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

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 22-Jul-2021**

**Subject: Planning Application 2020/90411 Outline application for demolition of 2 dwellings and outbuildings and the erection of 21 dwellings 7 & 11, Church Lane, Gomersal, Cleckheaton, BD19 4QH**

**APPLICANT**

Mr & Mrs Benson/Mrs

Pollard

**DATE VALID**

07-Feb-2020

**TARGET DATE**

08-May-2020

**EXTENSION EXPIRY DATE**

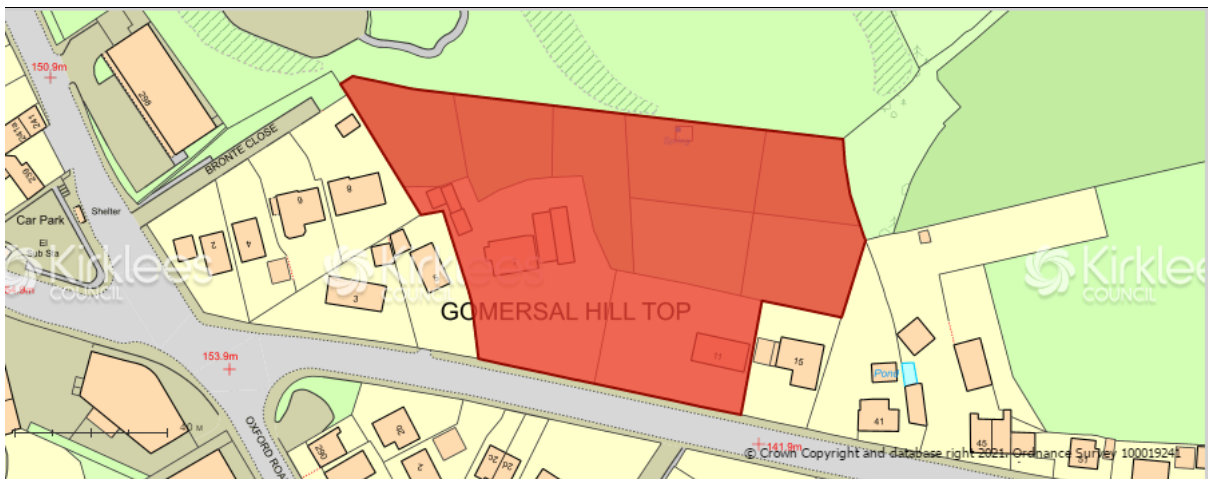
31-Jul-2020

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

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

**LOCATION PLAN**



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

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**Electoral wards affected: Liversedge and Gomersal**

**Ward Councillors consulted: Yes**

**Public or private: PUBLIC**

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**RECOMMENDATION:**

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

- 1) Affordable housing – 20% of dwellings to be affordable with a split of 55% social or affordable rent to 45% intermediate housing;
- 2) Open space – contribution of £28,576.44 towards the improvement/enhancement of off-site open space within 720m of the site;
- 3) Education – contribution of £42,552 to be spent upon priority admission area schools within the geographical vicinity of this site;
- 4) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals;
- 5) A contribution of £12,787.50 to support sustainable transport methods to fund the installation of a Real Time Information display at bus stop no. 14094, and to be put towards sustainable travel incentives to encourage the use of sustainable modes of transport.
- 6) A Bio-diversity Net Gain contribution to allow the off-site enhancement of Council owned land within the vicinity of the site in the event that an on-site net gain is demonstrated to be infeasible at Reserved Matters (Landscape) stage.

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

**1.0 INTRODUCTION:**

1.1 This application seeks outline planning permission for the residential development of a site allocated for housing within the Kirklees Local Plan. The application is submitted with all matters except access and layout reserved. It proposes the demolition of 2 dwellings and outbuildings and the erection of 21 dwellings.

1.2 In accordance with the Council's Scheme of Delegation, it is brought to this Sub-Committee because it is a residential development of less than 61 units on a site larger than 0.5 hectares.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site lies to the north of Church Lane in Gomersal and extends to 0.73 hectares. It presently comprises the house and gardens associated with Nos. 7 and 11 Church Lane, as well as open fields that lie to the rear of these properties. The southern boundary of the site is defined by Church Lane. To the west, it adjoins the gardens of 5 Church Lane and 8 Bronte Close. To the east, it borders the side and rear perimeter of 15 Church Lane, part of the garden to 41 Church Lane and another field boundary. Further fields lie to the north, part of which is used as a playing field by Gomersal Primary School. There is a strong planted edge of trees/shrubs and hedgerow delineating the perimeter to the north and east.
- 2.2 The area surrounding the site is predominantly residential. It comprises a range of house types/scales including bungalows set within generous plots, to two-storey detached and semi-detached houses. Church Lane itself is fronted by properties of varying styles. There are, however, defining features that contribute to its character, including stone boundary walls along the frontage, mature planting to front gardens/edges to create an attractive street scene and front elevations facing the road, which incorporate a setback of varying depths.

## **3.0 PROPOSAL:**

- 3.1 This application seeks outline planning permission for the residential development of the site. It proposes the demolition of 7 and 11 Church Lane and the construction of 21 dwellings comprising the following:
- 12 semi-detached dwellings (6 x 2 bedroom and 6 x 3 bedroom);
  - 9 detached dwellings (5 x 3 bedroom and 4 x 4 bedroom).
- 3.2 All matters except access and layout are reserved for future consideration.
- 3.3 The Town and Country Planning (Development Management Procedure) Order 2015 (Article 2) defines access as the following:
- 'Accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network'.*
- Layout is defined as:
- 'the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development'*
- 3.4 This application therefore seeks to consider the principle of residential development, the layout of buildings and open space within the site and the means of access. Matters of the appearance of the dwellings (and floor plans), their scale and landscaping (the Reserved Matters) are reserved for future consideration. Accordingly, they do not form part of the assessment of this application.
- 3.5 In terms of accessibility into the site, vehicular access for most of the houses would be taken via a new access from Church Lane. A 2 metre footway would continue a short distance into the site from this road and it would then become a shared surface arrangement. Two properties (Plots 20 and 21) would be provided with a direct driveway access onto Church Lane.

