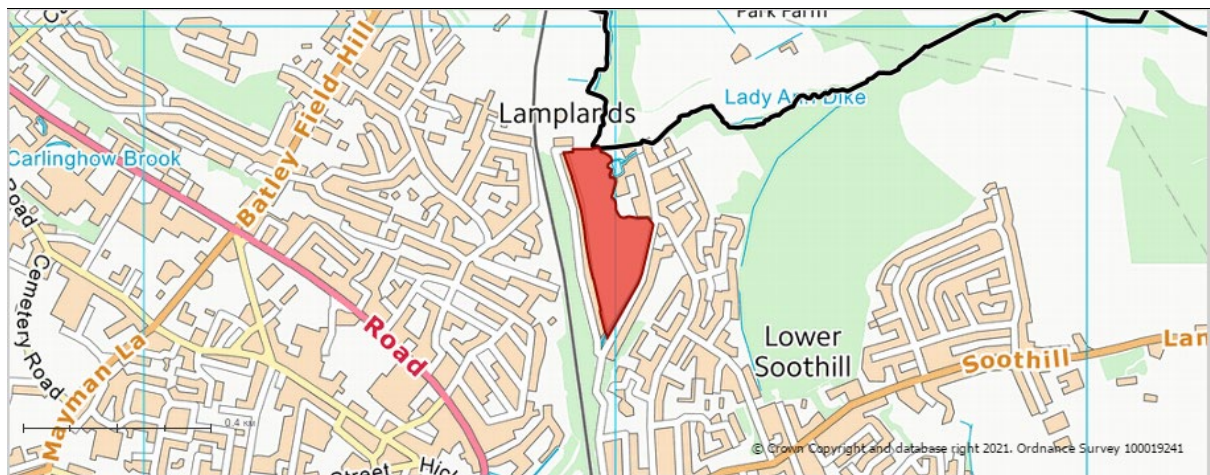
**EXTENSION EXPIRY DATE**

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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: Batley East Ward**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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## **RECOMMENDATION**

Refuse for the following reasons:

1. Insufficient information has been submitted to demonstrate that the proposed development would sufficiently meet known housing need, would provide adequate, usable outdoor space and play space for its residents, and would not sufficiently mitigate its impacts including in relation to education. Insufficient financial viability evidence has been submitted to demonstrate that the proposed development cannot meet or partly meet these requirements, and the proposed development is therefore contrary to Policies LP4, LP11, LP49 and LP63 of the Kirklees Local Plan and guidance within the National Planning Policy Framework.
2. The application has failed to demonstrate that the proposal would not result in a significant loss or harm to local biodiversity or that the proposal would safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network. Furthermore, the application has failed to demonstrate that a correct and measurable net biodiversity gain can be achieved on site (or at a nearby site or via financial contribution). As such, the proposal fails to comply with Policy LP30 (i, ii and iii) of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.
3. The proposed layout would result in a significant impact to and loss of trees of high amenity value within the site, which contribute to the character and setting of the area, and which are subject to a group Tree Preservation Order (TPO – 72/91). The applicant has failed to demonstrate sufficient arboricultural reasoning to justify the loss of the trees or propose an appropriate level of re-planting in mitigation. The application therefore fails to comply with Policies LP24(i) and LP33 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.
4. Insufficient information has been submitted to demonstrate that the proposed development has been directed away from areas of flood risk and would not result in increased flood risk elsewhere, contrary to policy LP27 of the Kirklees Local Plan and paragraph 155 of the National Planning Policy Framework.
5. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highway impacts, nor would the proposed development incorporate or encourage the use of methods of sustainable travel. The proposed development is therefore contrary to Policies LP20, LP21, LP23, LP24 and LP47 of the Kirklees Local Plan and paragraph 109 of the National Planning Policy Framework.

## **1.0 INTRODUCTION**

- 1.1 This application seeks full planning permission for the erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping.
- 1.2 This application is brought to Strategic Planning Committee in accordance with the Delegation Agreement, as the proposal is for more than 60 units.
- 1.3 The proposal is the re-submission of a previously refused application (reference 2019/92462). The previous application included several reasons for refusal, which the applicant has sought to overcome via this subsequent application. Section 4.1 of this report provides details of the previous application.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The site covers an area of approximately 3.5 hectares and is located approximately 3km north of the centre of Dewsbury.
- 2.2 The site is a large plot of undeveloped land situated between Lady Ann Road to the east and Primrose Hill to the west. The topography slopes down from the west to the south/east, with Howley Beck running along the east boundary. The site is host to trees, bushes and other vegetation. This includes a copse of trees located roughly centrally within the site which benefit from a group Tree Preservation Order (TPO).
- 2.3 The site is an irregular shape, with its northern site boundary marked by a 1m high wooden fence and bushes. To the north-east is Howley Street, which leads onto PROW BAT/20/20. The western site boundary is defined by the back gardens and rear fences of the terraced houses on Primrose Hill. Further to the west, beyond Primrose Hill and out of sight (from the application site) lies a railway line. The north-eastern site boundary is marked mainly by dense bushes and trees, which then lead into Lady Ann Business Park. The business park, a historic woollen mill, hosts several buildings including the primary red-brick mill building.
- 2.4 Properties around the site, on both Lady Ann Road and Primrose Hill, are faced in stone with brick as a secondary material. The dwellings date back to the late 19th/early 20th century.

