
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 01-Jul-2021

Subject: Planning Application 2019/90902 Outline application for the demolition of 1no. dwelling and erection of 98no. dwellings with consideration for access landscaping and layout rear of, 271, Cliffe Lane, Gomersal, Cleckheaton, BD19 4SB

APPLICANT

Richard Morton, KCS
Development Ltd

DATE VALID

19-Mar-2019

TARGET DATE

18-Jun-2019

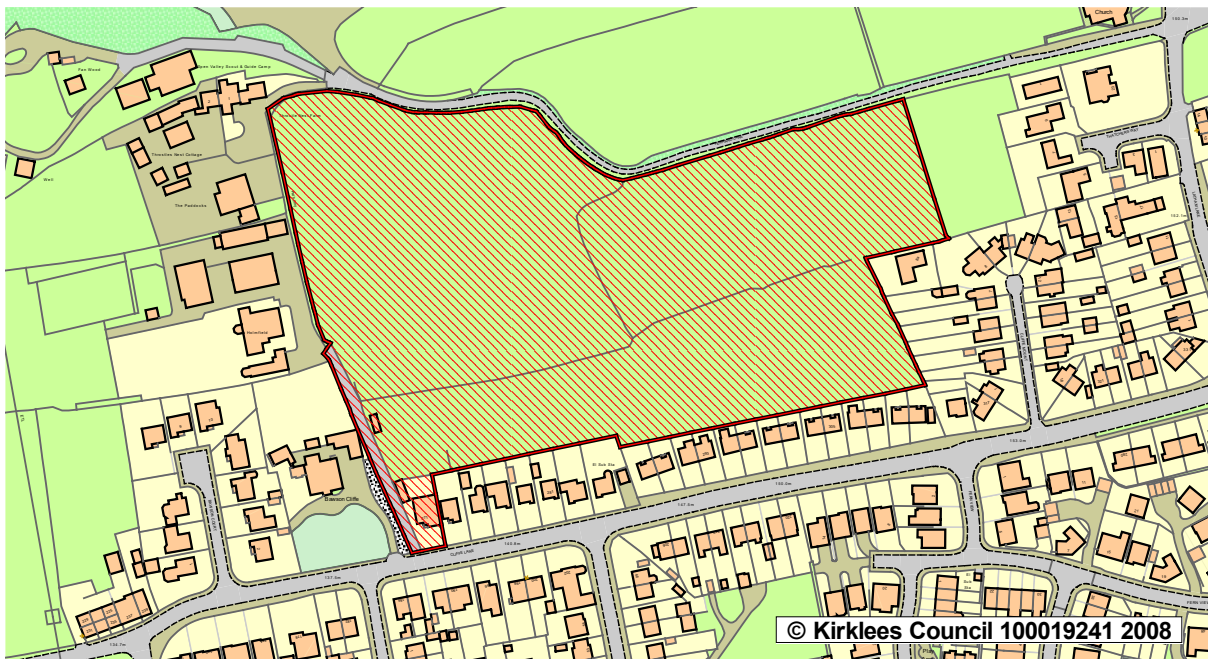
EXTENSION EXPIRY DATE

29-Jan-2021

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Liversidge & Gomersal

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Refuse planning permission for the following reason:

1. In the absence of a completed Section 106 agreement the development fails to provide for affordable housing, education, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance. Without such contributions, the proposal would fail to accord with Policies LP4, LP11, LP20, LP21, LP27, LP28, LP32 and LP63 of the Kirklees Local Plan as well as Chapters 4, 5, 9, 14 and 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.1 This is an application for outline planning permission, with all matters reserved (other than access, landscaping and layout), for residential development.
- 1.2 The application is presented to the Strategic Planning Committee as the proposed development is likely to involve more than 60 residential units. This is in accordance with the Council's Scheme of Delegation.
- 1.3 The application was presented to the Strategic Planning Committee on 19th December 2019 to delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. Secure the signing of a section 106 Agreement to secure the provision of: Public open space provisions including off site commuted sum (£117,596.00) and future maintenance and management responsibilities of open space within the site.

*Implementation and maintenance of offsite drainage works.
Maintenance and management responsibilities of drainage (including pumping station) within the site, until adoption.*

Contribution towards the provision of bus shelters at bus stops 23726 and 15480 (£26,000), a residential travel plan fund (£49,049.00) and Travel Plan Monitoring Fee, consisting of five payments of £2,000 (£10,000.00).

20% (i.e. 20 dwellings) of total number of dwellings (i.e. 98 dwellings) to be affordable, with a tenure split of 50% (i.e. 10 dwellings) "affordable rented" and 50% (i.e. 10 dwellings) to be "intermediate dwellings."

£262,948 towards Education requirements arising from the development, including:

Primary Provision – Gomersal Primary (£26,946) and Gomersal St Mary's (£62,247) = £89,193

Secondary Provision – Whitcliffe Mount = £173,754

Implementation of the Phasing Plan

2. Complete the list of conditions including those contained in this report and issue the decision notice.

- 1.4 Committee members resolved that authority be delegated to the Head of Planning and Development to approve the application and issue the decision notice, completed the list of conditions and secure the signing of the section 106 agreement.
- 1.5 Since committee the following have taken place:
- Amended documents and plans have been provided to include and correspond with the site layout plan that was presented to committee.
 - In accordance, with paragraph 54 of the National Planning Policy Framework it was agreed that the phasing plan should be secured by planning condition rather than planning obligation.
 - Agreement of the planning obligations to be included in the draft section 106 agreement to secure the planning obligations outlined in paragraph 1.3.
 - Agreement of the planning conditions outlined in section 11.
- 1.6 However, the applicant has failed to complete and sign the Section 106 agreement within the 3 months of the date of the Committee's resolution and has failed to meet subsequent deadlines set by officers. On 12th May 2021 the Head of Planning and Development had agreed that if the Section 106 agreement was not signed and received by the council by Friday 18th June 2021 then the planning application will be presented to the next available planning committee with a recommendation for refusal, which is now the case. This approach is consistent with NPPF paragraph 54 which seeks *"Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing."*

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is 3.60 hectares (8.90 acres) in size and is part of a site allocated for housing in the Local Plan (site allocation ref: HS116).
- 2.2 The site consists of detached dwelling plot 271 Cliffe Lane and several irregular size fields, currently used for grazing. There are no significant buildings that exist within the field boundaries, although there are some small structures to the north east and south west. The fields are divided from one another by either timber posts wire fencing, or trees and unkempt field hedgerows. Field hedgerows, trees and timber fencing denote the site from Ferrand Lane/Cliffe Lane, which runs along the site's northern and western boundaries and are rural routes, designated as a public footpath (Reference SPE/56/10).

- 2.3 Within and around the edge of the site can be found several tree preservation orders. Two tree preservation orders exist at 271 Cliffe Lane, (Reference: SP2/70/t25 and SP2/70/t26) however, they have been historically removed. Several tree preservation orders have been issued since the submission of this application, and can be found at the centre (Reference: 08/19/t4) and along the northern (Reference: 08/19/t1 and 08/19/t2) and north western parameters (Reference: 08/19/t3 and 08/19/g1) of the site.
- 2.4 The site slopes downhill from south east to north west. Its south east corner adjacent to properties associated with Cliffe Mount is approximately 150m Above Ordnance Datum (AOD) and its north western corner near to Spen Valley Scout and Guide Camp is approximately 130m AOD. There are some small variations in levels throughout the site, particularly towards the centre.
- 2.5 Majority of the site is greenfield, found on the north western edge of Gomersal. To the north is very much open countryside. Properties that adjoin the site's boundary consist of those associated with either Cliffe Lane to the west and south and Cliffe Mount to the east.
- 2.6 Further afield, Gomersal Conservation Area can be found immediately to the north east of the site, together with the grade II listed Gomersal Methodist Church. The site has some landscape sensitivity resulting from its location, with wider, open views to and from the north from the surrounding public footpath network.
- 2.7 Part of the application site is within a Development High Risk Area as defined by the Coal Authority

3.0 PROPOSAL:

- 3.1 Outline planning permission (with details of access, landscaping and layout) is sought for residential development of the site. Dwelling no. 271 Cliffe Lane is proposed to be demolished to facilitate the site's single vehicular access with Cliffe Lane. The route of the public footpath that runs along the site's northern and western boundaries (Reference SPE/56/10) would remain unaffected. However, there would be a number of design changes to the public footpath at the entrance to Cliffe Lane and there would be a new footpath link between the site and Ferrand Lane to the north east. Also, a new potential access to a smaller field to the north east, which forms part of the same site allocation has been proposed.
- 3.2 The proposed layout shows 98 dwelling units arranged around an estate, loop road arrangement. The proposed design of roads consist of a standard carriageway design with footways and visitor parking, shared surface treatments and private driveways. The proposed scale and appearance of these houses are reserved matters. However, the layout and schedule of accommodation shows a mixture of terrace, semi-detached and detached housing typologies, some with garages. Each dwelling house would have curtilage car parking and a private amenity space. The proposed layout also shows the location of a substation.

3.3 Landscaping is proposed as part of the application and details have been submitted which shows the proposed different public open space (POS) typologies. The location of the proposed POS takes into account the site constraints, such as protected trees, mining shafts and the rural setting of the adjacent public footpath, Gomersal conservation area and listed buildings. The POS also provides the necessary space for the attenuation pond and pumping station.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

4.1 None relevant.

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

5.1 Written pre-application advice (ref: 2017/20254) was provided on 25th October 2017 with regards to an enquiry for 135 dwelling houses. At the time of the enquiry officers were unable to support the principle of residential development as it was designated as a green belt site and the Local Plan had yet to be adopted. However, advice was still provided regarding highways, layout and design, ecology and trees, contributions and environmental matters.

5.2 Since the submission of the planning application, extensive negotiation has taken place between the applicant and officers regarding policies LP5, LP7, LP11, LP24 and Site HS116 of the Local Plan, with regards to housing density, mix and type of accommodation as well as the relationship with the adjoining land also within the same site allocation. As a result the applicant revised the planning application and increased the number of proposed dwellings from 92 to 98, as well as provided additional information justifying the proposal. Also, a site layout plan has now been provided that shows an access road up to the application site's north eastern boundary that would enable access to be provided for the adjoining site that is within the same site allocation.