3.6 The layout would deliver a small residential estate that would be served from the main access road and a cul-de-sac at the eastern end of the site. Three of the dwellings would front Church Lane set behind a front garden and a stone boundary wall to reflect the existing arrangement. Within the site, each property would have a front and rear garden and at least two parking spaces. An area of public open space would be sited at the eastern edge, to the rear of 15 Church Lane. A pumping station would be located within this area with appropriate maintenance access.

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

4.1 There are no recent planning applications on the site of relevance to this proposal.

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

5.1 The applicant initially applied for 25 dwellings, with all but one served from Church Lane. However, the layout was considered unacceptable for several reasons including:

- Failure to retain the mature planting and boundary treatment along the site frontage, which contributes to the character of the area;
- Failure to respond to the building line on Church Lane, with the majority of house set back from the road behind a mature front garden;
- Proximity to existing properties;
- No provision for on-site open space;
- Impact on trees along the boundary.

The scheme has evolved following discussions with Officers to the 21 dwellings now proposed.

5.2 In addition, there have been extensive negotiations with the Lead Local Flood Authority to resolve matters relating to drainage, which are detailed in the report below.

#### **6.0 PLANNING POLICY:**

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

##### Kirklees Local Plan (2019)

6.2 With the exception of land and gardens associated with 11 Church Lane, the site is allocated for residential development in the Kirklees Local Plan (Site Allocation HS114). This indicates a gross site area of 0.67ha and refers to an indicative capacity of 22 dwellings based upon a density of 35 dwellings per hectare. The only identified constraint is that part/all of the site is within a High-Risk Coal Referral Area (it is in fact a very small segment at the front of the site).

6.3 The following policies are most relevant to the consideration of this application

- LP1** – Presumption in favour of sustainable development
- LP2** – Place shaping
- LP3** – Location of new development
- LP7** – Efficient and effective use of land and buildings
- LP11** – Housing mix and affordable housing
- LP20** – Sustainable travel
- LP21** – Highways and access
- LP22** – Parking
- LP24** – Design
- LP26** – Renewable and low carbon energy
- LP27** – Flood risk
- LP28** – Drainage
- LP30** – Biodiversity and geodiversity
- LP32** – Landscape
- LP33** – Trees
- LP34** – Conserving and enhancing the water environment
- LP49** – Educational and health care needs
- LP51** – Protection and improvement of local air quality
- LP52** – Protection and improvement of environmental quality
- LP63** – New open space
- LP65** – Housing allocations

Supplementary Planning Guidance / Documents:

6.4 The most relevant adopted SPG/SPD document is the following:

- Highways Design Guide SPD (2019)
- Kirklees Interim Affordable Housing Policy (2020)
- Providing for Education Needs Generated by New Housing (2012)
- Housebuilder Design Guide (2021).

6.5 The Council has also recently approved a Biodiversity Net Gain Technical Advice Note (June 2021). It provides guidance on how Biodiversity Net Gain should be achieved by development within Kirklees in the intervening period before the introduction of the Environment Bill.

National Planning Guidance:

6.6 The National Planning Policy Framework 2019 (NPPF) 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. The following sections of the NPPF are most relevant to the consideration of this application:

**Chapter 7:** Requiring good design

**Chapter 9:** Promoting sustainable transport

**Chapter 11:** Conserving and enhancing the natural environment

6.7 The following national guidance and documents are also relevant:

National Design Guide (2019) - The National Design Guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. It will be more relevant at Reserved Matters stage having regard to layout, appearance, scale and landscaping.

#### Climate change

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

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

7.1 The application was originally advertised as a major development in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) by means of site notices and a press notice in the Dewsbury Reporter (27 February 2020). It was also advertised by means of direct neighbour notification letters that were sent on 17 February 2020. A total of 13 representations were received objecting to the development.

7.2 There is no statutory requirement under the DMPO to undertake any further consultation on revised proposals. Nonetheless, letters were sent to all interested parties following the submission of a revised layout plan in March 2021. A further 8 representations were received at that time.

7.3 In total, there have been 21 letters of objection to this proposal from 19 residents. The representations can be viewed in full on the Council’s website at <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90411>. A summary of the issues raised in the responses is set out below:

#### Highway and Transport Issues

- Bronte Close must not be used for vehicle or pedestrian access into or out of the development or for vehicle parking, for construction employees or any sub-contractor;
- Within the published plans, there is no physical barrier to stop access through Bronte Close from the development (in the area around property No. 4). At best there appears to be a proposed hedge;
- Residents of Bronte Close do not want their road to become a route for general access to and from the development;

- There is no evidence of any account being taken of the increased traffic along Craven Lane and Muffit Lane both of which have minimally effective traffic calming arrangements in place;
- Parked vehicles are problematic at the junction of Church Lane and Muffit Lane and at Craven Lane and Muffit Lane and most days there are near miss accidents as vehicles travelling from Church Lane along Muffit Lane are rounding the bend in the middle of the road;
- It is inevitable that this traffic will increase many-fold during the development of these dwellings whilst the unavoidable temporary traffic lights will be in place on Church Lane. Please consider a wider highways survey and comments from blue light services before any further formal consideration of this application;
- The traffic will be worse and it is too busy now;
- Cars are already queuing on Church Lane morning and evening from the recent growth in the area and the shops etc. are already extremely busy;
- The impact on the environment with standing traffic already will be increased. Hill Top has two supermarkets a petrol station and a school. To add to this with at least fifty more vehicles will not only increase pollution cause traffic gridlock and can be argued to be putting public safety at risk;
- Direct impact of increased traffic and disruption to traffic flows - Church Lane is already a highly congested area during peak times making parking and turning into driveways is extremely difficult;
- On a daily basis, traffic is regularly stationary from the traffic lights at Hill Top to the entrance to Craven Drive, and occasionally to the entrance to Muffit Lane in peak times. As well as this, cars already park on both sides of the pavement on Church Lane during school drop off making it dangerous and difficult to negotiate;
- An increase in traffic would mean Craven Lane would become more of a rat run that it already is, and Muffit Lane (B6122) would be more of a concern/danger especially at the pinch points as you travel towards White Lee (B6122). Current traffic calming measures do not work and it is currently a risk to local school children in particular those who are travelling to Gomersal Primary School;
- No reference to waste, service and maintenance vehicles contributing to trip generations in the Transport Assessment.