## **3.0 PROPOSAL**

- 3.1 The application seeks full permission for the erection of 71 dwellings. Dwellings would be either detached or semi-detached, provided in 15 house types with the following housing size mixture:
  - 3-bed: 30 (42%)
  - 4-bed: 27 (38%)
  - 5-bed: 10 (14%)
  - 6-bed: 4 (6%)

- 3.2 A single new access would be formed from Lady Ann Road, opposite numbers 114 and 116, to serve the development. It would cross over Howley Beck via a bridge. The access road would branch into three separate shared surface roads, which the proposed dwellings would front onto.
- 3.3 The dwellings would be laid out in three approximately parallel lines arrayed north to south. All dwellings would be split level, having a two-storey and three-storey elevation. Some would have their two storeys to their front, while others would have three storeys to the front, depending on their location within the site. Retaining walls are proposed to the side or rear of most dwellings.
- 3.4 Dwellings are proposed to be faced in artificial stone. Grey concrete roof tiles are proposed, and roofs would be gabled. Many dwellings would have balconies to their front or rear. Each dwelling would have a rear garden, enclosed by a mixture of retaining walls, 1.5m and 1.8m close boarded timber fencing. Some dwellings would benefit from integral garages, while all units would have either two or three off-road parking spaces. There would be 10 dedicated visitor parking spaces around the site.
- 3.5 A wetland habitat, with an area of 6,181sqm, would be located adjacent to the site's north-east boundary. A public amenity area of 3,980sqm and including a play area would be sited to the south-east.

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

##### **4.1 Application Site**

2017/91851: Erection of 84 dwellings – Refused for the following reasons:

1. The proposal would entail residential development on a greenfield site which would significantly overwhelm the character and appearance of part of Lady Ann Road by virtue of the scale, massing and location of the proposed development. The prominent location in this case is emphasised by poor design, inconsistent roof designs and a lack of cohesion between the development and the existing urban grain. The development would represent a stand-alone design of inappropriate scale and appearance that would cause significant harm to the character and appearance of the area whilst failing to enhance the townscape. Accordingly, the proposal constitutes poor design and is considered unacceptable in terms of visual amenity, contrary to paragraph 13 of the National Planning Policy Framework, policies BE1 and BE2 of the Kirklees Unitary Development Plan and Kirklees Publication Draft Policy PLP24.

2. The application potentially impacts on water voles which are a species of Principal Importance. There is insufficient information concerning the existing population of water voles, nor has it been demonstrated that the proposed development would contribute to, and enhance the natural environment having regard to the impact on the known water vole population. The proposal is therefore contrary to UDP policies NE5, BE2 (iv) of the Kirklees Unitary Development Plan and policy PLP30(i) (ii) of the Kirklees Publication Draft Local Plan and paragraph 175(a) of the National Planning Policy Framework.

3. There is insufficient information to demonstrate that the proposed development would direct development away from the areas of flooding, contrary to policy PLP27 of the Kirklees Publication Draft Local Plan and paragraph 155 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highways impacts as required by policy PLP32 of the Kirklees Publication Draft Local Plan and paragraph 109 of the National Planning Policy Framework.

5. There is insufficient information contained with the application to understand the potential impact of the proposed development on heritage assets, namely archaeology, based on the potential for the site to support historical findings, contrary to paragraph 199 of the National Planning Policy Framework.

6. There is no information supporting the application relating to requirements to support local infrastructure. A S106 agreement is required to ensure contributions towards affordable housing, education, Public Open Space and play equipment. The proposed development, therefore, fails to achieve the requirements of policy PLP4 of the Kirklees Publication Draft Local Plan.

7. The application would result in a significant impact on trees within the site which are subject to a Tree Preservation Order (TPO – 72/91). The proposal includes a retaining wall feature which would be positioned in between the protected trees potentially resulting in their loss. In addition, the proximity of proposed dwellings in close proximity of the protected trees would put undue pressure on the trees to be removed in future due to the impact the trees would have on the amenity of future occupiers of the properties. The application conflicts with policy NE9 of the Kirklees Unitary Development Plan and PLP33 of the Kirklees Publication Draft Local Plan

2019/92462: Erection of 71 dwellings with associated works including new access off Lady Ann Road, regrading works and landscaping – Refused for the following reasons:

1. There is insufficient information supporting the application relating to requirements to support local infrastructure. A Section 106 agreement is required to ensure contributions towards affordable housing education and public open space and play equipment. The proposed development therefore fails to achieve the requirements of policies LP4; LP11; LP49 and LP63 of the Kirklees Local Plan.

2. The proposal fails to provide sufficient information to enable a meaningful assessment of the scheme in terms of ecological mitigation, impact on trees and landscape proposals. As such the scheme is contrary to policies LP30; LP32 and LP33 of the Kirklees Local Plan.

3. There is insufficient information to demonstrate that the proposed development would direct development away from areas of flooding, contrary to policy LP27 of the Kirklees Local Plan and paragraph 155 of the National Planning Policy Framework.

4. Insufficient information has been submitted to demonstrate that the proposed development would not result in unacceptable highway impacts contrary to policy LP32 of the Kirklees Local Plan and paragraph 109 of the National Planning Policy Framework.

#### 4.2 Surrounding Area

*Land Off, Soothill Lane, Batley (circa 1km east of the application site)*

2020/94202: Variation of Conditions 1, 9, 19 and 28 of the previous outline permission 2018/94189 (outline application for residential development of up to 366 dwellings with details of access points only) to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specifications – Removal / Variation of Condition(s) Granted.

2021/91731: Reserved Matters application (layout, scale, appearance and landscaping) for the erection of 319 dwellings pursuant to previous permission 2020/94202 (Section 73) for Variation of Conditions 1, 9, 19 and 28 of the previous outline permission 2018/94189 for residential development of up to 366 dwellings with details of access points only to allow for minor changes to the red line boundary plan and minor variations to the approved southern highways access point and approved remediation strategy specification – Pending Consideration.

#### 4.3 Enforcement (application site)

COMP/16/0240: Alleged Unauthorised Development – No evidence of breach.

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

5.1 The applicant submitted the application with the intention of providing additional information to overcome the previous reasons for refusal. The layout and plans remained the same. However, when submitted, no further information on viability, arboricultural reports or highway documents were submitted. Updated ecological and drainage reports were provided.