5.3 Discussions have taken place between officers and the agent regarding the proposed relationship between dwellings and the central Public Open Space; the provision of an access point with the adjacent land in the same allocation; reducing the visual dominance of the parked car and the incorporation of 'green street principles.'

5.4 The Coal Authority initially objected to the planning application seeking further intrusive site investigations. These investigations have now been carried out and the site layout has been amended, accordingly to the satisfaction of the Coal Authority.

5.5 Negotiations have taken place between the Highway Authority and the applicant's Highways Consultant regarding parking requirements, bin storage and collection points as well as carriageway design. These matters have now all been resolved with the revision of the site layout.

- 5.6 The Lead Local Flood Authority initially submitted a holding objection citing lack of a condition survey of the existing drainage assets towards Ferrand Lane and lack of confirmation (from Yorkshire Water) about the feasibility of adopting the sewer asset. Subsequent negotiations took place between the Lead Local Flood Authority and the applicant's drainage consultant regarding the drainage solution on the site, and this has been satisfactorily resolved and can be appropriately conditioned.
- 5.7 The council's Public Rights of Way officer raised concerns regarding the proposal's relationship with the public footpath (SPEN 56/10), adjacent to the Holmfield access track and the properties to the west. The public footpath (SPEN 56/10) continues along Ferrand Lane to the north of the site and emerges onto Latham Lane to the north-east. Subsequent amendments have been made to the boundary treatments to the public footpath to address these concerns. Additionally, it was agreed with the officer that further details can be secured by condition.
- 5.8 Since the planning application was presented to planning committee extensive negotiations have taken place between the applicant and officers regarding the drafting of the planning conditions and planning obligations. Officers have set several deadlines to bring the application to a successful conclusion but all of these deadlines have not been met with regards to receipt of a signed S106 Agreement.

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 27th February 2019).

Kirklees Local Plan (2019):

- 6.2 The site is allocated for housing in the Local Plan (site allocation ref: HS116).

- 6.3 Relevant 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
LP11 – Housing mix and affordable housing
LP20 – Sustainable travel
LP21 – Highway safety 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
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP47 – Healthy, active and safe lifestyles
LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.4 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Strategic Housing Market Assessment (2016)
- Highways Design Guide Supplementary Planning Document (2019)
- Providing for Educational needs generated by new housing
- Interim Affordable Housing Policy (2016)

National Planning Policy and Guidance:

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

- Chapter 2 – Achieving sustainable development
- Chapter 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

6.6 Other relevant national guidance includes:

- Planning Practice Guidance for England (First published in 2014)
- Technical housing standards – nationally described space standard (First published in 2015)
- National design guide (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised via site notices, a press notice, and letters delivered to addresses abutting the application site. The application was advertised as a major development, a development affecting a Public Right of Way and a development affecting the setting of a listed building and a conservation area. This is in line with the council's adopted Statement of Community Involvement. Amended plans and documentation along with the change in description, in response to consultation has resulted in another round of publicity, with the end date being 29th November 2019.

7.2 106 representations were received in response to the council's first round of public consultation, which ended on 7th May 2019. Redacted versions of these representations have been posted online. All representations raised objections to the proposed development. The following is a summary of the points raised:

- Loss of a green area/natural environment/rural good quality grazing fields/countryside/green belt/separation between settlements.
- Many home owners purchased their homes for the landscape and views, which this development will impact.
- Local village character, landscape and visual impact.
- Brownfield sites should be developed first.
- The housing needs figures should be re-examined as unsound population estimates have been used in the forecasting of housing figure targets.
- Impact on house prices.
- Gomersal and the locality has already had a number of residential developments.
- Adverse impact on quality of life and an unacceptable health impact on local residents.
- Unacceptable impact on existing neighbouring residential amenity, particularly the neighbouring bungalows with small gardens – Overshadowing, loss of light, view/outlook and privacy.
- For such a large development there should be more than one access point.
- Unacceptable severe impact on traffic flows and highway safety particularly at peak times on Cliffe Lane and the surrounding road network which consist of narrow carriageways and footways, sharp bends, parked cars, speeding and rat running.
- Exacerbate an existing issue with Heavy Goods Vehicles travelling to/from the nearby businesses.
- The proposed sight lines for cars exiting from the proposed new development would make it very difficult to join the main road due to the height of the wall to the adjacent large house (Bawson Cliffe).
- Inadequate local road infrastructure, including Cliffe Lane and access for construction traffic and machinery.
- Junction improvements are required in the locality to facilitate a potential increase in traffic.
- Noise, dust, disturbance and air quality implications, particularly along Cliffe Lane and Ferrand Lane.

- Unacceptable impact on residential amenity during construction.
- Impacts associated with contractor's parking during construction.
- Consideration has not been given in terms of vehicle and movements to and from Fanwood scouts camp and Throstle Nest Farm, particularly at weekends when the camp is busier.
- Ferrand Lane should not be used for vehicular traffic any future residential development.
- The planned traffic calming measures will not resolve the existing traffic issues and those associated with the development.
- Ferrand Lane and the public footpath that surrounds the site has numerous pot holes, unlit and is in a poor state of repair. It should benefit from the necessary improvements.
- The development may result in an increase in litter, crime and antisocial behaviour along Ferrand Lane, particularly near to the church graveyard.
- Bus routes have changed and there is an inadequate service.
- The loss of the fields, mature trees and hedgerows will mean the loss of habitats and an adverse impact on wildlife.
- Concern about the proposed design, construction and maintenance of the new public open space and the effect it could have on wildlife and on the Kirklees Wildlife Habitat Network.
- Although the ecological assessment recommends the installation of bird and bat boxes on new houses, housing developers cannot be forced to do this.
- Development will have an adverse affect on the rural setting of the conservation area and listed buildings.
- This development represents overdevelopment which is out of character with the surrounding area.
- Schools are already oversubscribed. Children are being allocated places at Mirfield which is not now covered by a bus service from this area
- Doctors and Dentists do not have the capacity for this level of development and are already oversubscribed.
- Poor and inadequate consultation with local residents at the Local Plan and outline planning application stages.
- The proposal will affect the character of Spen Valley Way.
- It will ruin the local scout camp site which is a facility for the local youth.
- The site has a natural stream and already floods, this development will therefore, increase local flood risk, particularly local watercourses and downstream.
- Concern regarding the proposed balancing tank and/or soak away as these are known to silt up over time.
- The proposal will weaken local house's water pressure which is already weak.

- The flood route plan shows a potential adverse impact on the Fanwood campsite.
- What safeguards will be put in place if the power to the pumping station fails?
- Will there be a link between the pumping station and the proposed gravity fed surface water outlet?
- Will this pumping station have the capacity to take additional flows should the area of the development be extended?
- The easement of the pumping station should be retained wholly within the development site alone.
- The easement of the pumping station should be retained wholly within the development site alone.
- Poor drainage on the site is evident during high rainfall resulting in flooding of field, public footpath and affecting Fan Woods Campsite.
- The scheme contains insufficient details or robust examination of the amount of surface water that will need to be drained from the site.
- Disagree with the proposed surface water discharge strategy and there being any viable, effective, sustainable, watercourse discharging from the gateway at Fanwood to the unnamed beck located on the northern boundary of the Fanwood Scout Campsite. There are also third party land ownership issues required for the proposed drainage strategy.
- A number of properties on Cliffe Lane have land drains under their gardens to prevent flooding and there is a spring at the eastern end of the site which causes water to flow in a stream to the rear of the existing properties – conditions should be imposed to avoid any potential issues.
- The proposal will increase flooding and reduce agricultural footprint of neighbouring farms.
- Coal Authority designate the area as “development high risk,” thus there is a coal mining risk to future residents.
- There is evidence of shallow depth underground mine workings. These seams may require stabilisation by grouting. Again this is why a proper investigation is required before any development commences, rather than rely on a desktop study. This also could lead to subsidence and damage to adjacent properties.
- In the 'Geo environmental Desk Study Report, (5.2)' submitted by the developer, there is reference to unsuitable made ground for foundations, which could lead to significant settlements and that pile driving may be required to achieve an acceptable foundation for some of the properties.
- In the 'Report Conclusion 7', it states that there is risk with contamination of the land. In order to fully assess and classify the risks to human health, a Phased II intrusive investigation, including chemical testing of soils and groundwater and gas monitoring, would be required. Can this be conditioned before development commences?
- Insufficient affordable housing - most of these dwellings will sell for £200k.

- The applicant's Design and Access Statement suggests the use of dwelling houses over 2 storeys which would not be in-keeping with the local character.
- There should be sensitivity to the historical environment and use of natural stone colour rather than red brick would be more appropriate as this would complement the natural surroundings.
- Bungalows should be proposed to accommodate an ageing population.

7.3 29 representations were received in response to the council's second round of public consultation, which ended on 29th November 2019. Redacted versions of these representations have been posted online. All representations raised objections to the proposed development. The following is a summary of the points raised:

- Green belt land that should not be developed and brownfield sites should be developed first.
- Drub Lane will become a primary route for the commuters from the proposal site when travelling to the M62/M606 and should therefore form part of the analysis for the proposal.
- Adverse effect on open views and tranquillity of the countryside.
- Unacceptable impact on the wildlife.
- Detrimental effect on the character of the area.
- Oversubscribed and impact on local amenities including local schools, doctors and dentists.
- There is limited infrastructure to accommodate such an increase in housing in terms of the Environment, Roads and Drainage.
- Issues with coal mining in the area.
- Will the development company or even Kirklees council be taking out extra insurance policy's against further damage to surrounding properties that may be damaged from the ground disturbance from the proposed development?
- Traffic implications, particularly at peak times on Cliffe Lane. The road is narrow and have had many near misses over the years also lorry traffic from the local business.
- Impact on the local and wider strategic road network and road junctions, which is dangerous to pedestrians and school children.
- There is only one vehicular access which could result in over 100 vehicles accessing Cliffe Lane at any one time, which will be particularly an issue at the morning peak at school term.
- The extra traffic to and from the site would add to congestion on narrow roads/lanes with 'hard to get out of ' junctions and sharp bends that have a fair amount of traffic accidents as well as suffer from rat running.
- Gomersal already suffers from flooding events.