#### Living conditions of neighbouring occupiers

- The pumping station is too close to residential properties (on boundary lines) and a concern about noise from pumping;
- Extra houses will spoil the outlook;

- Church Lane often has parked cars on either side of the road throughout the day, five-fold at school start/lunch/finish times. This is for Gomersal Primary School. The cars currently parking on Church Lane to drop children off at the school, discharge car fumes, with a further 24 homes, with a potential 48 cars, suggests car emissions will only increase;
- The views would be changed from green fields and trees to a housing estate.

#### Drainage considerations

- Concerns about sewage backflow and leakage;
- The field has a history of flood issues;
- There is a water course just south of the proposed area, further down Church Lane;
- The land has become waterlogged and changing the land uphill from here from grassland fields to buildings, drives and road will mean run off will contribute even more to already waterlogged ground.

#### Other considerations

- Subsidence from underground work to be implemented (damage to foundations). Residents state that they already have cracks to the foundations of their bungalow.

#### Construction issues

- Lorries coming in and out;
- Concern about disruption whilst work is being carried out - the noise and the possibility of subsidence due to excavation of the land.

#### Ground issues

- Leachate of Contaminants.

#### Bio-diversity

- Impact on wildlife;
- Bats flying over the site;
- Loss of wildlife and birds habitat.

#### Infrastructure

- The 24 proposed houses, together with 39 proposed new houses on the old Nursing Home site, means that in less than a quarter of a mile, from the application number 2020/90411, totals 83 new properties, some of which are 5-bedroom properties. From this, within the said quarter of a mile, there will be, conservatively, another 186 cars, possibly 100 school age children. Are there extra school places at the 2 local schools?



- The schools and associated facilities for children in Gomersal are already deemed full or over-subscribed;
- The provision of health-related services is a concern, with local doctor and dental practices already struggling to meet demand. And the withdrawal of some services at Dewsbury Hospital is compounding this;
- Gomersal Primary, Gomersal St. Marys and Whitcliffe schools are already practically full and local residents are being forced to have to seek schools in different catchment areas, due to overcrowding issues.
- The doctor's surgery at Blackburn Road is struggling and it is normal to have to wait up to an hour for someone to answer the phone to make an appointment. This new development would put additional strain on an already stretched service (and local infrastructure and amenities in general), putting people at a higher risk.

7.4 Ward Members were advised that the application had been submitted by email sent 18<sup>th</sup> February 2020. No comments from Ward Members have been received.

## 8.0 CONSULTATION RESPONSES:

The following represents a summary of the consultation responses, which are addressed fully in the relevant section of the assessment below.

### 8.1 Statutory:

**KC Highways:** No objection subject to conditions and a Section 106 sustainable travel contribution.

**Lead Local Flood Authority:** The LLFA advises that it can support the application subject to the inclusion of appropriate planning conditions relating to the final details of the drainage scheme, details of overland flow routing, taking into account an allowance for climate change, exceedance events and blockage scenarios and construction phase drainage. In addition, a clause will be required within the Section 106 agreement to require the setting up of a management company to provide maintenance and management of surface water systems in order for the Local Planning Authority to fulfil its obligation to ensure adequate maintenance of SUDS under the NPPF.

### 8.2 Non-statutory:

**KC Education:** Section 106 education contributions are calculated upon priority admission area schools in accordance with the Kirklees policy. It is not always possible to expand the places of the specified schools to meet the impact of additional demand generated by the development for a number of reasons including but not limited to; the value of the contribution is too small to be practically used on its own to expand places, site specifics make expansion impractical at some schools and adding numbers of places outside sustainable school delivery models is also impractical (e.g. class size legislation). Contributions from more than one development may need to be joined together to provide effective mitigation of the impact of more than one development. For

this reason, contributions are required to be used in the geographical vicinity of a development rather than specified to individual schools. For this site, based upon the provision of the 21 dwellings, an educational contribution of £42,552 would be required.

**KC Strategic Housing:** The site lies within the Batley and Spenningsdale Housing Market Area where there is a significant need for affordable 3-bedroom homes, along with lesser need for 1 and 2-bedroom properties. The council seeks to secure 20% of dwellings on sites with 11 or more dwellings, for affordable housing and on-site provision (housing) is preferred. This will be secured through the S106 Legal Agreement. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing. 2 social or affordable rented dwellings and 2 intermediate dwellings would be suitable for the development.

**KC Landscape:** Based upon the on-site provision of 687m<sup>2</sup> of natural and semi-natural green space being provided on site, the scheme would be substandard regarding this typology (1020m<sup>2</sup> required) and all other open space typologies (amenity green space, parks and recreation and allotments/community growing). As a result, a contribution of £28,576.44 would be required towards off-site provision. There are several existing facilities in the vicinity, within the 720m of the site as per Policy LP63, of which Spennings Lane is a larger facility for community and public use, which would be accessible for these contributions.

**KC Ecology:** No objection in principle subject to a review of bio-diversity enhancement and net gain at Reserved Matters stage to be secured by condition.

**KC Waste Strategy:** Provided operational comments for waste collection and recommend the imposition of appropriate planning conditions.

**KC Trees:** No objection, subject to conditions.

**KC Environmental Health:** No objection, subject to conditions.

**KC Crime Prevention:** Provided advice in line with Crime Prevention through Environmental Design (CPTED) guidance.

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

## 9.0 MAIN ISSUES

- Principle of development;
- Means of access – highway and transportation issues;
- Layout
- Reserved Matters – scale, appearance;
- Reserved Matters - landscape;
- Bio-diversity;
- Housing mix;
- Living conditions of existing and future occupiers;
- Flood Risk and drainage;
- Environmental health considerations;

- Ground conditions;
- Climate change;
- Response to representations;
- Other matters
- Planning obligation.