5.2 Officers emailed the applicant confirming they were unable to support the application following review by consultees of the supporting documents that had been submitted. Through the application process the applicant has submitted some further information. This includes a viability appraisal, which has been reviewed and responded to by an independent viability assessor. The assessor raised concerns which have been sent to the applicant, but not fully responded to at the time of writing. An arboricultural impact assessment was submitted but confirmed no substantive arboricultural grounds for the loss of the protected trees. Further information on drainage / flood risk and ecology has also been submitted, reviewed, and objected to although guidance has been provided. To date no new highway assessment information has been provided.

5.3 The applicant has expressed their desire for the application to be kept live and for discussions to continue. However, given the time lapse since submission (September 2020) and the limited progress made, with none of the previous reasons for refusal overcome, and concerns that the latest submitted arboricultural information will require a notable change to the site's layout, officers consider it appropriate to conclude the application process.

## 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<sup>th</sup> February 2019).

### Kirklees Local Plan (2019) and Supplementary Planning Guidance / Documents

6.2 The application site encompasses land allocated for residential development in the Local Plan (site allocation ref: HS74). The site allocation HS74 refers to an indicative housing capacity of 97 dwellings.

6.3 Site allocation HS74 identifies the following constraints relevant to the site:

- Part of site falls within flood zones 2 and 3
- Surface water issues
- Noise source near site - Lady Anne Industrial Estate, Railway line
- Part of the site contains a Habitat of Principal Importance (Howley Beck a UK BAP priority habitat)
- Site is within the Wildlife Habitat Network
- Protected trees on site

6.4 Site allocation HS74 also lists other site-specific considerations as:

- No residential development to take place in flood zone 3

6.5 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP4** – Providing infrastructure
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP20** – Sustainable travel
- **LP21** – Highways and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP35** – Historic environment
- **LP38** – Minerals safeguarding
- **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

6.6 The following are relevant Supplementary Planning Documents or other guidance documents published by, or with, Kirklees Council.

- Kirklees Local Plan Supplementary Planning Document – Highways Design Guide (2019)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)

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

#### National Planning Guidance

6.8 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF), published 19<sup>th</sup> February 2019, and the Planning Practice Guidance Suite (PPGS), first launched 6<sup>th</sup> March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **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

6.9 Other relevant national guidance and documents:

- MHCLG: National Design Guide (2021)
- DCLG: Technical housing standards – nationally described space standard (2015)

#### Climate change

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



- 6.11 On the 12<sup>th</sup> of November 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 would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE**

### *Public representation*

- 7.1 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site and was advertised in the local press This is in line with the Council's adopted Statement of Community Involvement.
- 7.2 The proposal went through a single period of public representation which ended on the 9<sup>th</sup> of November 2020. 45 representations were received in response. The following is a summary of the comments made:
- Batley is over-populated and local infrastructure cannot support the volume of people, which will be exacerbated. This includes schools, doctors, dentists, public transport, refuse etc. The wider area has already had a large amount of development in recent years.
  - The surrounding roads are not appropriate at present, which the proposal would make worse. Lady Ann Road is often single lane due to residents needing to park on street, while also hosting a bus route which buses and HGVs heading to the mill struggle to navigate. Emergency vehicles already struggle to access properties in the area. Additional traffic movements would worsen this and have a knock-on effect onto surrounding roads. Existing issues over access onto Soothill Lane would be intensified.
  - Traffic calming measures are required.
  - Traffic surveys undertaken will not be valid as they presumably were undertaken during COVID lockdown.
  - Dwellings should not be allowed to be built upon flood zones: the beck often floods the site. Building on a flood zone will increase the risk of flooding for other properties in the area. Allowing this, for the Council to then pay money to help residents, is irresponsible.
  - The site is a BAP priority habitat and water meadow which hosts rare flora and fauna, including endangered pollinators. While it is noted some land would be retained for wildlife, it would not survive the construction period.
  - The proposal would remove numerous trees, including several protected by TPOs which are stated to have been planted as a World War One memorial.
  - The open nature of the site is attractive and beneficial to residents' physical and mental health. The development would take this away,

and disproportionately affect local residents in an area stated to be 'under privileged'.

- The proposed development would harm the amenity of neighbouring residents, through noise pollution, overbearing, overshadowing and overlooking.
- General disruption during construction, such as noise and dust. This will affect shift workers. Construction vehicles would harm local safety.
- The design of the dwellings, including 3-storey elevations and being built upon a hillside, is not in keeping with the character of the area.
- The development would reduce local property values and harm resident's views.
- Development adjacent to properties on Primrose Hill will risk damaging their foundations.
- The proposed development would lead to an increase in air pollution.
- More homes for the elderly should be constructed, which in turn would release housing stock for younger people and addresses identified needs.
- A public footpath crosses the site, connecting Lady Ann Road to Howley Street, would be lost. More residents would also put greater pressure on other nearby PROWs.
- The proposal will increase use of local pedestrian tunnels, which are sources of anti-social behaviour.

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

7.4 Ward members (Batley East Ward) were also consulted on the application. Cllr Zaman expressed concerns, specifically relating to the traffic report.

## 8.0 CONSULTATION RESPONSES

### 8.1 Statutory

**K.C. Highways Development Management:** Object, as the submitted information is inadequate to allow for a full and detailed assessment of the proposal's impact upon the wider highway network. Also, the internal layout has issues which have not been addressed.

**K.C. Lead Local Flood Authority:** Object on the grounds of flood risk, as no sequential test for flood risk has been undertaken, and object to the submitted drainage strategy as being unacceptable.

**Network Rail:** No objection. They have asked whether level crossing safety leaflets could be given to new residents. This can be noted to the applicant to arrange, or an informative if committee is minded to approve.

**The Environment Agency:** Object to the proposal on the grounds of flood risk.

### 8.2 Non-statutory

**K.C. Crime Prevention:** Provided advice and feedback on the design, for the applicant to consider and incorporate where able.

**K.C. Ecology:** Object as the submitted information is lacking in various regards. This includes post development enchantments for local species, the time period for the Biodiversity Management Plan is too short and the Biodiversity Metric calculations are considered inaccurate.