- Surface water run-off will go into a stream that will also be used by the Merchant Fields Hunsworth development of 298 houses – this stream can't cope with the amount of water. Who will be liable in the long term for such impacts?
- Lack of necessary parking (particularly for 4 bedroom properties) that could lead to traffic congestion on the roads within the site and consequently pose a threat to the emergency services if access is required.
- The proposed visitor car parking is poorly positioned and inadequate in number.
- The proposed widths of the roads should be clearly stated, particularly at the proposed site entrance.
- The proposed site section drawings would result in an unacceptable impact on Ferrand Lane and goes against the site plans to retain the green landscape.
- Phase 4 contains at least 1, potentially 2 mine shafts. Plans to develop this land will need consultation with the Coal Authority.
- Difficulty in getting off cars off driveways now, which this proposal will exacerbate.
- The lights from the traffic leaving the development will shine directly through existing dwellings front windows.
- 3 / 4 bedroom houses will tower over bungalows with small gardens affecting their outlook and privacy.
- If the plans go ahead no contractors vehicles should be allowed to park on Cliffe Lane in the vicinity of the site or the surrounding streets as this will cause considerable inconvenience to existing residents.
- Recent wet weather has shown the lower corner of the site becomes heavily flooded, and the latest site plans have not addressed this issue.
- Suitability and safety of connecting and using Ferrand Lane, which has no lighting, uneven surface and no bins.
- The church grounds could be a "hang out" spot for youths which could lead to litter, a noise nuisance and antisocial behaviour.
- Depending on the layout and the height of the houses proposed at phase 4 could cause an unacceptable loss of light, overshadowing, overlooking, loss of privacy and effect the efficiency of existing roof solar panels.
- Depending on the design, appearance and materials which the houses are build could create an eye sore as modern brick houses would not fit into the surrounds especially being so close to a listed building.
- There is a listed tree which overhangs onto the phase 4 development, there needs to be assurance that branches would not be cut down / damaged during the building of the houses.
- The proposed access road to Phase 4 would destroy a considerable amount of this hedge classified as a category B hedge and is protected. The loss of the hedge would have an adverse impact on the setting of the

heritage assets and not be in keeping with maintaining the agricultural character of Ferrand Lane.

- The extent of the gas and stability of the shafts and adjacent land should be established to prevent damage to existing properties adjacent to the site. If the Authority are minded to approve this application the developers should as part of the approval take out a substantial bond to cover the cost of any damage to adjacent properties as a result of the development.
- The proposed block of 5 two bedroom houses would have an unacceptable impact in terms of outlook on the existing dwelling houses at Cliffe Lane, residents will feel 'closed in.' The block should be redesigned.
- Another 6 dwelling houses as well as the Phase 4 houses will have a significant impact on local traffic.
- Narrowing the road to accommodate a visibility splay is unacceptable for heavy goods vehicles.
- There is no direct public transport access to any of the out or area schools so this means extra car journeys.
- The report from Yorkshire Water regarding sewage and drainage, was written before the recent severe flooding behind the residence 271 Cliffe Lane. In the light of this event, Yorkshire Water should revise their findings before accepting this plan
- Contradiction of the Planning Inspectors Recommendations for the allocation of site H591.
- Inadequate Drainage.
- Lack of Holistic Assessment of Forthcoming and Committed Developments Sites.
- Lack of Mitigation for Transport Impacts.
- How many households were directly contacted regarding this planning application?
- Any speed survey data held by the Council for the entirety of Cliffe Lane? (including from speed Indicator devices)
- What happens if the pumping station fails due to a power cut or a mechanical fault?
- All of the recommendations suggested in the Geotechnical report should be carried out before planning permission is granted.
- Bus timetables have changed and now there are no direct links to other towns and cities such as Bradford.
- The proposal will have an unacceptable impact on the public rights of way (Spen 56) to the west of the site as it will create a narrow pathway which is dark and enclosed.
- All the houses and bungalows overlooking the green fields will lose their privacy and open views, the erection of fences/hedges will leave us hemmed in.

- There should be flexibility regarding the proposed density to take into consideration the site constraints, particularly the rural character of Ferrand Lane.
- Ransom land was not included within the proposed design when considering the planning application site during the Local Plan Inquiry. The access road should be proposed up to the site boundary with the neighbouring land that is within the site allocation.
- There is no reason why the site cannot fulfil its density requirements.

7.4 Although fewer representations have been received in response to the council's second round of consultation, it is not assumed that those residents who previously objected no longer have concerns.

7.5 Since the previous consultation, amendments have been made to the proposals. These amendments primarily related to the landscape scheme in relation to the PROW and ensuring that the proposed access road is shown up to the site boundary on the site plan. Given the nature of these changes, officers considered that the proposals did not necessitate reconsultation.

7.6 One member of the public has requested that in the absence of a signed section 106 agreement then appropriate action should be taken in accordance with point 3 of the recommendation set out in the planning committee report (19th December 2021).

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

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

Natural England – No comments

The Environment Agency - No comments

The Coal Authority – No objection. Recommends further site investigations to inform an appropriate scheme of remediation and treatment for the mine entries. Intrusive site investigations are also required to determine the exact ground conditions and the presence or otherwise of shallow workings beneath the application site. In addition, consideration needs to be given to the risk posed by mine gas to the application site and proposed development.

KC Lead Local Flood Authority - Support the outline application subject to the imposition of drainage related conditions.

KC Highways - No objections subject to the imposition of highway related conditions and appropriate contributions towards sustainable travel measures.

Historic England - Do not offer any comments but recommend that the views of the council's specialist conservation and archaeological advisers give advice on this matter.

Yorkshire Water - No objection in principle to the proposed foul pump rate of 3 (three) litres per second. submitted on drawing 4730-JPG-ZZ-00-DR-D-1400 (revision P07) dated 02.04.2019 prepared by JPG Group.

8.2 **Non-statutory:**

Police Architectural Liaison Officer – Advice provided regarding the proposed dwelling boundary treatments, particularly those adjacent public footpath, along the western boundary. Advice also provided regarding natural surveillance of the proposed public open space as well as the proposed alignment and vegetation associated with the proposed footpath connection in the north east corner.

KC Conservation and Design – No objection. This proposal very much takes on board previous comments at the Local Plan Public Inquiry and the various pre-application meetings. In terms of the impact upon the historic character of the area I am comfortable with the approach especially by moving the development further south from Ferrand Lane

KC Ecology – No objection. After the receipt of a landscape scheme, conditions and obligations are recommended to secure biodiversity net gain, management of the post development habitats, along with other ecological measures specified in the supporting ecological information.

KC Education – Education contribution of £262,948 is required (Gomersal Primary - £26,946; Gomersal St Mary's - £62,247 and Whitcliffe Mount - £173,754).

KC Environmental Health – No objection subject to the imposition of conditions covering:- Submission of an Intrusive Site Investigation Report (Phase II Report), Submission of Remediation Strategy, Implementation of the Remediation Strategy, Submission of Validation Report and Sustainable Transport Conditions. Also, in agreement with the proposed mitigation measures outlined in the ENS Noise Report reference: NIA/6337/15/6195/v3 dated 13/11/2018 to protect occupiers of the proposed development from noise.

KC Landscape – Off-site sum of £117,596 required towards public open space, potentially towards towards the existing equipped Spen Lane Community Play Area or other existing doorstep provision, subject to citizen and Ward member engagement. Further details sought regarding the design and maintenance of the public open space, as well as advice provided regarding bin provision.

KC Planning Policy – Site is allocated in the Local Plan (ref: HS93, previously H218), therefore the principle of residential development at this site has been established. Local Plan sets out a number of constraints and specific considerations. Indicative layout is for 127 dwellings, which represents a density of 36 units per hectare, in line with policy LP7. Policy LP11 applies, and requires 20% affordable housing (although a higher proportion is encouraged), and a mix (in terms of size and tenure) of housing suitable for different household types, which take into account the latest evidence (the 2016 Kirklees Strategic Housing Market Assessment). Policy LP21 applies, particularly parts b and e. Although the proposed development's detailed design and layout would be Reserved Matters, policy LP24 can still inform

the outline proposal – parts a and g are particularly relevant. Policy LP63 requires new housing development to provide or contribute towards new open space. Further advice provided regarding securing the development of the allocation, density requirements and affordable housing.

KC Public Health – There is no objection in principle to the application, however we would like the developer to consider the recommendations submitted by consultees namely - West Yorkshire Police – Crime Prevention, Kirklees Council - Landscape, Ecology, Environmental Health. Also, recommend that seating is included in the public open space to encourage social interaction In line with Policy LP48 of the Kirklees Local Plan

KC Public Rights of Way – Lack of details regarding the footpath (Spenborough 56), setting and treatment. Landscape plan lacks detail of boundaries proposed and location. No response offered on the design of the northwest corner of the site, bearing in mind the obstruction up there. If decision to be issued, a condition requiring submission of a scheme, to be agreed, implemented and retained at appropriate trigger points should be included. This requirement may include works, given the design/layout proposed. Otherwise, PROW would object on current submissions.

KC Strategic Housing – There is significant demand for affordable 3+ bedroom homes in the area. The application proposes a mixture of house types and tenures, which is most welcomed. Affordable homes should be distributed evenly throughout the development and not in clusters, and must be indistinguishable from market housing in terms of both quality and design. Whilst most of the affordable homes are adequately distributed across the proposed development in line with policy, there are 5 affordable rent properties in one single location, which should be further separated if possible. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing, but this can be flexible. The current proposals comprise 10 affordable rented dwellings and 10 affordable dwellings to be sold, which Strategic Housing welcome.

KC Trees – No objection subject to a future reserved matters application is supported with an arboricultural method statement, in accordance BS 5837, to show how the retained trees will be protected during the construction phase.

Northern Gas Network – No objection.

West Yorkshire Archaeology Advisory Service – No objection. The WY Historic Environment Record have been checked and there are no apparent archaeological implications to the proposed development.

- 8.3 Ward members have been informed of the planning application and have raised a number of queries but have not provided any formal comments on the planning application.