## **10.0 APPRAISAL**

### **Principle of development**

- 10.1 Paragraph 47 of the NPPF confirms that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The development plan for Kirklees is the Kirklees Local Plan (KLP), adopted on 27 February 2019. Within the KLP, most of the site is allocated for housing (HS114) with an indicative capacity of 21 dwellings. The site allocation identifies a gross site area of 0.67ha.
- 10.3 Policy LP65 of the KLP, within the Site Allocations and Designations document, refers specifically to housing allocations listed within the Local Plan. It confirms that planning permission will be expected to be granted if proposals accord with the development principles set out in the relevant site boxes, relevant development plan policies and as shown on the Policies Map.
- 10.4 Policy LP1 of the KLP reinforces guidance within the NPPF. It states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF. It clarifies that proposals that accord with the policies in the KLP will be approved without delay unless material considerations indicate otherwise. The supporting text to policy LP1 confirms that allocations in the Local Plan are made in accordance with the spatial development strategy.
- 10.5 Policy LP2 of the KLP refers to place making and advises that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the KLP. Furthermore, Policy LP3 advises, amongst other matters, that development proposals will be required to reflect the Spatial Development Strategy and development will be permitted where it supports the delivery of housing in a sustainable way, taking account of matters such as the delivery of the housing requirements set out in the KLP.
- 10.6 The KLP 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. The Authority Monitoring Report (AMR) shows that the current land supply position in Kirklees is 5.88 years supply. Nonetheless, Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to significantly boost the supply of housing. Housing applications should, therefore, be considered in the context of the presumption in favour of sustainable development. In this case, the application would deliver up to 36 new dwellings. It would, therefore, make a reasonable contribution to the housing delivery targets of the KLP and result in development that accords with the spatial development strategy.

- 10.7 It is recognised that the site is part Greenfield. This includes the garden to No.11, which sits outside the allocation but falls within the red line boundary. However, the allocation of this land and other Greenfield sites through the Local Plan process was based upon a rigorous borough-wide assessment of housing and other need, as well as an analysis of available land and its suitability for housing. It was found to be an appropriate basis for the planning of the Borough by the Inspector. Furthermore, whilst the KLP strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary to meet development needs. Additionally, whilst the effective use of land by re-using brownfield sites is also encouraged within the NPPF, the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.8 The application site is in a sustainable location for housing. It would adjoin existing residential development to the south and west. Further reference to and assessment of the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations. However, the development of this site for residential use is consistent with Policies LP1, LP2, LP3 and LP65 of the KLP. It is, therefore, acceptable in principle subject to an assessment against other relevant policies within the KLP, which is set out below.

#### **Means of access – highway and transportation issues**

- 10.9 Policy LP21 of the KLP advises that proposals shall demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users. To address this policy, the application includes the submission of a Transport Statement (TS).
- 10.10 Policy LP21 reflects guidance within the NPPF, which states at paragraph 108 that in assessing applications for development, it should be ensured that there are appropriate opportunities to promote sustainable transport modes, 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 can be viably and appropriately mitigated.
- 10.11 Paragraph 109 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.12 Access into the site for 19 of the 21 dwellings would be taken from Church Lane. Church Lane is a two-way single carriageway that is the subject of a 30-mph speed limit. The new access would be a priority junction with the road constructed to a minimum 6.0m width. There would also be a footway into the site from Church Lane. From the entrance, the road would become a shared surface. At each end of the site, a cul-de-sac arrangement would be provided to enable vehicles to turn. Subject to an appropriate visibility splay being demonstrated onto Church Lane, this point of access and the layout within the site is considered acceptable having regard to the Council's Highway Design Guide SPD and subject to a condition that full details of the design of the access road (including materials) be provided before any development commences.

- 10.13 Units 20 and 21 would be accessed from Church Lane. A single point of access onto the road would serve the two dwellings. Whilst opposite the access to 'The Orchards', this new entrance would serve only two houses. The level of traffic generated by these properties would, therefore, be small and not result in any undue conflict. Furthermore, there is an existing access from 11 Church Lane onto this road in close proximity, which would be closed.
- 10.14 The Council's Highway Design Guide SPD confirms that Kirklees Council has not set local parking standards for residential development. It does, however, as an initial point of reference, suggest that 2 to 3-bedroom dwellings should provide a minimum of two off-street parking spaces and 4+ bedroom dwellings should provide three off-street spaces. One visitor space per 4 dwellings is also considered appropriate.
- 10.15 In this case, each dwelling would be have a minimum of two parking spaces. Five of the properties would accommodate more than two off-road spaces, with each of these units also incorporating a garage and a long driveway. This would accord with the recommendations of the SPD. Regarding visitor parking, four spaces are shown. This would be one space short of the 5 spaces suggested by the SPD. However, the proposed estate is self-contained, and it is considered that the width of the road would be sufficient to accommodate short-term visitor parking where it could not be accommodated on the driveways themselves. The provision would, therefore, be acceptable in this instance.
- 10.16 Turning to traffic generation, the application is supported by a Transport Statement, which is based upon the original proposal of 25 dwellings. The assessment of traffic generation was undertaken on the basis of trips created from 23 new dwellings, given that there are currently two houses already on the site. Using TRICS (a national UK database for development trip rates), which utilises a trip rate of 0.468 per dwelling, the TS calculates that the peak hour traffic flows for a development of 23 dwellings would be as follows:

	Arrival	Departure	Two-way
AM Peak (0800-0900)	2.714	8.464	10.764
PM Peak (1700-1800)	7.452	3.956	11.408

- 10.17 Based on the TRICs data, the development would have the potential to generate between 11 and 12 trips on the network in peak periods.
- 10.18 The Council requested that a trip rate of 0.7 would be more realistic for the Kirklees area. This would generate peak time trip rates of between 16 - 17 trips during the network peak. The Transport Statement advises that this number of trips would not warrant a capacity assessment of any nearby junctions. Furthermore, the application has since been revised to 21 dwellings (19 new houses, given the two existing properties) and the number of trips would, therefore, be fewer. A rate of 16-17 trips would therefore represent the worst-case scenario arising from this proposal.
- 10.19 Based upon the original submission of up to 25 dwellings, the applicant was initially asked by the Urban Traffic Management Control section (UTC) to prepare a traffic model (Linsig) of the Church Lane/Spenn Lane junction, which lies some 50 or so metres to the north-west of the proposed site access, to assess the impact of the proposal. However, the applicant responded to advise that the development proposal at the network peaks would generate a

maximum of 17 additional trips during a 1-hour period. This would be a very low trip rate. It was also advised that not all vehicles would travel towards the signal-controlled junction. Even at an optimistic estimate of 70% turning right from the site entrance toward the signals, this would result in just 12 trips i.e. 1 trip every 5 minutes or so, on average, based upon the worst-case scenario, which would be unlikely to have any impact on the junction. This justification was accepted by Highways Development Management.