**K.C. Education:** The proposal for 71 dwellings necessitates an education contribution of £138,266.

**K.C. Environmental Health:** No objection subject to conditions.

**K.C. Landscape:** Object over the lack of appropriate landscaping details, including specifics of the proposed Public Open Space, and the extent of tree loss. Confirmed that the proposed Public Open Space is insufficient. It overprovides on certain typologies, while excluding others. Therefore, an off-site Public Open Space contribution of £42,980 is required.

**K.C. Public Right of Way:** Object as the proposal fails to take opportunities to link to the PROW network, specifically BAT/20/20 to the site's north, to the disbenefit of connectivity and walking.

**K.C. Public Health:** No objection.

**K.C. Strategic Housing:** Based on a 71-unit scheme, a policy compliant affordable housing offer would be 8 social or affordable rented dwellings and 6 intermediate dwellings.

**K.C. Highways Waste:** Noted that waste storage and waste collection arrangements are not shown on plan. Furthermore, queried how the development will be phased and how refuse services could serve new occupiers while development is ongoing.

**K.C. Trees:** Object on the unjustified loss of numerous trees, several of which fall within a group TPO, with inadequate mitigation.

**Leeds City Council:** No comments received.

**West Yorkshire Architectural Service:** No objection subject to condition.

**Yorkshire Water:** No objection subject to conditions.

**Yorkshire Wildlife Trust:** Object on similar grounds to K.C. Ecology.

## 9.0 MAIN ISSUES

- Principle of development
- Sustainable development and climate change
- Viability and planning obligations
- Urban design
- Residential amenity
- Highways
- Flood risk and drainage
- Other matters
- Representations

## 10.0 APPRAISAL

### Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.
- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.3 The site falls within part of a housing allocation, reference HS74, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site in accordance with LP65. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.4 Local Plan policy LP7 requires development to achieve a net density of at least 35 dwellings per hectare (dph), where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan, site HS74 is expected to deliver 97 dwellings, with the application proposing 71. It should also be noted that the application's red-line boundary exceeds that of site HS74 to the south by a minor amount, theoretically increasing the required quantum.
- 10.5 Proposing 71 dwellings on the application site's identified net developable area (2.78ha), the proposal has a density of 25.5dph. However, officers consider the site to have constraints which make seeking the minimum target density of 35dph to be inappropriate. During preparation of the Local Plan, all land within flood zone 3 was removed from the net developable area. Even pre-excluding this land, there are constraints and restrictions on the site, and constraints that allow for sizable portions of the site to be considered undevelopable. This includes the topography and the design of dwellings

needed to address it, and distances from Lady Ann Business Park. Considering these factors cumulatively, on balance officers accept the proposed density to be appropriate for the site and its specific constraints.

10.6 Looking beyond density, policy LP11 of the Local Plan requires consideration of housing mixture. Policy LP11 requires a proposal's housing mix to reflect the proportions of households that require housing, achieving a mix of house sizes (2, 3, 4+ bed) and typologies (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the Kirklees Strategic Housing Market Assessment (SHMA). The proposal seeks detached and semi-detached houses, with the following sizes proposed:

- 3-bed: 30 (42%)
- 4-bed: 27 (38%)
- 5-bed: 10 (14%)
- 6-bed: 4 (6%)

The lack of 2-bed units and terraced units is noted. However, given the abundance of terraced units in the area, there is not considered to be a specific need for such units within the scheme. Officers consider the proposed housing mixture appropriate for the area.

10.7 The site is a housing allocation in the Local Plan, with the proposal considered to represent an effective and efficient use of the allocated site, in accordance with relevant planning policy. The proposal would aid in the delivery of housing to meet the Council's targets, and the principle of development is therefore found to be acceptable. Consideration must then be given to the proposal's local impacts, considered below.

#### Sustainable development and climate change

10.8 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions

10.9 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. At least some, if not all, of the daily, economic, 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.

10.10 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). 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 need to account for climate change

## Viability and planning obligations

- 10.11 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development.
- 10.12 Based on the information provided to date, the proposed development would be expected to provide the following contributions:
- Affordable housing: 14 units, in accordance with Local Plan policy LP11 and the Interim Affordable Housing Policy
  - Education: £138,266
  - Public open space (off-site contribution): £42,980
- 10.13 Other contributions may also be necessary to ensure the development is acceptable (in accordance with the above three tests). However insufficient evidence has been provided to enable an assessment on these matters. These include highway contributions (i.e., travel plan / local improvements) and ecological contributions (to secure a 10% net gain). This lack of information is considered in detail elsewhere within this report.
- 10.14 The applicant has submitted a viability appraisal which concludes that the development is not capable of providing any affordable housing or other Section 106 financial contributions. This has been independently assessed at the expense of the applicant. Due to the applicant's submission lacking robust evidence, the Council's independent assessor disagrees with the applicant's conclusion.
- 10.15 The disagreement principally revolves around the sales value of the proposed units. In their appraisal, the applicant has adopted the following average market values:
- 3 to 6 bed 3 storey semi £175 per sq ft
  - 4 to 5 bed 3 storey detached £180 per sq ft

The onus is on the applicant to robustly evidence these figures as being reasonable. The evidence provided to support these numbers is limited, predominantly based on inappropriate comparisons and 'second hand' evidence, with there being insufficient direct evidence (i.e., comparable 3-storey new buildings in the area). As such, the applicant's evidence to support these figures is concluded to be inadequate and cannot be accepted.

- 10.16 Given this uncertainty, it is conceivable that reasonably comparable values could differ from the figures put forward by the applicant in their appraisal. In the event that values were to be higher than currently envisaged, this would have a direct impact on the viability outcome of the scheme and could allow for a policy compliant contribution. As an example, the independent assessor has calculated that, at a 15% developer profit, an upwards sales value fluctuation of only 5.2% (to £184 per sqft for the semi-detached dwellings and £189 per sq ft for the detached) would enable the provision of 14 onsite affordable dwellings (19.72%), plus Section 106 contributions totalling £196,246. A developer profit of 17.5% would require an uplift of 8.6% to provide the same contributions.