9.0 MAIN ISSUES:

- Principle of development
- Urban design issues
- Residential amenity and quality
- Heritage issues
- Highway issues
- Flood risk and drainage
- Landscape and biodiversity
- Environmental and public health
- Site contamination and stability
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL:

Principle of development

- 10.1 Planning law requires that applications for planning permission must 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 The application site was previously green belt land, but is allocated for housing in the Local Plan (site allocation ref: HS116 (previously H591), which relates to a slightly larger 3.87 hectare site). In line with policy LP65 of the Local Plan, full weight can be given to this housing site allocation, which identifies the following constraints relevant to the site:

Constraints

- Improvements to local highway links may be required
- Protected trees adjacent to potential access point on Cliffe Lane
- Site is close to a listed building
- Part/all of the site is within a High Risk Coal Referral area

Other site specific considerations

- Site access must be from Cliffe Lane not Ferrand Lane
- There should be a sensitive approach to the design and landscaping of the site in order to maintain the agricultural character of Ferrand Lane

- 10.4 In addition, the site allocation policy indicates that the entire site allocation has an indicative capacity of 135 dwellings
- 10.5 A resident has questioned the evidence that supported the allocation of the site for residential development, and several residents have argued that brownfield and other land should be developed instead of this site. Allocation of this site 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. Also, it should be noted that the Local Plan Inspector Report (30 January 2019) provided commentary regarding site allocation H591 (as it was then proposed), but did not identify unresolvable constraints that would prevent development coming forward.
- 10.6 During the site allocation process, it was demonstrated that a direct access to the site could be achieved from the existing highway network at Cliffe Lane. The site was considered to be well contained, adjacent to an existing settlement boundaries and that an appropriate design could be achieved to avoid any adverse impacts on the landscape, public rights of way and nearby heritage assets. The site was promoted for development by all of the concerned landowners. Therefore, the application site is part of an accepted Local Plan housing allocation and as such the site has already been robustly assessed as being accessible and in a sustainable location. Thus, the principle of development would accord with the vision and strategic objectives, as well as policy LP1 (Presumption in favour of sustainable development) of the Local Plan.
- 10.7 However, officers' recommendation to accept the principle of residential development at this greenfield site, is not given lightly. If this site is to be released for development, the development's impacts would need to be mitigated, and a high quality development will be expected. These matters are addressed later in this report, and would require further consideration at Reserved Matters stage.

Urban Design issues

Masterplanning

- 10.8 As explained in paragraph 6.23 of the policy justification for policy LP5 of the Local Plan, masterplans are to be submitted where there are multi-plot developments, which may have multiple landowners. Masterplanning is therefore important, to co-ordinate the delivery of infrastructure and to ensure that the place shaping principles and other policy requirements set out in the plan are met.

- 10.9 The site allocation consists of multiple landowners and this planning application does not include the land owner to the north east of the site allocation. The Local Plan Inspector had specifically stated that access for the site allocation should be taken from Cliffe Lane and not Ferrand Lane. The initial site layout plan showed that access would not be able to be achieved with the site to the north east, hence this site would be considered to be undevelopable and contrary to policy LP5 of the Local Plan. This issue was identified during the planning application process and officers encouraged all of the concerned parties to work together in addressing this matter.
- 10.10 Since then, it is understood that there has been some dialogue between the relevant parties but officers are unsure as to the extent of such dialogue. Subsequently, a 'Proposed Site Plan Potential Phasing' (Reference:1332 SK 23) and 'Proposed Site Plan Adjacent Scheme Connection' (Reference: 1332 SK 24), as well as a supporting letter (Reference: J1026304) was submitted by the applicant. Within the supporting letter, the applicant explains that:
- “Although several attempts have been made to engage the adjacent landowner, no agreement has been formed to bring the entire allocation forward in one application, but the proposal illustrated in this application does not restrict the adjacent landowner submitting a planning application for residential development on their own land. The site is not phased, no community facilities or employment uses are proposed and drainage infrastructure does not preclude development of the adjacent land coming forward. Therefore, there is no need for infrastructure to be coordinated and given matters relating to design, scale and appearance are not being considered in this outline application, the necessity to coordinate place-shaping principles and other policy requirements can be the subject of a later reserved matters application.”*
- 10.11 Site plans show how sufficient space has now been provided to allow for an access to be established between the planning application site and the remainder of the site within the site allocation to the north east. Site plans also indicatively show how the proposed access road could serve up to 5 dwelling houses on the field to the north east.
- 10.12 It must be noted that the council has received a representation from neighbouring land owner's solicitor objecting to this planning application. The objection primarily relates to the inclusion of ransom land within the planning application site, which was not included within the details submitted for the Local Plan site allocation submission. Furthermore, the solicitor has explained how their client cannot reach an agreement with the applicant for the acquisition of the ransom land. The solicitor argues that as the neighbouring land owner cannot achieve access with Ferrand Lane and it is imperative for an access to be achieved across the ransom land with the application site that would have access with Cliffe Lane. The ransom land will not be able to be developed unless the ransom demands of the developer/landowners are met, however, unreasonable. The solicitor has stated that the ransom land and neighbouring site are needed to provide the housing required to meet the districts future housing needs for the period of the Local Plan. The solicitor has also explained how case law has demonstrated that securing such access can be agreed by section 106 agreement, which would achieve the council's statutory duty to deliver the Local Plan.

- 10.13 Officers had requested that the applicant avoid a ransom situation, which may delay in the delivery of housing across the entire site allocation. The council sought independent legal advice for another planning application (Reference: 2017/92568) with a similar issue with respect to policy LP5 of the Local Plan. The advice concluded that the planning system cannot supersede property rights, which allow developers to have ransom strips. To a significant degree the ransom value and costs associated with providing the road are matters for the different land owners and are not the concern of the Council as long as all of the allocation is delivered. The latest, revised site plan demonstrates how there is sufficient space for an access road to be developed up to the site boundary, enabling the eventual development of the nearby site. NPPF Paragraph 54 explains how planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. As such, officers now consider that appropriate planning conditions rather than planning obligations can ensure that the necessary triggers can be put in place for the delivery of the access road to the north east boundary.

Density

- 10.14 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 PPG, which was updated on 22nd July. Furthermore, the site makes up a significant portion of the housing allocation, which has an overall indicative capacity of 135 dwellings, which reflects the density of 35 dwellings per hectare.
- 10.15 The original planning application sought permission for the erection of 92 dwelling houses on 3.62 hectares of land, which represented a density of 25 dwellings per hectare. Officers subsequently raised concerns that this proposal would not achieve an appropriate density in line with the above policy considerations.
- 10.16 The applicant has now revised the planning application for the erection of 98 dwelling houses, which represent a gross density of 27 dwellings per hectare. A supporting letter and constraints plan states that the net density of the planning application is now over 35 dwellings per hectare taking into account the various policy and physical site constraint factors. Although, some of these factors are disputed, officers are still satisfied that due to the site's protected trees, mine exclusion zones, topography and the setting of Ferrand Lane would reduce the net developable area to around 3 hectares. Thus, officers consider that the proposal would deliver a density of around 33 dwellings per hectare. Although, still lower, officers consider that the proposed density is in keeping with the suburban character of the area and the design of the scheme in accordance with policy LP7 of the Local Plan.

Housing Mix and Affordable Housing

- 10.17 Local Plan policy LP11 states that housing proposals must aim to provide a housing mix (size and tenure) suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different house types. The aim of this policy is to create balanced and mixed communities.
- 10.18 Officers raised concerns with the original site layout with respect to the use of only detached and semi-detached units that were predominately 3 and 4 bedrooms, with no use of terrace built forms or apartments blocks. Officers considered that this also contributed in policy LP7 of the Local Plan not being achieved in relation to housing density. Also, little justification against the latest evidence base, such as the Kirklees Strategic Housing Market Assessment (SHMA) was provided for the proposed housing mix and tenure.
- 10.19 The revised site plan is still predominately defined by semi-detached dwelling units but there is now a block of five terrace dwelling units. It could be said that more terrace dwelling units and even an apartment block could still be incorporated into the scheme to achieve greater densities and a mix of dwelling forms. The applicant has provided a supporting letter with the revised site layout explaining how they have carried out an exercise trying to incorporate more terrace houses within the net developable area. The applicant claim that these schemes resulted in being poorly designed and unsympathetic to the local character, primarily due to the need for bin refuse points and car parking. As such, the applicant dismissed them, as they would not accord with policy LP24 of the Local Plan.
- 10.20 As shown in the following table, more two bedroom dwelling units are now proposed. In addition, officers considers that a supporting letter now provides sufficient justification for the proposed housing mix and tenure. More importantly, the SHMA acknowledges the importance of providing 3 and 4 bedroom semi-detached and detached properties to provide for the core of the Kirklees housing market.

No. of bedrooms	Original Proposal	Revised Proposal
Two bedrooms	12 units (13%)	27 (28%)
Three bedrooms	50 units (54%)	52 (53%)
Four bedrooms	30 units (33%)	19 (19%)
	92 dwelling units	98 dwelling units

- 10.21 Within this provision, the applicant proposes 20 affordable housing units, comprising 1 four-bedroom dwelling house, 8 three-bedroom dwelling houses and 11 two-bedroom dwelling houses. With an overall affordable housing provision of 20.4%, the proposed development would comply with Local Plan policy LP11's requirement for 20% of the proposed development's residential units to be provided as affordable housing, and the indicative mix of affordable unit sizes accords with advice from KC Strategic Housing officers.
- 10.22 The applicant has provided a plan showing a tenure split of 50% affordable rent housing and 50% intermediate housing. Although, there is preference of a tenure split of 54% social or affordable rent and 46% intermediate tenure, there is scope for flexibility, as such the proposed tenure split is considered acceptable. Strategic Housing officers have stated that most of the proposed affordable homes are adequately distributed across the proposed development in line with policy LP11 of the Local Plan. However, they have

requested that the proposed terrace of five affordable rent properties should be further separated if possible. However, it is considered that this is not necessary as the affordable housing provision has already been evenly distributed across the site. In addition, the scale and appearance of the dwelling houses could be secured at the reserved matters stage to ensure that they are indistinguishable from market housing in terms of both quality and design.