10.20 Furthermore, the applicant has provided details of road traffic accidents within the vicinity of the site. There have been none along the site frontage for the period up to 2019 (for when data is available). There have been three at the signal-controlled junction (two in 2014 and one in 2018), of which two appear to relate to driver error. This level of incident is considered typical of those to be expected at a signal-controlled junction and does not indicate a road safety problem or any trends of any significance. In the absence of any existing issues, given the level of traffic generation arising from this proposal, it is considered that it would not have an unacceptable impact on highway safety.

10.21 The site is also considered to be accessible to services and facilities by means other than the private car. There is a Co-Op food store and Sainsbury's food store, both on Oxford Road within approximately 200 metres of the site frontage. There are also takeaways, a hairdresser, a pharmacy, a doctor's surgery and primary schools (Gomersal Primary School) within close walking distance of the site. The nearest secondary school at Whitcliffe Mount is approximately 2.4 miles away. This still would fall within the Department for Education's (DfE) 'Home to School Travel and Transport' statutory guidance document, which suggests that the maximum walking distance to schools is 3 miles (4.8 kilometres) for children over the age of 8.

10.22 The development would also be accessible by bus. There are bus stops on each arms of the junction closest to the site at Oxford Road, Spen Lane and Church Lane, which are within the accepted 400 metre walking distance of the site. These stops are served by 3 bus services detailed below:

Service	From-To	Frequency (Mon-Sat)	Late evenings and Sundays
200	Heckmondwike – Cleckheaton – Birstall – Morley – White Rose shopping centre – Leeds	60 mins	60 mins
254	Dewsbury – Heckmondwike – Cleckheaton – Gomersal – Drighlington – Leeds	30 mins	60 mins Sunday daytime
255	Halifax – Wyke – Scholes – Cleckheaton – Gomersal – Birkenshaw – Drighlington - Leeds	30 mins	60 mins Not evenings

This is considered to provide a reasonable level of service to Leeds and other town centres that offer a range of services and facilities. They would also provide access to train stations at Dewsbury, Morley or Leeds for wider rail connections.

- 10.23 Turning to walking and cycling, there are continuous footways on both sides of Church Lane leading to the bus stops. The site would also be within a reasonable cycling distance (less than 2 miles) of Cleckheaton Town Centre.
- 10.24 Overall, it is considered that this development would generate a very modest level of traffic onto the highway network. The test within the NPPF for preventing or refusing a development on highway grounds is whether there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this case, the site is suitably located for residential development. It would be adjacent to existing residential properties and within walking distance of local services and facilities. It would also be accessible to local services within surrounding towns by sustainable means. The level of traffic generated by this proposal would not be considered to have an unacceptable impact on highway safety nor a severe cumulative impact on the road network.
- 10.25 For all these reasons, the proposed access is acceptable and subject to the imposition of appropriate planning conditions, the proposal is considered to sufficiently accommodate sustainable modes of transport and it could be accessed effectively and safely by all users. It is, therefore, in accordance with Policy LP21 of the KLP and guidance within the NPPF.

### **Layout**

- 10.26 Policy LP24 of the KLP advises that good design should be at the core of all proposals in the district. It sets out several key principles necessary to promote good design, including ensuring that the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape, the risk of crime is minimised by enhanced security and the promotion of well-defined routes, overlooked streets and places. Policy LP7 of the KLP relates to the efficient and effective use of land and buildings. It states that housing density should ensure the efficient use of land, in keeping with the character of the area and the design of the scheme. It advises that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate.
- 10.27 Further guidance on layout has since been provided within the Council's Housebuilders Design Guide SPD (2021), adopted as part of the Quality Places agenda. Although this was adopted prior to the submission of this application, the design guide identifies several key factors that should influence the layout of a development, including:
- The relationship of the site to neighbouring buildings,
  - Density requirements;
  - House types that meet local need;
  - Alignment of buildings and set-back to form a coherent building line and designed to front on to the street
  - Avoiding frontages that are dominated by hard landscaping and car parking;
  - Maximise distances between dwellings.

- 10.28 In this case, the proposal was revised during consideration of the planning application, so that the layout would respond more positively to the site's context and deliver an appropriate relationship to existing dwellings. The number of houses was therefore reduced from 25 to 21. Whilst this would deliver a density of 29 dwelling per hectare, Policy LP7 states that lower densities will be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings.
- 10.29 In this case, it was considered necessary to revise the scheme so that an appropriate set back from Church Lane was secured. The proposed dwellings would, therefore, respect the building line of the properties closest to the site and would allow for the provision of a landscaped front garden, which is part of the character of the area. Furthermore, the layout had to be designed to accommodate sufficient distances between adjoining residential properties, secure the protection of trees along the boundary, allow for the provision of some open space within the site and provide a mix of house types/sizes. In addressing these parameters, it has resulted in a density of less than 35 dwellings per hectare, but it is considered to deliver a development layout that sufficiently respects the existing townscape and landscape.
- 10.30 For these reasons, the layout is considered to sufficiently promote good design and an acceptable density, given the site context. It would, therefore, comply with Policies LP7 and LP24 of the KLP.

#### **Reserved Matters – scale and appearance**

- 10.31 Matters of scale and appearance are not for consideration as part of this application. They are reserved for future consideration as part of a Reserved Matters application, should outline planning permission be approved. At that time, the scale and appearance will be assessed having due regard to Policy LP24.

#### **Reserved Matters - landscape and open space**

- 10.32 Policy LP47 of the KLP refers to healthy, active and safe lifestyles and recognises that these will be enabled by several criteria including (a) access to a range of high quality, well maintained and accessible open spaces and (b) increasing access to green spaces and green infrastructure to promote health and mental well-being. Policy LP63 advises that new housing developments will be required to provide or contribute towards new open space or the improvement of existing provision in the area, to be provided in accordance with the Council's local open space standards or national standards, where relevant. Finally, Policy LP33 of the KLP advises, amongst other matters, that proposals should normally retain any valuable or important trees, where they contribute to public amenity, the distinctiveness of a specific location or contribute to the environment. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme.
- 10.33 The landscaping of the site is not for consideration as part of this application. It is reserved for assessment as part of a future Reserved Matters application, should outline planning permission be approved. The detailed landscaping proposals for the site will, therefore, be provided at that time.