- 10.17 The applicant has disputed this, citing the lack of directly comparable developments in the area which make it difficult to collect direct evidence. While it is accepted that there is difficulty regarding this matter due to the nature of the proposal (3-storey units), other options have not been adequately considered, such as the use of general market data. Furthermore, it is reiterated that it is the applicant's responsibility to secure robust evidence. On a more general point, having regard to paragraph 57 of the NPPF, it is also noted that it is up to the Council to judge what weight can be attributed to the applicant's viability evidence.
- 10.18 The identified contributions (and those potentially required, but not identified due to a lack of supporting information) are necessary to mitigate impacts and make the development acceptable in planning terms. In the absence of an accepted viability report, the application has failed to demonstrate that the proposal would be unviable, nor has it been demonstrated that the required planning obligations cannot be provided. Accordingly, in the absence of a Section 106 agreement to secure these contributions, the proposal is considered contrary to the Council's policies and guidance on affordable housing (LP11 and the Kirklees Interim Affordable Housing Policy), education (Providing for education needs generated by new housing) and Public Open Space (LP63), as well as being contrary to the guidance within the National Planning Policy Framework.

#### Urban Design

- 10.19 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'.
- 10.20 The application site is steeply sloping land which faces onto Lady Ann Road. The steep slope exacerbates the prominence of the site, and consequently the impact the new residential development would have on the character of the area. As a housing allocation, it is accepted that the development of the site would lead to a notable change in the character of both the site and wider area. However, a carefully considered development is required that respects the topography, slope, and character of the area, without overly dominating the hill.
- 10.21 The proposal includes large detached and semi-detached 2 / 3 storey split-level dwellings. At present, dwellings in the area are predominantly higher density and smaller in scale, while being two storeys. Views of the site would be predominantly from Lady Ann Road. The rows of terraced dwellings on Primrose Hill effectively prevent it being viewed from the west.
- 10.22 The low density proposed is considered appropriate and would help to achieve an appropriate layout which would blend into the established urban environment, while the separation provided by the open land to the east would keep the site visually separate and distinct from properties on Lady Ann Road. This distinction would allow the development to have a more individual identity, comparative to if the layout was more closely associated with properties on Lady Ann Road. Furthermore, this low density and generous open space to

the east would assist in the development retaining a sense of openness that is a characteristic of the site as existing. The dwellings on the highest points to the north, being at a lower level than those dwellings on Primrose Hill, would be well sited, creating more space between the properties, to break up the mass of the housing at the top part of the hillside.

10.23 The scale and massing proposed, while noted to be larger than other dwellings in the area, is a reasonable response to the constraints of the site. Considering this, and the distinctiveness allowed by the layout, officers do not raise concerns over the size of the units proposed. Architecturally the dwellings are attractive in isolation. In regard to fitting into the area, while not replicating the more traditional vernacular form of neighbouring properties, again the detached nature of the site allows for a difference in design without causing the dwellings to appear incongruous. This also applies to the materials, which would be artificial stone and tile roofing. Properties on Lady Ann Road are predominately of natural stone, as are the rear elevations of most properties on Primrose Hill. The use of the proposed materials is not opposed on the site, however a condition could have been applied to require samples, to ensure suitable end products are used.

10.24 Notwithstanding the above, concerns are held over the proposed landscaping and impact upon trees on site, and the impact this would have upon visual amenity and the character of the area. Local Plan policy LP24 requires that '*Proposals should promote good design by ensuring: - i) the retention of valuable or important trees*'. This is elaborated upon by policy LP33, which states:

*"The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity value.*

*Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the wildlife Habitat Network and green Infrastructure networks.*

*Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction*

10.25 The proposal requires the removal of 40 trees and five tree groups to facilitate development. This includes the removal of seven trees protected by a group Tree Preservation Order. The protected trees are considered to be an important feature of the site, having considerable amenity value. They are a distinctive feature which contributes and enhances the character of the site and wider area. For the other trees not specifically protected by a TPO, they are predominantly in states which do not require felling on arboricultural grounds and likewise contribute to the character of the area.

10.26 The applicant has offered no reasoning for the felling of these trees, other than to facilitate the proposed development, which is not accepted. No evidence has been provided to demonstrate any consideration has been given to retaining the trees through incorporating them into the site's layout or design. While replacement landscaping, including tree planting, is proposed, it is considered inadequate to offset the substantial harm caused on the planning balance.



- 10.27 K.C. Trees and K.C. Landscaping object to the proposal. Planning officers share their concerns and conclude that the proposal fails to comply with the aims of policies LP24(i) and LP33 of the Kirklees Local Plan.

#### Residential Amenity

- 10.28 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.29 To the east are dwellings on Lady Ann Road, all of which have their front elevations facing the site and are predominantly at a lower level than the proposed dwellings. To the east are dwellings on Primrose Hill, with their rear elevations facing the site. The dwellings on Primrose Hill are predominately on a higher level than the site. There is also a terrace row due north of the site, on Howley Street.
- 10.30 The proposal sets the dwellings back a considerable distance from Lady Ann Road, with open space areas proposed between the new dwellings and the road. The minimum dwelling-to-dwelling separation distance would be 47m. While the level differences are noted, this distance is considered sufficient to prevent harmful impacts upon the amenity of residents on Lady Ann Road.
- 10.31 The dwellings on Primrose Hill would back onto units 1 – 35, with a minimum separation distance of circa 20.5m. Considering the new dwellings are to be set on a lower ground level and will present only two storeys to the properties on Primrose Hill while also being sited due east, this separation distance is not considered detrimental to the amenity of future residents. 18 Howley Street will face the side elevation of plot 35 at a distance of 16.5m. This distance is considered sufficient to prevent overbearing or overshadowing concerns. The side elevation hosts a single window serving a non-habitable room. This can be obscure glazed via condition, which would prevent concerns of overlooking.
- 10.32 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.33 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units.
- 10.34 The sizes (in sqm) of the proposed residential units are 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. 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.