Layout

- 10.23 Policy LP24 of the Local Plan requires that good design to be at the core of all planning decisions. Chapters 12 of the NPPF state that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, it creates better places in which to live and work and helps make development acceptable to communities.
- 10.24 As recognised by the Local Plan Inspector, the application site is well contained, with existing built development to the east and south, and Ferrand Lane defining its northern boundary. Although there are views to and from the adjoining countryside, the site's containment and strong hedgerows on the northern edge limit this relationship. The northern and western site edges are also marked by planting, which provide defensible Green Belt boundaries. The proposed development would sit comfortably within this context without appearing sprawling and as an inappropriate enlargement to Gomersal. Although the proposed development would be visible from several public vantage points, it would be seen in the context of the existing built form and would therefore not cause significant landscape visual impact. Furthermore, the extensive areas of green belt land to the north and west, together with the surrounding landscape features, would ensure that there is sufficient undeveloped green space maintained between existing settlements.
- 10.25 The proposal seeks outline planning permission with matters of access, landscaping and layout to be considered and matters of scale and appearance to be considered at a reserved matters stage. As such, the following assessment is based on the above stated matters.
- 10.26 The proposed main access point has been determined where the applicant can achieve access, at 271 Cliffe Lane. This will result in the demolition of a property and the construction of a two way access point, which is considered acceptable by Highways Development Management officers. This means of access would connect to a loop road that would eventually serve the entire site allocation. The proposed streets have been characterised by different widths and surface treatments, which would create a hierarchy of streets and spaces that in turn would aid legibility and a 'sense of place.' Pedestrian access to the public footpath, known as Spenborough 56, is also shown to the north east of the site, which officers generally welcome.

- 10.27 The shape of the site and the lie of the land have dictated the proposed geometry and layout of the proposed development. The proposed layout would create a large urban, perimeter block, whilst dwelling houses along the site's peripheries have been positioned to integrate with existing dwelling houses at Cliffe Lane and at Cliffe Mount. This arrangement would also allow the dwelling houses to have a positive relationship with majority of the streets and spaces, including the existing Ferrand Lane, with some taking advantage of the open views of the countryside to the north.
- 10.28 The proposed layout incorporates a central Public Open Space (POS) that has been established to accommodate the protected tree and mining features. Officers would have liked to have seen a better a relationship between the proposed dwelling houses to the north and the POS. Additionally, it would have been preferred if the proposed private driveways, adjacent to the POS were connected to reduce walking distances and thus encourage its use. A large area of POS is proposed along the northern boundary at the lowest point of the site. The POS would assist in the delivery of a development platform and provide the necessary drainage infrastructure. In addition, it would ensure that the rural character and appearance of Ferrand Lane and the setting of the nearby heritage assets would be maintained.
- 10.29 During the planning application process, officers have continually raised concerns about the reliance of a single parking treatment, which is driveways to the front of the dwelling houses, with little or no mitigating planting. As such, the parked car would visually dominate the street scene in certain locations. However, the proposed layout would achieve the necessary tenure mix, housing density and parking requirements. Therefore, on balance, the proposed design could be considered to be broadly acceptable in line with policy LP24 of the Local Plan and Chapter 12 of the NPPF.

Residential Amenity and Quality

- 10.30 Paragraph 127 clause (f) of the NPPF and clause (b) of policy LP24 of the Local Plan requires proposal to provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings.
- 10.31 Representations have raised concerns about the proposed relationship between the proposed residential dwellings and the bungalows at Cliffe Lane. Representations have explained that the bungalows have limited rear garden space with low level boundary treatment, are elevated above the site and some have rear extensions/conservatories that take advantage of the wider rural, open views. It is acknowledged that the proposed development will disrupt the open aspect of the site. However, it is considered that such disruption is considered necessary to facilitate the proposed development of the site allocation. To protect residential amenity a hedge and fence is proposed along this boundary. The site plan shows a separation distance in excess of 21 metres between existing and proposed dwelling houses in this location. There is a separation distance of around 19 metres shown between the proposed dwelling houses and the bungalows with rear projections. Officers consider that the proposed separation distances and boundary treatments between the proposed and existing dwelling houses at Cliffe Lane are acceptable when considered against clause b of Policy LP24 of the Local Plan.

- 10.32 Existing dwellings at Cliffe Mount have a number of long gardens and the proposed dwellings would not impact on these dwelling houses. However, a dwelling house has been developed in rear garden of no. 8 Cliffe Mount, which is a dormer bungalow and was granted in September 2010 (Planning Reference: 2008/62/90153/E1). The site plan shows a separation distance in excess of 21 metres between the principle elevation of 8a Cliffe Mount and the principle elevation of a proposed dwelling house, which is considered acceptable. A separation distance of 6.5m has been achieved between the side elevation of 8a Cliffe Mount, which contains a secondary kitchen window, a door and rooflights with the side elevation of a proposed dwelling house. Although, a greater separation distance would have been preferred, it is considered that the reserved matters application could secure that no windows or doors were incorporated into the façade of the concerned dwelling house to protect residential amenity.
- 10.33 Officers consider that a planning condition should be imposed that removes permitted development rights for all of the plots adjacent to 8a Cliffe Mount and dwellings at Cliffe Lane. This measure would ensure that no large, overly dominant extensions, outbuildings or dormers would be constructed, which could have an adverse harmful impact on the uniformity and character of the development or create significant amenity issues to adjacent occupiers.
- 10.34 Other residential dwelling units are located far enough away from the application site so as not to be adversely affected by the proposed development in terms of natural light, privacy and outlook.
- 10.35 Policy LP24 of the Local Plan does not specify a minimum requirement (in sqm) for private outdoor amenity space for dwellings nor does it set out minimum separation distances to protect residential amenity. However, plans show reasonably sized private gardens are proposed for all of the dwellings. Each of the dwellings would have a rear garden that range from 9m to 12m in length and tend to be sited behind front driveways. As such, sufficient separation distances between the proposed dwellings would be achieved to protect residential amenity.
- 10.36 The quality of the proposed residential accommodation is also a material planning consideration and a number of representations have raised this as an issue with the application. Although the Government's Nationally Described Space Standards (NDSS) (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed. The applicant has not provided any floor plans as it is intended that 'scale' will be determined at the reserved matters stage. The Design and Access Statement has stated that the dwelling houses would be predominately 2 storeys in height to respect the local character of the locality. In addition, the latest plans include a schedule of accommodation that demonstrates how the proposed dwelling houses could exceed the NDSS.

Heritage issues

- 10.37 Impacts on heritage assets can manifest themselves in two ways; those of a direct impact on the assets themselves, and impact on their setting. There are no direct impacts 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."

- 10.38 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. In terms of the Conservation Area, section 72 (1) of the Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the area. The setting of heritage assets is also a requirement for consideration under paragraph 190 of the NPPF and policy LP35 of the Local Plan.
- 10.39 The accompanying Heritage Statement explains how there are twenty designated heritage assets as well as a number of non-designated heritage assets within a 1km radius from the site. These include grade II and II* listed buildings and the Gomersal Conservation Area. It is considered that the proposed development could impact on the setting of the nearest designated heritage assets, which includes the Gomersal Conservation Area, the grade II listed Wesleyan Methodist Chapel. It is also considered that the proposed development could impact on the nearest non designated heritage assets, which include Gomersal Methodist Church School, located in the conservation area, to the north west and buildings known as Throstle Nest and Bawson Cliffe to the west.
- 10.40 There is no Appraisal for the Gomersal Conservation Area, however, its character is defined within Appendix 1 of the Kirklees Unitary Development Plan as: "A loosely knit linear settlement of large imposing houses and public buildings in a mature landscape. These include the seventeenth century Pollard Hall, Red House and Peel House, together with a more closely grouped arrangement of smaller property around small squares at the junctions of Oxford Road, Moor Lane, Knowles Lane and Queen Street. Mainly stone built but with exceptions notably the brick built Red House."
- 10.41 Wesleyan Methodist Chapel falls within the Conservation Area and is the closest of the designated buildings. It was built in 1827-8 at the instigation of E. Brooke of Honley. It has a symmetrical façade of a broad bow of four bays flanked by single bays to each side with rounded arched doorways and a single light above to match those in the bow. To the rear the building is more varied where a series of alterations and extensions have provided a range of heights and angles. Its graveyard is bounded by a low stone wall and mature trees with incidental views through to the west and northwest. The principal setting of the chapel comprises its position on and views from Latham Lane, including its associated Sunday School buildings and its graveyard to the rear, which forms part of its curtilage.

- 10.42 The site lies just outside the Gomersal conservation area the boundary of which runs along the centre of Ferrand Lane and the graveyard of the grade II listed Methodist chapel. However, it is considered that there is nothing within the development site or beyond that adds to the appreciation and/or understanding of either the chapel, its graveyard or the associated Sunday school. Furthermore, given the heritage assets general east-west orientation and the site's mature hedgerows and trees, limits the intervisibility between the site and the assets in question. The wider setting of these heritage assets, particularly to the south are already influenced by the modern urban form. The proposed development would mean the loss of agricultural fields that currently define their south western periphery. However, it is proposed that the mature hedgerows and trees that define the site's northern periphery would be maintained, together with a landscape buffer.
- 10.43 The non-designated heritage assets found immediately to the west of the site, include Bawson Cliffe and Throstle Nest. Bawson Cliffe is a three bay mid-late Victorian stone built villa fronting Cliffe Lane, with a number of modern residential buildings found around its periphery. Throstle Nest has the potential to have 18th century origins but has undergone a series of additions and alteration and is found within a scrapyard. Although, the site does define their eastern aspect, visibility is restricted due to intervening boundary walls, as well as mature hedgerows and trees. It is considered that the site would not affect the significance of these assets. Furthermore, the site plan shows landscaped areas are proposed immediately adjacent to both of them, which will in turn help to assimilate them into the proposed built environment.
- 10.44 West Yorkshire Archaeology Service have checked the West Yorkshire Historic Environment Record and there are no apparent archaeological implications to the proposed development.
- 10.45 It is not anticipated that the proposed development would adversely affect the significance of nearby designated and non-designated heritage assets. This assessment is supported by the applicant's Heritage Statement, which asserts that the proposed development would sustain the significance of nearby heritage assets. As such, this proposal would accord with the policy LP35 of the Local Plan, chapter 16 of the NPPF.

Highway issues

- 10.46 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.