- 10.34 The layout has been modified so that the larger trees that lie adjacent to the eastern boundary of the site would have no dwellings next to them. This would avoid any long-term conflicts. It is acknowledged that the rear boundary of Plots 4 to 14 would adjoin trees along the northern boundary of the site, which could have an impact on future occupants and lead to some pressure to remove them. They are also owned by a third party so it would not be within the applicant's remit to undertake any works to them. However, the Tree Officer has acknowledged that these trees are smaller and lower quality and do not meet the requirements to serve a Tree Preservation Order. Given their size, on balance, it is considered that they would not cause undue conflict with future occupiers. However, it is recommended that a detailed tree survey is undertaken at the Reserved Matters stage, as well as a condition requiring the provision of a detailed landscape scheme (and boundary treatments).
- 10.35 Regarding the provision of open space, an area of 687m<sup>2</sup> of natural and semi-natural green space would be provided within the site, the landscape details of which would be submitted at Reserved Matters stage. Whilst not centrally located, it is a reasonably small site and the open space in this location would ensure the protection of adjacent trees, as noted above.
- 10.36 Having regard to Policy LP63, the on-site provision would be sub-standard for this typology (1020m<sup>2</sup> required). The scheme would also be deficient in terms of all other open space typologies (amenity green space, parks and recreation and allotments/community growing). As a result, a contribution of £28,576.44 would be necessary towards off-site provision. It is relevant to note that a contribution towards outdoor sports facilities, which is a requirement of the recently adopted Open Space SPD, has not been sought on the basis that the application was submitted prior to the adoption of this SPD. It would not be reasonable to re-assess the open space contribution at such a late stage in its determination.
- 10.37 In summary, the provision of site open space is acceptable in principle and details of the landscaping of the site will form part of a future Reserved Matters application. Conditions are, therefore, recommended as part of this application to secure them. It is considered that a successful landscape scheme and the provision of open space can be established to ensure compliance with Policies LP33, LP47 and LP63 of the KLP.

### **Biodiversity**

- 10.38 Regarding biodiversity, Policy LP30 of the KLP confirms that the Council will seek to protect and enhance the biodiversity and geodiversity of Kirklees. As relevant to this site, it confirms that development proposals will be required to (i) result in no significant loss or harm to biodiversity in Kirklees through avoidance, adequate mitigation or, as a last resort, compensatory measures secured through the establishment of a legally binding agreement and (ii) minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist as well as (iv) incorporate biodiversity enhancement measures to reflect the priority habitats and species identified for the relevant Kirklees Biodiversity Opportunity Zone.

- 10.39 The applicant submitted a Biodiversity Net Gain Statement with the application. It clarifies that the site presently comprises a range of habitats, being mainly modified grassland but including other neutral grassland, bramble/scrub, native hedgerow and vegetated garden. In the absence of a detailed landscape scheme, this exercise identifies that the current proposals are predicted to result in a small net gain for biodiversity of 0.39%. Although welcomed, this is not considered sufficient to provide a tangible net gain in accordance with LP30ii. If the current calculations are considered, then an additional 0.13 habitat units would be required in order to result in 10% net gain. It is noted that the metric calculations include the use of 'urban- suburban/mosaic of developed/natural surface habitat', which often results in a higher biodiversity value than would be expected from the individual components of this habitat i.e. sealed surface and vegetated garden. This habitat has also recently been removed from the newly updated Biodiversity Metric 3.0 and the metric calculation will need to update this element at Reserved Matters stage. It would also need to be factored into any BEMP or commuted sum to be provided at that time.
- 10.40 However, as this is an outline application with landscaping reserved, the Council's Ecologist is satisfied that a strategy could be devised to achieve a 10% biodiversity net gain post-development. This may be on-site, once landscaping details are decided, within a Biodiversity Enhancement Management Plan (BEMP) or, if on-site net gain is demonstrated to be infeasible, via a commuted sum payment to the Council to allow enhancement off-site on council owned land. A condition requiring submission of a BEMP to support the landscape Reserved Matters would therefore be required along with a clause in the S106 to procure an off-site contribution should that be required. On this basis, the proposal is considered acceptable in accordance with KLP Policy LP30.

### **Housing mix**

- 10.41 Given the annual overall shortfall in affordable homes in the district, KLP Policy LP11 states that the Council will negotiate with developers for the inclusion of an element of affordable homes in planning applications for housing developments of more than 10 homes. It advises that the proportion of affordable homes should be 20% of the total units on market housing sites. This requirement will be secured by means of a Section 106 agreement, with details of the location of these units provided at that time.
- 10.42 The layout proposes a mixture of 2, 3 and 4-bedroom homes. This would provide an appropriate housing mix. Overall, the proposal would contribute to housing mix and 20% of the units would be affordable. This would comply fully with the requirements of Policy LP11.

### **Living conditions of existing and future occupiers**

- 10.43 Policy LP24 of the KLP advises at (b) that proposals should provide a high standard of amenity for future and neighbouring occupiers. This reflects guidance at paragraph 127 of the NPPF, which advises at (f) that create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Further guidance is provided within the Council's Housebuilders Design Guide, which suggests that for two-storey houses, the following typical minimum separation distances are advised:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land and;
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

10.44 Whilst this application was submitted prior to the adoption of the SPD, the layout has nonetheless been assessed to consider its impact on the living conditions of existing adjoining occupiers having regard to overlooking and loss of privacy. The closest relationships are between Plot 4 and 8 Bronte Close and Plot 2 and 5 Church Lane and the following is noted:

- The front elevation of Plot 4 achieves a distance more than 12 metres from the flank wall of 8 Bronte Close. It would also lie at an oblique angle, so that there would be no direct overlooking, nor would the new dwelling be overbearing.
- The rear elevation of Plot 2 would be more than 16 metres from the flank wall of 5 Church Lane. No. 5 also lies at an oblique angle, so the relationship would be satisfactory to ensure that there would be no undue overlooking, nor would the new dwelling be overbearing.
- Upon submission of the Reserved Matters for the appearance of the dwellings (to include floor plans), it can be ensured that there would be no flank windows in Plot 21, to protect the privacy of 15 Church Lane. There would be more than 10 metres between the two to ensure no overbearing impact.
- The distance to existing properties on the south side of Church Lane would be more than 28 metres, comfortably in excess of 21 metres.