House Type	Number of units	Proposed (GIA, m <sup>2</sup> )*	NDSS (GIA, m <sup>2</sup> )
A (3-bed)	6	109	90
B1 (3-bed)	4	110	90
B2 (3-bed)	4	114	90
B3 (4-bed)	4	135	103
C (4-bed)	2	140	103
C1 (4-bed)	5	140	103
D (4-bed)	2	174	103
E1 (6-bed)	4	173	129
F (4-bed)	6	135	103
F1 (4-bed)	8	135	103
G1 (5-bed)	6	157	116
R (3-bed)	10	101	90
S (5-bed)	4	159	116
W (3-bed)	2	98	90
X (3-bed)	4	98	90

\* These figures exclude garages, where proposed.

- 10.35 All units exceed the relevant NDSS recommended minimums. Garden sizes are considered commensurate to the scale of their host dwellings. All of the proposed houses would also benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light. This is taking into consideration the separation distance between units within the site, with separation distances being adequate in each case.
- 10.36 Public Open Space would be provided on site and would contribute to the amenity of future and neighbouring residents. This proposed space includes circa 3,980sqm of accessible amenity grassland, to include a play area and 6,181sqm of natural / semi-natural land. While this provision is noted, public open space is divided into five typologies; the proposal overprovides on amenity grassland and natural / semi-natural, however none of the other typologies are proposed on site: therefore, an off-site contribution of £42,980 to cover the typologies not provided on site, to be spent improving open space in the area, remains necessary.
- 10.37 Parts of the proposed development are located in close proximity to the Lady Ann Business Park. The applicant has provided a noise report, which has been reviewed by K.C. Environmental Health. The report demonstrates that adequate noise mitigation may be accommodated on site. K.C. Environmental Health are satisfied with the submitted report and support its findings, subject to conditions, including ensuring appropriate ventilation is provided.
- 10.38 To summarise, the proposed development is not considered detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with policies LP24 and LP52 of the Kirklees Local Plan.

## Highways

- 10.39 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 would 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.
- 10.40 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.41 Considering traffic generation, using TRICS data the submitted Transport Assessment concludes that the proposal would generate 40 vehicle movements in the am peak and 44 in the pm peak (morning peak 0800-0900 hours and evening peak 1700-1800 hours). The report adds that the site is considered to be a sustainable location, with strong public transport links and being in close proximity to Batley centre. Therefore, the applicant anticipates the trip figures would be lower in practice. The Transport Assessment demonstrates this through bus information and public transport mapping.
- 10.42 While traffic generation is provided, there is limited information provided on the assignment and distribution of traffic associated with the development. In addition, there is no reference to other committed developments in the vicinity of the site. The Council's Highway Safety section have raised concerns regarding congestion at the signalised junction of Rouse Mill Lane / Bradford Road and regarding visibility at the junction of Lady Ann Road / Soothill Lane due the presence of parked cars. To enable an informed assessment of the impact of this development on this, HDM officers have requested updated reports detailing the assignment and distribution of the site traffic, along with any other committed developments in the vicinity, to be provided. This has not been received. Because of this, officers are unable to determine the impact upon said junction, and whether it is capable of accommodating the proposal's traffic, or whether financial contributions for enhancements may be required.
- 10.43 Regarding sustainable travel, the site's sustainable location is noted. However, no framework travel plan has been provided, whereas a travel plan would be expected for a development of this scale. The travel plan should detail how residents will be encouraged to travel by sustainable methods, including walking, cycling, and public transport.
- 10.44 PROW BAT/20/20 runs along the site's north boundary, adjacent to plots 35 and 36. No connection to the PROW is proposed – instead, it would be separated from the site by a high timber fence. The land next to this boundary would be a private drive and therefore private land, which would act as a further barrier to connecting to the PROW. This represents a missed

opportunity to improve pedestrian connectivity through the site, and does not support sustainable travel principles. Representations have made reference to a PROW across the site, which connects to BAT/20/20. While a desire line is visible on aerial photos and was observed during the case officer's site visit, there is no recorded PROW across the site. Nonetheless, if a connection to BAT/20/20 was provided, connectivity would be retained.

- 10.45 Near to the site, PROW BAT/20/20 passes an identified 'core walk / cycle proposed route' in the Local Plan, which are considered under policy LP23. The policy justification for LP23 states:

*All proposals will be expected to have regard to the core walking and cycling network and demonstrate how their development will provide connecting links to the network where appropriate. On larger sites, developers will be expected to contribute to the enhancement of existing sections of the core network or contribute to the establishment of new sections of the route where the site would benefit from improved links to existing settlements and transport hubs. These can be delivered through scheme design, planning conditions and the use of planning obligations.*

Based on the submitted information, there is inadequate information to determine whether the application could or should include connections and/or enhancements to this proposed route identified by LP23. Without a travel plan, through failing to connect into the existing and proposed Public Right of Way network and failing to assess the possibility of connecting to the proposed walking / cycle network, the proposal is not considered to comply with policies LP20, LP24dii and LP47e of the Local Plan, nor the guidance within the Highway Design Guide SPD.