- 10.47 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.
- 10.48 Vehicular access to the development will be provided with the demolition of dwelling house 271 Cliffe Lane and the construction of a new priority junction with Cliffe Lane. The proposed new access will replace the existing vehicular dropped crossing access to Holmfield, with a new access to Holmfield to be provided from within the site via an existing gate. The Holmfield access track is a public footpath (SPEN 56/10) which continues along Ferrand Lane to the north of the site and emerges onto Latham Lane to the north-east. Bollards are proposed at the Cliffe Lane end of the right of way to prevent vehicular access directly from Cliffe Lane, as alternative access is to be provided from within the site. The public footpath is to be retained on its existing route, and the construction of the access will not have a detrimental effect on pedestrians using the public footpath. Additionally, a pedestrian connection is proposed to the north east corner of the site with Ferrand Lane, which is a designated public footpath (Ref: SPE 56/10), which is welcomed and accords with Local Plan policy LP24 in terms of connectivity.
- 10.49 A speed survey was carried out on Monday 6th November 2017 to establish the speed of traffic on Cliffe Lane in the vicinity of the proposed site access junction. The results of the speed survey show 85th percentile wet weather traffic speeds of 32mph in both directions. Manual for Streets recommends that visibility splays of 2.4m x 47m are provided in both directions based on 32mph. The proposed site access drawing shows that visibility splays of 2.4m x 53m to the east and 2.4m x 48m to west are achievable, measured to a point 0.5m into the carriageway i.e. the adjacent wheel track. The proposed vehicular access has been designed to accord with the recommendations of Manual for Streets (MfS) and the Highways Design Guide Supplementary Planning Document. As such, the proposed site access junction has been designed to provide these visibility splays which will necessitate the construction of a build out of the footway to the northern side of Cliffe Lane. To achieve this and maintain a 6m carriageway width along Cliffe Lane through the junction, a subsequent reduction in the footway width on the south side of Cliffe Lane to a minimum 1.5m over a length of some 40m is required.
- 10.50 Cliffe Lane is a two way carriageway that runs in an east west direction that is approximately 6.5m in width with footways either side that vary from 1.1m and 2.0m in width. It benefits from street lighting, is subject to a 30mph speed restriction, and has no yellow line markings along its kerbs. Bus stops can be found at approximately 160m to the east of the proposed access point. They are currently served by bus service number 200, which runs between Cleckheaton and Leeds via Birstall, Howden Clough, Morley, White Rose Centre, Beeston and Holbeck.

- 10.51 Traffic counts were undertaken on Thursday 8th November 2018. The counts were undertaken during the morning between the hours of 07:00 and 10:00, and during the evening between the hours of 16:00 and 19:00. The likely trip generation for the proposed development has been established using the Trip Rate Information Computer System (TRICS) data. The applicant's Transport Assessment and subsequent Addendums predicts that, in 2024, a residential development of 98 dwelling units at this site would generate 78 two way vehicular movements in morning peak hour (07:30 to 08:30) and 78 two way vehicular movements in the evening peak hour (16:30 to 17:30) onto the highway network.
- 10.52 Based on these predications, the applicant has used junction modelling software to assess the impact of the proposed development on a number of junctions within the locality. The junction assessment also included a number of committed developments that would likely affect the 2024 traffic flows (Highgrove Beds Site, Spen Lane, Ref: 2013/91872, Former Maccess Office Site, Spen Lane, Cleckheaton Mills, Bradford Road, Ref - 2014/92998 and Rawfolds Way, Bradford Road, Ref - 2015/92093). The junction assessment showed, all but one were operating either within or well within capacity. The only junction that is predicted to operate marginally over capacity during both peak hours is the operation of the A643 Spen Lane/A651 Oxford Road/A643 Church Lane signalised junction show that the junction.
- 10.53 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 modelling also takes into account local, cross-boundary road network issues connecting into neighbouring authority areas.
- 10.54 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. Additionally, it should be noted that the site together with the neighbouring land was allocated for 135 dwelling units. 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.
- 10.55 The Transport Assessment shows that there have been no accidents within the immediate vicinity of the site on Cliffe Lane or Ferrand Lane and Highways Development Management officers have raised no objection on highway safety grounds.

- 10.56 The internal site layout has been designed, to accommodate an 11.85m long refuse vehicle, on-street visitor parking spaces and bin collection points. The site plan also shows that each residential dwelling unit would have adequate in-curtilage parking spaces (2 parking space for 2 and 3 bedroom dwellings and 3 parking spaces for 4 bedroom dwellings), as well as cycle and bin storage facilities. The proposed layout is compliant with the council's Highways Design Guide, and Highways Development Management (HDM) officers do not object to the latest site layout plan.

Flood risk and drainage

- 10.57 The site is located within Flood Zone 1 (the areas least likely to flood), and given the size of the site (i.e. in excess of 1ha), a Flood Risk Assessment (FRA) has been submitted with the application relating to surface water run off matters. The Environment Agency have been consulted and have raised no objection to the proposal.

- 10.58 A schematic drainage layout has been provided which shows that surface water will be discharged at a rate of 5 l/s/ha into a watercourse located to the north west of the site, via one of the three options. These options will allow for further discussions to take place with offsite land owners on their preferred solution. A planning condition is recommended to secure an updated FRA and Drainage Strategy to secure the necessary design option. Attenuation calculations have been carried out and to take into account a 1 in 30 year event and 1 in 100+ climate change event an attenuation pond and tank are proposed within the lowest point at the site to the north west corner. The Lead Local Flood Authority have raised no objections to this proposal subject to the necessary planning conditions.

- 10.59 It is proposed that that foul water will be discharged to an existing 225mm public foul sewer in Cliffe Lane. A foul pumping station will be provided on site to pump flows to the public foul sewer in Cliffe Lane at a pump rate of 3 l/s. The pump station will be designed in accordance with Sewers for Adoption and Yorkshire Water details and specifications to include a below ground wet well containing submersible centrifugal pumps. The compound boundary design will be in accordance with Yorkshire Water design specification and requires a 1.8m high palisade security fence coated green to blend in with the surroundings complete with access off the highway to allow for maintenance. Yorkshire Water have not raised any objections to this proposal subject to the necessary planning conditions.

Landscape and Biodiversity

- 10.60 The planning application site consists of a dwelling house and garden as well as several agricultural fields with mature hedgerows and trees.

- 10.61 There are several protected trees within and adjacent to the planning application site, several of which were served during the lifetime of the planning application (References: 08/19/t1, 08/19/t2, 08/19/t3, 08/19/t4, 08/19/g1). It should be noted that there are two tree preservation orders (Reference: SP2/70/t25 and SP2/70/t26) on the land found at the proposed access point with Cliffe Lane, which no longer exist but have previously received consent for their removal. The Tree officer has raised no objections but has requested that any reserved matters application is supported by an Arboricultural Method Statement to show how the trees would be protected during construction.
- 10.62 Majority of the site falls within a Bat Alert area and the northern boundary and a central section of the site is designated as being part of the Wildlife Habitat Network (Broad habitat type - Grassland). This proposal will result in the loss of the central section of the Wildlife Habitat Network within the site. However, officers consider that the creation and management of a landscape buffer strip along the northern boundary of the site will compensate against the loss of connectivity and function of the Kirklees Wildlife Habitat Network. The application is supported by an Ecological Appraisal which explains how: the habitats within the proposals site are generally considered to be of low conservation value. The Appraisal explains how some features on site provide suitable habitat for, breeding and roosting bat and bird species, amphibians and small mammals such as hedgehogs. The development is considered feasible with minimal impact on biodiversity provided that mitigation and enhancement measures detailed within this report are incorporated within the site proposals. The residual ecological impacts are not anticipated to be significant.
- 10.63 The council's Biodiversity officer has reviewed the planning application and recommended planning conditions and/or obligations in relation to lighting design strategy, construction management and biodiversity net gain. This would ensure that the proposal was in accordance with policy LP30 of the Local Plan and Chapter 15 of the NPPF.
- 10.64 The applicant has submitted a landscape plan that shows the soft landscaping features to be provided on the site. The landscape plan shows how existing landscape features can be supplemented and how it would work with the proposed site layout, taking into account the site's attenuation features and adjacent public rights of way. The landscape plan also shows how a landscape buffer to the north of the site would help to protect the character and appearance of Ferrand Lane and the surrounding heritage assets in accordance with policy LP32 of the Local Plan. However, officers recommend a planning condition requiring a more detailed landscape plan to secure an appropriate landscape scheme in relation to the drainage features, public rights of way, and achieving the necessary biodiversity enhancement.

10.65 The Landscape officer has explained how the planning application triggers the requirement for a Local Equipped Area of Play (LEAP) as per Fields in Trust Guidance. The planning application does not include a LEAP so an appropriate financial contribution is sought towards the existing equipped Spen Lane Community Play Area or other existing provision.

Environmental and public health

10.66 The applicant has submitted a Noise Report and Air Quality Impact Assessment. Environmental health officers have reviewed these reports and do not consider these matters as a barrier to development. With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, a Full 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, should be secured via Section 106 obligations.

10.67 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed dwelling sizes, affordable housing, pedestrian connections (which can help facilitate active travel), measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health.

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

Site contamination and stability

10.69 The applicant has submitted a Geoenvironmental Desk Study Report which explains how the site may have been subject to shallow mining of coal, which will also require investigation and may require stabilisation works. The report goes on to conclude that based on past site history, made ground may be present on site and there may have been the potential pollutant linkages. As such, the site should be considered to be a moderate risk with respect to contamination. In order to fully assess and classify the risks to human health, any underlying perched groundwater, surface water and buildings/services, a Phase II intrusive investigation, including chemical testing of soils and groundwater and gas monitoring would be required. Environmental health officers have reviewed the planning application and requested planning conditions requiring Submission of an Intrusive Site Investigation Report (Phase II Report), Submission of Remediation Strategy, Implementation of the Remediation Strategy and the Submission of Validation Report. This would ensure that the planning application would accord with Local Plan policy LP53.

10.70 The application site is within the Development High Risk Area as defined by the Coal Authority, therefore within the site and surrounding area there are coal mining features and hazards. This is, however, not a reason for refusal of outline planning permission. The applicant has submitted a Coal Mining Risk Assessment which identified two mine entries and subsequently carried out the necessary site investigation work. The proposed site layout which is not a reserved matter has been revised during the application process to take into account of the features and their risk zones. The Coal Authority, now support the proposal subject to appropriate mitigation measures for nearby plots, as well as further site investigation work of the condition of these features to inform an appropriate scheme of remediation and treatment for the mine entries. Intrusive site investigations are also required to determine the exact ground conditions and the presence or otherwise of shallow workings beneath the application site.