Overall, based upon the above, it is considered that there would be a satisfactory separation distance between existing and proposed dwellings.

10.45 It is acknowledged that separation distances within the site would, in some circumstances, be less than those recommended within the Housebuilders Design Guide SPD. Notably, there would be approximately 15 metres between Plots 19-21 that front the site and Plots 15-18 that lie behind. However, on the basis that this application was submitted and devised prior to the adoption of the SPD, and the layout also balances the need to secure appropriate site density requirements, with a contextual response to the surrounding area, this matter alone is not considered to justify a refusal of the proposal. In any event, the Householder Design Guide also acknowledges that the internal layout of dwellings can be managed to maximise distances between habitable rooms, as well as consideration being given to appropriate screening and boundary treatments, such as planting, fences, walls, which would all be assessed at Reserved Matters stage. Overall, the layout of the scheme is considered to provide sufficient living conditions for future occupiers.

- 10.46 Finally, a concern has been raised by the occupier of No.15 Church Lane about the location of a pumping station and any noise arising from it. The Council are not aware of any noise issues arising from pumping stations elsewhere in the District but it is proposed to attach a condition requiring the submission of a noise assessment with specific regard to the pumping station and any mitigation measures that might be required in this instance.
- 10.47 For the reasons set out above, it is considered that the layout of the proposed development would ensure acceptable living conditions for existing and future occupiers in accordance with policy LP24.

### **Flood Risk and drainage**

- 10.48 Guidance with the NPPF advises, at paragraph 163, that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste-water infrastructure required is available, or can be co-ordinated, to meet the demand generated by the new development.
- 10.49 The site falls within Flood Zone 1, which means that it is at a low risk of flooding and a flood risk assessment is not required. Nevertheless, it has been subject to a full assessment of surface water management and subject to consultation with the Lead Local Flood Authority.
- 10.50 In accordance with policies LP27 and LP28, the applicant was required to demonstrate that the site considers any and all sources of flood risk and ensures that the site design is such that flood risk is not increased to users of this development or third parties. All surface water discharge options are also assessed using the hierarchy of preference set out within Planning Practice Guidance, being (i) into the ground (infiltration); (ii) to a surface water body; (iii) to a surface water sewer, highway drain, or another drainage system and (iv) to a combined sewer. In responding to the consultation, the applicant was also asked by the LLFA to provide information about a potential watercourse on site, which was identified through the public consultation process and of which the LLFA were not previously aware.
- 10.51 In response, the applicant undertook an investigation of the downstream watercourse and, also, a walkover of the site including a watercourse indicated on a 1955 historical plan. The assessment concluded that the adjacent land to the north is used by Gomersal Primary School, as a sports field. Some regrading works have been undertaken in the past to create a level playing field. This has left a steep banking from the applicant site and another further banking to the lower land. The banking areas are heavily overgrown, with no sign of any watercourse or piped system. A 100mm diameter old iron pipe was located further downstream. This had been buried with a brick section and no drainage was passing through the pipe (taking into account that the site visit was made after a prolonged period of heavy rain). Furthermore, no recognised ditch was observed below the covered pipe section and the masonry construction on the applicant site is fed by land drains and there is no overflow pipe. If excessive land drainage is collected, it is understood that water overflows the brickwork structure onto the banking below. At the time of the visit, the water level was 400mm below to the top of the bricks. These findings were accepted by the LLFA.

- 10.52 As a consequence of the above, the applicant concluded that there is no recognised outfall from the current site. It is likely that any historical land drainage has been disturbed/removed during the re-grading works for the school playing field. No further suitable pipe or ditch/watercourse is noted at a further distance from the site that would be acceptable to take surface water flows from the new development. For this reason, a surface water pumping station is the only option. It would be sited at the lowest point of the site and as there would be no existing housing below, no existing properties would be at risk should the pumping station fail.
- 10.53 The LLFA have confirmed that following a review of the drainage proposals and the additional information requested in the course of the planning application, it can support the application subject to the inclusion of appropriate conditions. The LLFA note that an investigation of a watercourse to the north east of the site has concluded that no appropriate outfall can be achieved. A pump station for surface water can be supported on this occasion, and without prejudice to future applications, given no obvious alternative is available and there is no housing or vulnerable use that could be affected by pump station failure. Discharge rates should, however, be kept to a minimum, which will be secured by condition. The LLFA also advise that the removal of housing from the north eastern area of the site boundary as part of the revised scheme allows the possibility of safe flood routing.
- 10.54 The site would, however, be subject to a strict management and maintenance strategy up to potential adoption by Yorkshire Water to maintain the system in the long term. This would need to be secured through the S106 agreement. Definitive details of the drainage scheme, as well as final details of flow routing would also be required by condition.
- 10.55 For the reasons set out above, and subject to the imposition of appropriate planning conditions, the proposal is considered acceptable with regard to flood risk and drainage in accordance with KLP Policies LP27 and LP28.

### **Environmental health considerations**

- 10.56 Policy LP51 relates to the protection and improvement of local air quality and confirms that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air pollution which would have an unacceptable impact on the natural and built environment or to people. Policy LP52 relates to the protection and improvement of environmental quality and states, amongst other matters, that proposals which have the potential to increase pollution must be accompanied by evidence to show that the impacts have been evaluated and measures have been incorporated to prevent or reduce the pollution, to ensure it does not reduce the quality of life and well-being of people to an unacceptable level or have unacceptable impacts on the environment.
- 10.57 The application site does not lie within or adjacent to an Air Quality Management Area and is below the threshold for an Air Quality Impact Assessment to be required. Nevertheless, it is advised that construction impacts should be minimised based on measures to be included in a Construction Management Plan, which would be a requirement of a pre-commencement condition.

- 10.58 Facilities for charging electric vehicles and other ultra-low emission vehicles would also be required by condition in accordance with the NPPF and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. The scheme would therefore have due regard to the objectives of Policies LP51 and LP52.