- 10.46 Regarding the development's internal road, a new access would be formed from Lady Ann Road. Access visibility splays have not been shown on plan, and the site is adjacent to a bend in the road. This is a cause for concern, particularly given the restrictive nature of Lady Ann Road and the possible requirement for waiting restrictions. The access would be a bridge over Howley Beck, connecting into a retained side of the highway, therefore, had the application been recommended for approval, a condition requiring structural details, to demonstrate the new access would not prejudice the safety of the highway, would be needed.
- 10.47 Assessing the internal road, no Stage 1 Safety Audit has been provided and inadequate information has been provided to demonstrate that the road could be built to adoptable standards. Concerns have been raised by K.C. Highways Development Management and K.C. Waste Services over the site's capability to host service vehicles (i.e., areas to turn and delivery refuse services). Suitable turning for private drives has not been demonstrated.
- 10.48 The applicant has failed to demonstrate that the proposed development would not cause a severe impact upon the local highway network or that appropriate methods to support and encourage the use of sustainable travel would be incorporated into the proposal. Furthermore, the layout of the development's access and road has not been demonstrated to be acceptable. Accordingly, the proposed development is considered to be in breach of policies LP20 and LP21 of the Kirklees Local Plan.

## Flood Risk and drainage

- 10.49 The NPPF sets out the responsibilities of Local Planning Authorities determining planning applications, including securing appropriate drainage, flood risk assessments taking climate change into account, and the application of the sequential approach. Policies LP27 and LP28 of the Local Plan detail considerations for flood risk and drainage respectively.
- 10.50 First considering flood risk, the application is supported by a Flood Risk Assessment. This has been reviewed by the Lead Local Flood Authority (LLFA) and the Environment Agency (EA). Each of these consultees object to the proposal.
- 10.51 A Sequential Test is not required for this application on the grounds that the site was allocated for housing through the Local Plan process, for which a strategic flood risk assessment was undertaken (Technical Paper: Flood Risk – November 2016). This technical appraisal comprised a consideration of the site's potential flood risk issues. Through this process, the developable area of HS74 was reduced to exclude all of flood zone 3 and the site box for the allocation stipulates that no residential development should take place in flood zone 3.
- 10.52 Notwithstanding the above, the applicant proposes to site plots 36 - 51 and 70 - 71 within flood zone 3. The applicant has offered no justification for the siting of development within flood zone 3 although they have challenged the accuracy of the EA's flood zones. This, however, should be done via a separate formal process. Until such a time, the assessment must be made on the formally published flood zones. A Flood Risk Assessment could include measures in an attempt to overcome this concern, however the Environment Agency have concluded that this has not been achieved.
- 10.53 The EA have raised concerns that the proposal would lead to flooding elsewhere due to the loss of flood storage and that inadequate assessments have been made over impacts of climate change. Other concerns relating to a spring on site have also not been addressed.
- 10.54 Regarding surface water drainage, a drainage feasibility layout has been provided. Surface water would be discharged into Howley Beck, which is considered acceptable. The drainage strategy is considered acceptable in principle, although minor amendments are needed - these may be secured via condition. A Section 106 would be required to secure the short / medium term management and maintenance of the drainage infrastructure prior to adoption by Yorkshire Water.
- 10.55 The proposal is considered to comply with LP28 (drainage). However, the proposal is contrary to the allocation and in breach of LP65. In addition to being contrary to the allocation, the applicant has failed to demonstrate that the proposed development is acceptable within flood zone 3 and therefore is in breach of policy LP27 (flood risk) of the Local Plan.

## Other Matters

### *Air quality*

- 10.56 The development is not in a location, nor of a large enough scale, to require an Air Quality Impact Assessment.
- 10.57 Notwithstanding the above, in accordance with government guidance on air quality mitigation (outlined within the NPPG and Chapter 15 of the NPPF), and local policy contained within LP24(d) and LP51 of the Local Plan and the West Yorkshire Low Emission Strategy Planning Guidance, the Council seeks to mitigate air quality harm. Given the scale and nature of the development the Council seeks the provision of electric vehicle charging points, one per dwelling, on new development that includes car parking. The purpose of this is to promote modes of transport with low impacts on air quality.
- 10.58 Subject to a condition requiring this provision (which would have been applied, had approval of permission been recommended), the proposal is considered to comply with LP24(d) and LP51 of the Local Plan.

### *Archaeology*

- 10.59 The site lies in an area dominated by 19th century industrial remains including mills, workers' housing, railways and collieries. It also faces south-east with Howley Beck passing along its eastern boundary, features which would have made the site an attractive location for early communities to settle. Furthermore, there are known records of archaeological importance to the north east of the site. Therefore, the proposed development could affect archaeological remains from the Prehistoric period to the English Civil War. This concern not being adequately addressed led to it being a reason for refusal on previous application 2017/91851.
- 10.60 Since that application, the applicant has worked with West Yorkshire Archaeology Advisory Service (WYAAS) and undertaken appropriate investigations. The investigations concluded that the site has a low potential for archaeological remains, which is accepted by WYAAS. Nonetheless, WYAAS have requested that a condition for further investigations and archaeological recording be undertaken, to ensure this issue is adequately addressed, should permission be granted. In accordance with policy LP35 of the Kirklees Local Plan, officers consider such a request to be acceptable.

### *Contamination*

- 10.61 The application is supported by a phase 1 and phase 2 Geoenvironmental Risk Assessment. The reports identified some sources of contamination which require remediation, although nothing prohibitive to development. K.C. Environmental Health support the methodology and findings of the report. Subject to conditions for a remediation strategy and validation, officers are satisfied that the proposal complies with policy LP53 of the KLP.

### *Crime Mitigation*

- 10.62 The Designing Out Crime Officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with Local Plan policy LP24(e).

### *Ecology*

- 10.63 Development has the potential to cause harm to ecology within any site and in the wider area. Policy LP30 of the Local Plan outlines how the Council will seek to protect and enhance the biodiversity of Kirklees. Through LP30, development proposals are expected to:

- (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement;*
- (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist;*
- (iii) safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network at a local and wider landscape-scale unless the loss of the site and its functional role within the network can be fully maintained or compensated for in the long term;*
- (iv) establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist; and*
- (v) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.*

- 10.64 The site falls within the Local Plan's identified Habitat Network, bats are known to be present locally, and the site has the potential to host water voles. The application is supported by an Ecological Impact Assessment, which has been reviewed by K.C. Ecology and the Yorkshire Wildlife Trust. The Ecological Impact Assessment identifies that the proposal would require both mitigation and compensatory measures to offset the proposal's loss / harm to local biodiversity. Net gain calculations, alongside a Biodiversity Management Plan, have been submitted to attempt to outline how this would be achieved.