10.71 A number of representations have been received requiring the above information to be provided before a decision is issued. However, it is considered that the necessary works can be secured prior to the commencement of development in line with paragraph 54 of the NPPF, which states that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.”*

Planning obligations

10.72 Planning obligations, that would need to be secured by a Section 106 agreement, would be necessary to mitigate against the impacts of the proposed development, should planning permission be granted. In accordance with paragraph 56 of the NPPF, planning obligations should only be sought where they are:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

10.73 For clarity and completeness, should this application be approved the following contributions would be secured through a section 106 agreement, which are all considered to be policy compliant

Affordable Housing

10.74 In accordance with Local Plan policy LP11:
20 plots to be affordable (20%), of which:
10 plots ‘affordable rented’
10 plots to be ‘intermediate’

Education

10.75 In accordance with Local Plan policy LP49:
Primary Provision – Gomersal Primary (£26,946) and Gomersal St Mary’s (£62,247) = £89,193
Secondary Provision – Whitcliffe Mount = £173,754
Total = £262,948

Flood Risk and Drainage

- 10.76 In accordance with Local Plan policies LP27 and LP28:
Implementation and maintenance of offsite drainage works.
Maintenance and management responsibilities of drainage (including pumping station) within the site, until adoption.

Public Open Space and Landscape

- 10.77 In accordance with Local Plan policy LP63:
Off-site commuted sum - £117,596.00
Management company to manage and maintain onsite landscape areas

Sustainable Travel

- 10.78 In accordance with Local Plan policies LP20, LP21, LP23 and LP24:
Off-site commuted sum for bus shelters at bus stops 23726 and 15480 - £26,000
A residential travel plan fund - £49,049.00
Travel Plan Monitoring Fee - £10,000 (five annual payments of £2,000)
- 10.79 A draft section 106 agreement to secure the above planning obligations has been agreed with the applicant but as of the 18th June 2021 it has not been signed by the relevant parties and as such has not been secured.

Representations

- 10.80 The majority of concerns raised in representations are addressed earlier in this report. Other matters raised are addressed as follows:

Construction impacts – To address construction noise, dust and other potential impacts, a condition requiring the submission and approval of a Construction Management Plan is recommended.

Impact on house prices – This is not a material consideration relevant to this planning application.

Increased crime risk – There is no evidence to suggest that residential development at this site would increase the risks of crime being committed elsewhere in Gomersal.

Flooding impact of the Spen Valley Scouts camp – Lead Local Flood Authority have not raised any objections in relation to the proposed site's drainage strategy and flood risk assessment, particularly with regards to flood routing.

Failure of the foul water pumping station – The pumping station will be designed in accordance with Sewers for Adoption and Yorkshire Water standards. This will include the provision of a series of alarms which will alert Yorkshire Water in the event of pump failure, within the pump station design there is an allocation of emergency storage to allow sufficient time for the maintenance team to attend and rectify any issues, thus mitigating any potential effluent spillage. Prior to adoption by Yorkshire Water, a section 106 agreement will ensure the necessary management and maintenance measures are secured to prevent any potential effluent spillage.

Failure to consider traffic impacts on Drub Lane – The development generated trip diagrams at Appendix BGH26 of the TA, based on the higher Kirklees trip rates, show that the proposed development will generate 20 additional two-way vehicle movements to/from the M62/M606 junction via the A638 Bradford Road, during both the weekday morning and evening peak hours. Even if a proportion of these trips were to use Drub Lane as an alternative route, the traffic impact on Drub Lane would not be noticeable as the additional movements will be well within the day to day variations in traffic flow along the route.

Other Matters

- 10.81 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.
- 10.82 The application site is within a mineral safeguarding area relating to surface coal resource (SCR) with Sandstone and/or Clay and Shale. 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 in this instance. It allows for approval of the proposed development, as there is an overriding need for the development, which is part of a Local Plan housing allocation that would contribute to the districts housing need.
- 10.83 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments, which have mostly been incorporated into the latest design proposals. All of the comments made are advisory and have been referred to the applicant. 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).
- 10.84 Chapter 12 of the Local Plan relates to climate change and states that: *“Effective spatial planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”*. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasis that responding to climate change is

central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore improvements to the landscape, sustainable urban drainage systems and inclusion of electric vehicle charging points contributes positively to the aims of climate change

11.0 CONDITIONS:

11.1 Since the 19th December 2019 strategic planning committee, the following planning conditions were agreed with the applicant:

1. Before any development takes place, details relating to the appearance and scale of the development (hereinafter called the “Reserved Matters”) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the Reserved Matters so approved.

Reason: No details of the matters referred to having been submitted, they are reserved for the subsequent approval in writing of the Local Planning Authority.

This pre-commencement condition is necessary to ensure that Reserved Matters are approved at an appropriate stage of the development process.

2. Application(s) for approval of Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be begun either before the expiration of two years from the final approval of Reserved Matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: Pursuant to section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Reason: For the avoidance of doubt as to what is being permitted and in the interests of highway safety and design to accord with Policies LP4, LP5, LP21 and LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

5. Prior to development commencing, a phasing plan to illustrate the phases of construction across the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be then implemented in accordance with the approved phasing plan.

Reason: For the avoidance of doubt as to what is being permitted and in the interest of comprehensive development.

6. No dwelling within Phase 2 of the development, as determined by the Phasing Plan approved in accordance with Condition 5, shall be occupied until the construction and completion of the access road up to the eastern boundary of the site, in accordance with the details required by Condition 7.

Reason: To ensure the development is carried out in a comprehensive and controlled manner across the entire site allocation. In the interests of amenity, highway safety and appropriate infrastructure provision and to accord with Policies LP4, LP5, LP21, LP24 and LP65 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

7. Prior to development commencing, a detailed scheme for the improvement of the proposed access into the site from Cliffe Lane as shown on Brian G Hall plan number 15/398/SKH/005 Revision B (Transport Assessment Second Addendum Appendix BGH1) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include construction specifications, white lining, signing, surface finishes together with an independent Safety Audit covering all aspects of the work. Unless otherwise approved in writing by the Local Planning Authority, all of the agreed works shall be implemented before any part of the development is first brought into use. Thereafter the approved works shall be retained for the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory access onto Cliffe Lane in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that access to the site is designed and approved at an appropriate stage of the development process.

8. No development shall take place until a scheme detailing the proposed internal highways have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and cross sectional information together with the proposed design and construction details of drainage works (new surface water attenuation tanks/pipes/manholes), street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The approved scheme shall be completed in accordance with a programme agreed with the Local Planning Authority and thereafter the approved works shall be retained for the lifetime of the development.

Reason: In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan, as well as Chapter 9 of the National Planning Policy Framework.

This is a pre-commencement condition to create a safe and accessible estate road network at an appropriate stage of the development process.

9. Before any development commences, a scheme detailing the location, design and construction details for all new retaining walls/ building retaining walls adjacent to the existing/ proposed adoptable highway, including cross sectional information shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented, in accordance with a programme agreed with the Local Planning Authority and thereafter retained during the life of the development.

Reason: In the interests of highway safety, and to achieve a satisfactory layout in accordance with Policies LP20 and LP21 of the Kirklees Local Plan as well as Chapter 9 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that access to the site is designed and approved at an appropriate stage of the development process.

10. Notwithstanding the approved Interim Travel Plan (Bryan G Hall, August 2019), pre-occupation of any dwelling hereby approved, a Full Travel Plan shall be submitted to and approved in writing by the LPA. The Travel Plan shall set out measures to discourage the use of high-emission vehicles and to encourage the use of public transport, cycling and walking, as well as the uptake of low emission fuels and technologies. The Travel Plan shall be implemented in accordance with the approved details and retained during the life of the development.

Reason: To ensure residents of the development are encouraged to use sustainable forms of transport and to mitigate the highway and air quality impacts of the development in accordance with Policies LP20, LP21, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, Chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

11. Prior to the commencement of development (including demolition and ground works) a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:

- (a) A timetable of all construction works;
- (b) Details of point(s) of access for construction traffic, including maximum vehicle sizes and routes and times of vehicle movements;
- (c) Parking for construction worker;
- (d) Signage;
- (e) Pre-development road condition surveys;
- (f) Wheel washing facilities within the site,
- (g) Details of dust suppression measures and noise mitigation measures.

The development shall be carried out in strict accordance with the CMP throughout the period of construction.

Upon completion of the development, post-development road condition surveys and a schedule of remedial works, including a timescale for their completion shall be submitted to and approved in writing by the Local Planning Authority. The approved remedial works shall be carried out in accordance with the timescale thereby approved.

Reason: Reason: In the interests of amenity of nearby residents, highway safety and to ensure the development is carried out in accordance with an appropriate schedule of means of access to the site for construction in accordance with Policies LP21 and LP52 of the Kirklees Local Plan, as well as of Chapters 9, 14 and 12 of the National Planning Policy Framework.

This is a pre-commencement condition to ensure appropriate measures to protect amenity and maintain highways safety are agreed at an appropriate stage of the development process.

12. Notwithstanding the approved Outfall Options plan reference 4730 - JPG - ZZ - 00 - DR - D – 1403 S2 P02, Schematic Drainage Layout plan reference 4730 - JPG - ZZ - 00 - DR - D – 1400 S2 P08, the Drainage & Flood Risk Addendum and the Drainage and Flood Risk Statement prepared by JPG Group. Before any development commences, a scheme should be submitted

to and approved by the Local Planning Authority, which includes a scheme detailing foul and surface water drainage. The details shall include off-site works, outfalls, balancing works, plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned and percolation tests where appropriate. It shall include a detailed maintenance and management regime for the storage facility including the flow restriction. No part of the development shall be occupied until such approved drainage scheme and maintenance and management plan to serve the development or each agreed phase of the development to which the dwellings relate has been implemented in full. The approved scheme shall thereafter be retained during the life of the development.