- 10.65 Particular concern has been raised via public representation regarding water voles on the site. Based on the survey work undertaken and submitted reports, officers are satisfied that the mitigation proposed would ensure significant harm does not take place to protected species. However, it is accepted that the site provides highly suitable habitat for water vole. Therefore, it is an ecological objective to enhance the site's value to water voles, with the proposal representing an opportunity to achieve this. A specific water vole enhancement plan has been provided.

- 10.66 The Biodiversity Metric Calculations provided by the applicant illustrate a -17.98% net loss in biodiversity from the site, whereas the development is expected to achieve +10% net gain in accordance with Local Plan policy LP30(ii). As the site is part of the Wildlife Habitat Network, this net loss of ecological value would also harm its functional role within the network, in breach of policy LP30(iii). Both K.C. Ecology and the Yorkshire Wildlife Trust have disputed how the figure of -17.98% has been calculated, requesting clarification / amendments which have not been received at the time of writing and is therefore not currently accepted. Should this figure be confirmed, then officers could calculate and consider an off-site contribution to ecological enhancements as being acceptable, to bring the proposal to 10% gain.
- 10.67 On the matter of mitigation and compensation, recommendations from K.C. Ecology and Yorkshire Wildlife Trust for further enhancements have not been incorporated. These included methods to make the site more attractive to water voles and additional bat / bird roosts. Finally, the submitted Biodiversity Management Plan proposes monitoring for only five years post development, whereas a minimum of 30 years is sought. Regarding the construction works, a condition securing a Construction Environmental Method Statement could have been applied (had approval been recommended) to ensure appropriate practises are undertaken during construction.
- 10.68 Based on the details as provided, the proposal is considered to not accord with policy LP30 of the Kirklees Local Plan.

#### *Minerals*

- 10.69 Mineral resources are finite and their extraction can only take place where the minerals naturally occur. The application site falls within an area designed as a Mineral Safeguarded Area (Sandstone and/or Clay and Shale, with a small area of Sand and Gravel with Sandstone and SCR) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. Policy LP38 seeks to ensure the appropriate management of minerals and consider whether they may be extracted during development.
- 10.70 The applicant has made no commentary or assessment on this subject. However, officers note that policy LP38's requirement does not apply on site's 'there is an overriding need for the development'. As a housing allocation, this is considered to be the case for the site. Furthermore, it is not considered practical for this site to include mineral extraction, given the proximity of residential properties (with the site's narrow shape and steepness limiting the feasibility of appropriate separation distances and bunds) and concerns over access of HGV's to transport said material. Accordingly, it is considered that the proposal complies with the aims and objectives of policy LP38 regarding mineral safeguarding issues.

#### Representations

- 10.71 Forty-five representations have been received to date. Most matters raised have been addressed within this report. The following are matters not previously directly addressed.



- Batley is over-populated and local infrastructure cannot support the volume of people, which will be exacerbated. This includes schools, doctors, dentists, public transport, refuse etc. The wider area has already had a large amount of development in recent years.

**Response:** There is no policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that educational and health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan evidence base, a study into infrastructure was undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population.

With regard to schools, K.C. Education have identified a necessary contribution of £138,266, with the applicant failing to demonstrate the proposal is unviable to fund this. Regarding refuse and public transport, this would be offset by increased Council tax and the use of public transport by new residents respectively.

- The site is a BAP priority habitat and water meadow which hosts rare flora and fauna, including endangered pollinators. While it is noted some land would be retained for wildlife, it would not survive the construction period.

**Response:** The BAP priority habitat, or habitat of principle importance, relates to the marshy grassland land around the beck. This area of land is to be retained and managed as part of the proposal. However, as outlined in the report, there are outstanding issues as to how this would be achieved. On the matter of the construction period, a Construction Environmental Method Statement may be secured via condition.

- The open nature of the site is attractive and beneficial to residents' physical and mental health. The development would take this away, and disproportionately affect local residents in an area stated to be 'under privileged'.

**Response:** While the open and natural nature of the site would be reduced, the proposed development would retain areas of open space accessible for all residents within the area. Furthermore, a planning contribution would be sought for the improvement of local open space facilities, with the applicant failing to demonstrate the proposal is unviable to fund this.

- The development would reduce local property values and harm resident's views.
- Development adjacent to properties on Primrose Hill will risk damaging their foundations.

**Response:** These comments do not form material planning considerations. Regarding foundations, it is the applicant's responsibility to ensure their development does not damage third party land / structures.

- More homes for the elderly should be constructed, which in turn would release housing stock for younger people and addresses identified needs.

**Response:** Planning applications must be assessed in accordance with local and national policy. There are currently no policy requirements for the delivery of homes for older people applicable to this site.

- The proposal will increase use of local pedestrian tunnels, which are sources of anti-social behaviour.

**Response:** This is noted; however, this is an existing issue that the proposal is not anticipated to exacerbate. This is considered to be a matter for the Police and/or British Transport Police (as railway infrastructure).

## **11.0 CONCLUSION**

11.1 The NPPF has 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.

11.2 The site is a housing allocation within the Local Plan, with the proposal representing an appropriate quantum and mixture of development. However, insufficient information has been submitted regarding flood risk, ecology and highways, with objections also raised over the proposed loss of protected trees. The need to provide planning contributions has been identified, however the applicant considers the scheme to be unviable and unable to provide said contributions. The viability assessment submitted by the applicant is not accepted.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would not constitute sustainable development and is therefore recommended for refusal.

## **Background Papers**

### Application and history files

Available at: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020/93071>

### Certificate of Ownership

Certificate B signed.