Reason: To ensure the effective disposal of surface water from the development so as to avoid an increase in flood risk and so as to accord with Policies LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

13. Before any development commences, a scheme should be submitted to and approved by the Local Planning Authority, restricting the rate of surface water discharge from the site to a maximum of 5 litres per second per hectare discharge rate. The drainage scheme shall be designed to attenuate flows generated by the critical 1 in 30 year storm event as a minimum requirement. Flows between the critical 1 in 30 or critical 1 in 100 year storm events shall be stored on site in areas to be approved in writing by the Local Planning Authority, unless it can be demonstrated to the satisfaction of the Local Planning Authority that discharge from site does not cause an increased risk in flooding elsewhere. The scheme shall include a detailed maintenance and management regime for the storage facility including the flow restriction. There shall be no piped discharge of surface water from the development and no part of the development shall be brought into use until the flow restriction and attenuation works comprising the approved scheme have been completed.

Reason: To promote development that helps reduce and mitigate climate change, and development which is adapted so that the potential impact from climate change is reduced in accordance with Policy LP38 of the Local Plan and Chapter 14 of the National Planning Policy Framework.

14. Prior to the first occupation of any dwelling hereby approved, a drainage maintenance and management scheme of the site, to include a timescale for its implementation to be approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and implemented in accordance with the timescales hereby approved. The approved scheme shall thereafter be retained throughout the lifetime of the development.

Reason: To promote development that helps reduce and mitigate climate change, and development which is adapted so that the potential impact from climate change is reduced in accordance with Policy LP38 of the Local Plan and Chapter 14 of the National Planning Policy Framework.

15. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:

- Phasing of the development and phasing of temporary drainage provision;

- Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses; and
- How flooding of adjacent land is prevented.

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

Reason: In the interests of achieving satisfactory temporary drainage of the site and to mitigate flood risk. This is to accord with Policies LP27 and LP28 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the provision of adequate and sustainable systems of drainage are employed.

16. The site shall be developed with separate systems of drainage for foul and surface water on and off site and these systems shall be completed prior to the occupation of the development. The peak pumped foul water discharge shall not exceed three litres per second in line with the approved plan reference: 4730-JPG-ZZ-00-DR-D-1400 (revision P08).

Reason: In the interests of satisfactory and sustainable drainage and so as to accord

with Policies LP27, LP28 and LP34 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

17. Prior to the determination of any Reserved Matters applications required by Condition 1 of this permission, a report of findings arising from intrusive site investigations (carried out in accordance with a scheme of intrusive site investigations submitted to and approved in writing by the Local Planning Authority) relating to shallow mine workings, mine entries, any previous grouting measures and other aspects of the area's mining legacy, and shall include a scheme of remedial works (including, but not limited to, full details of any grouting measures) which shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Coal Authority. The remedial work shall be implemented in strict accordance with the scheme so approved.

Reason: To minimise risk associated with the area's mining legacy in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

18. Prior to the commencement of development, actual land contamination at the site shall be investigated and a Phase II Intrusive Site Investigation Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

19. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to Condition 17 development shall not

commence until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure unacceptable risks to human health and the environment are identified and removed, and to ensure that the development is safely completed in accordance with the requirements of Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

This pre-commencement condition is necessary to ensure that contamination is identified and suitable remediation measures agreed at an appropriate stage of the development process.

20. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 18. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment, Geoenvironmental Desk Study Report reference MT/DS/4730.v4 (JPG Report, December 2018) or Coal Mining Report reference 39175/TM (GeoDyne, 9th July 2019)] is identified or encountered on site, all works on the part of the site affected (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

21. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report which shall include verification/validation of any remedial measures set out in the Remediation Strategy shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority. **Reason:** To ensure that the approved remediation measures are completed before the development is occupied in the interests of the health and wellbeing of future residents and in accordance with Policy LP53 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

22. Prior to the first occupation of any part of the dwellings hereby approved, electric vehicle charging points shall be provided for that part of the development. One charging point shall be provided per unit where dwellings have dedicated parking. Cable and circuitry ratings shall be of adequate size to ensure a minimum continuous current demand of 16Amps and a maximum demand of 32Amps. The charging points shall be retained thereafter.

Reason: To ensure residents of the development are encouraged to use low carbon and more sustainable forms of transport and to mitigate the air quality impacts of the development in accordance with policies LP20, LP24, LP47, LP51 and LP52 of the Kirklees Local Plan, chapters 9 and 15 of the National Planning Policy Framework, and the West Yorkshire Low Emissions Strategy.

23. Before any development commences on site, an Arboricultural Method Statement, in accordance with British BS 5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall include details on how the construction work will be undertaken with minimal damage to the trees identified within the approved Arboricultural Impact Assessment (Reference: ARB/CP/1224, Elliott Consultancy Ltd Arboricultural Consultant, November 2018) and their roots. Thereafter, the development shall be carried out in complete accordance with the Arboricultural Method Statement.

Reason: So as to protect to viability of the protected mature trees and to protect trees in the interests of visual amenity in accordance with policy LP33 of the Kirklees Local Plan as well as Chapters 12 and 15 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development does not have an adverse impact on the existing trees which are worthy of retention.

24. Prior to the commencement of any dwelling hereby approved, a "Lighting Design Strategy for Biodiversity" for the open space within the site and the retained boundary features shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including light spill) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- c) Correspond with details to be submitted pursuant to Conditions 25 to 30.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: To prevent significant ecological harm and to safeguard the Kirklees Wildlife

Habitat Network in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development does not have an adverse impact on biodiversity.

25. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority

Reason: To prevent significant ecological harm and to accord with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development does not have an adverse impact on biodiversity.

26. Notwithstanding Landscaping Plan Reference: 787/LA1F, before development commences, a scheme shall be submitted to and approved by the Local Planning Authority that demonstrates a measurable Biodiversity Net Gain. The information submitted shall include a completed Biodiversity Metric 2.0 calculation and drawings showing the location and extent of habitats to be created, enhanced or retained and a timescale for the implementation of these measures. They shall be retained in perpetuity.

Reason: To ensure the proposals provide compensation for loss of Kirklees Wildlife Habitat Network and result in a biodiversity net gain in accordance with Policy LP30 and section 15 of the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development provides a Biodiversity Net Gain.

27. The development authorised by this permission shall not begin until a large scale plan to detailing the treatment of the public footpath SPE/56/10 found along the site's western boundary within the red line boundary of the application site, to the rear of Plots 4 to 14, as shown on the landscape plan 787/LA1F should be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:

- (i) Details of the relative position of each plot and their rear boundary to the public footpath and the treatment of the space in-between, to include both cross and long sectional details relative to each plot with and the boundaries either associated with Holmfield, The Paddocks and Throstle Nest Farm.
- (ii) Details of any planting/boundary treatments along this section of public footpath.
- (iii) A timescale for the implementation of these works.

The development shall then be carried out in accordance with this approved scheme in accordance with the approved timescales and thereafter retained.

Reason: For the convenience of all those using the Public Right of Way and to accord with Policies LP23 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development does not have an adverse impact on the existing Public Rights of Way.

28. No development shall commence until details of a footpath connection through the site to the north of Plot 14 as shown on the landscape plan 787/LA1F to cut across the north-west corner of the site shall be submitted to and approved in writing. The details shall include:

- (i) The location of the footpath;
- (ii) Details of materials for the surfacing of the footpath;
- (iii) Details of gradients;
- (iv) Details of fences/gates within the boundary (as appropriate);
- (v) A timescale for its implementation.

The footpath shall then be provided in accordance with the approved timescale and thereafter retained.

Reason: For the convenience of all those using the Public Right of Way and to accord with Policies LP23 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre commencement condition to ensure that the necessary connection through the site to the existing Public Rights of Way is secured.

29. Prior to the commencement of development, details of the proposed footpath connection with the existing public footpath SPE/56/10 to the north east, as detailed on Landscaping Plan Reference: 787/LA1F shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- (i) Materials for the surfacing of the footpath;
- (ii) Details of gradients;
- (iii) Gates within the boundary (as appropriate);
- (iv) A timescale for its implementation.

The footpath shall then be provided in accordance with the approved timescale and thereafter retained.

Reason: For the convenience of all those using the Public Right of Way and to accord with Policies LP23 and LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

This is a pre commencement condition to ensure the proposed development does not have an adverse impact on the existing Public Rights of Way.

30. Before development commences, a scheme shall be submitted to and approved by the Local Planning Authority, which demonstrates measures to prevent and deter crime and anti-social behaviour. Particular reference should be made to the Secured by Design Homes document (Version 2, March 2019). The development hereby approved shall be completed in accordance with a programme agreed with the Local Planning Authority and shall not be occupied until the measures approved at Reserved Matters stage have been implemented in full.

Reason: In the interests of preventing crime and anti-social behaviour and to accord with Policy LP24 of the Kirklees Local Plan.

This is a pre commencement condition to ensure that the appropriate security measures are agreed and employed at an appropriate stage of the development process.

31. Before development commences, a scheme shall be submitted to and approved in writing by the Local Planning Authority, which include details of storage and access for collection of wastes from the premises. The approved details shall be provided before first occupation and shall be so retained thereafter.

Reason: In the interests of amenity and highway safety, to comply with the Council's sustainability objectives, and to accord with Policies LP21 and LP24 of the Kirklees Local Plan as well as Chapter 9 and 12 of the National Planning Policy Framework.

This is a pre commencement condition to ensure that the necessary waste storage and collection facilities are provided throughout the proposed development.

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order) no enlargements, improvements of other alteration of a dwelling house, including additions or alterations to its roof, buildings within the curtilage, hard-surfacing within the curtilage of the dwelling or the erection, improvement or alteration of a gate, fence, wall or other means of enclosure, as provided for within Classes A, B, C, E or F of Part 1 and Class A Part 2 of Schedule 2 to that Order shall be carried out to dwelling plots adjacent to dwellings associated with Cliffe Lane and Cliffe Mount, as shown on the approved Proposed Site Plan, Reference 1332 PL101M hereby permitted, without planning permission being obtained from the local planning authority.

Reason: In order to ensure that further extensions or outbuildings do not result in harmful overlooking to occupants of neighbouring dwellings, in accordance with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

12.0 CONCLUSION:

- 12.1 The application site is allocated for residential development under site allocation HS116, and the principle of residential development at this site is considered acceptable.
- 12.2 In the absence of a signed Section 106 agreement the proposal cannot be considered to be policy compliant with regards to affordable housing, education, public open space, landscape maintenance and management, sustainable travel, flood risk and drainage management and maintenance.
- 12.3 As such, the application is recommended for refusal for the reasons set out at beginning of this report.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90902>

Certificate of Ownership – Certificate B signed