### **Ground conditions**

- 10.59 The applicant has undertaken a Phase 1 Desk Top Geo-Environmental Report and a Coal Mining Risk Assessment. The former concludes that there has been minimal historical development beyond the current buildings on site. The adjacent uses have primarily been residential and educational developments, which are unlikely to cause contamination to the site. The primary sources of contamination are considered to be the storage of materials in the south-western portion of the development and the probable shallow mine workings to the north-east and south-west. A Phase 2 Ground Investigation is therefore recommended following demolition of the buildings on site.
- 10.60 In relation to the Coal Mining Risk Assessment (CMRA), a very small section of the site is within a High-Risk Coal Referral Area. The CMRA confirms that there are no recorded mine entries known to the Coal Authority within, or within 20 metres of the boundary of the property. It identifies a coal outcrop encroaching on the south-western corner of the development. In addition to this, probable shallow workings from an outcrop to the north-east of the site are shown to encroach on the north-eastern corner. It, therefore, concludes that there is the potential for shallow coal and possible coal workings to be present beneath the proposed development at shallow depths. Further borehole investigations should, therefore, be undertaken before any development is commenced. This would be secured by condition.
- 10.61 Contaminated land conditions are therefore required to seek a Phase 2 Site Investigation Report, a Remediation Strategy (as required) and a Validation Report following completion of any necessary remediation measures, as well as a condition requiring a further rotary borehole investigation prior to works commencing. Subject to the imposition of these conditions, the proposal is considered acceptable with regard to ground conditions.

### **Climate change**

- 10.62 An assessment of the proposal's impact on climate change is limited at this stage, given that it is an outline application. It is appreciated that the construction of new buildings has a footprint in terms of CO<sub>2</sub> emissions. However, at this stage, no information in respect of the form of construction has been provided, as these are detailed matters that will be assessed as part of any future Reserved Matters submission. At that stage, consideration could be given to the lifecycle of building materials and whether it could be specified through the development contract that materials have a low embodied impact.
- 10.63 Energy efficiency would also be considered at the Reserved Matters stage. It is likely that as a minimum, a fabric-first approach would be adopted for the development. This would mean ensuring minimal heat loss through fabric, thermal-bridging and air infiltration. Other measures might include low energy lighting, water efficient fittings, such as flow restrictors and water efficient

appliances to minimise water consumption. Furthermore, measures to encourage future residents of the proposed development to use sustainable modes of transport could be secured. This would include adequate provision for cyclists (cycle storage for residents) and electric vehicle charging points.

- 10.64 In order to clarify these measures, a condition is, therefore, recommended to require details of measures to promote carbon reduction and enhance resilience to climate change.

### **Demolition of 7 and 11 Church Lane**

- 10.65 This application would also include the demolition of Nos 7 and 11 Church Lane. Since April 2011, the demolition of a building constitutes development such that it forms part of the consideration of this application. No.7 is a red brick bungalow with a slate rear, to the rear of which are a number of outbuildings, typically of agricultural appearance as well as stables. No.11 is a dormer bungalow constructed in stone, render and brick. Each are set within generous landscaped gardens.
- 10.66 Whilst they are both attractive properties in good condition, they are not considered to be of any particular architectural merit; they are neither Listed nor within a Conservation Area to warrant consideration as an undesignated heritage asset. They are in close proximity to other existing residential properties such that their demolition would have to be carefully managed to protect the living conditions of adjoining residents, with particular regard to noise and dust. However, this would be secured through a Construction Environmental Management Plan. On this basis, there is no objection to their demolition, which would facilitate the development of the wider site and the delivery of a meaningful density across the site as a whole.

### **Response to representations**

- 10.67 Most issues raised through the public consultation exercise have been considered in the report above. However, the following matters have not been specifically addressed in the assessment and are, therefore, considered below:

Bronte Close must not be used for vehicle or pedestrian access into or out of the development or for vehicle parking, for construction employees or any sub-contractor.

**Response:** The garden to Plot 4 would lie at the end of Bronte Close and no vehicular or pedestrian access into or out of the development is shown. For the construction phase, a Construction Management Plan would be secured by condition, which could ensure that no access for construction employees would be taken from Bronte Close. These measures would ensure that Bronte Close would not become a route for general access to and from the development.

There is no evidence of any account being taken of the increased traffic along Craven Lane and Muffit Lane, both of which have minimally effective traffic calming arrangements in place.

**Response:** As set out above, this development would generate 16-17 trips in the AM/PM Peaks as the worst-case scenario. Such a modest level of traffic generation can be accommodated on the network along Craven Lane and Muffit Lane.

No reference to waste, service and maintenance vehicles contributing to trip generations in the Transport Assessment.

**Response:** These vehicles are already on the network. They would not be additional trips generated by this proposal.

Extra houses will spoil the outlook

**Response:** It is clearly established within planning law that there is no right to a view.

Subsidence from underground work to be implemented (damage to foundations). Residents state that they already have cracks to the foundations of their bungalow.

**Response:** The application has been subject to a Phase 1 Risk Assessment and Coal Mining Risk Assessment, as detailed in the report. Any existing cracks to foundations can clearly not be attributed to the proposed development and any future concerns about damage to adjoining properties would be a civil matter between the applicant and any adjoining householder.

Construction issues

**Response:** Planning case law is clear that disturbance arising from a construction phase is not a material planning consideration. It would be temporary. Nevertheless, a Construction Management Plan would be sought by condition to mitigate potential impacts such as dust, working hours, construction traffic and contractor parking.

Biodiversity/impact on wildlife/bats flying over the site.

**Response:** The applicant has provided a bio-diversity net gain assessment which demonstrates that there would be no net loss of biodiversity. Furthermore, this matter will be re-assessed at Reserved Matters stage, for landscape details to secure a greater bio-diversity net gain and enhance the habitat for wildlife and birds, for which there would be an opportunity within the wider planting scheme for the site and within the gardens of the proposed dwellings.

Local doctor and dental practices already struggling to meet demand.

**Response:** The provision of health facilities falls within the remit of NHS England. The Local Plan, through site allocations, cannot allocate land specifically for health facilities because providers plan for their own operating needs and local demand. Existing practices determine for themselves (as independent businesses) whether to recruit additional clinicians in the event of their registered list growing. Practices can also consider other means to deal with increased patient numbers, including increasing surgery hours. Whilst the concern is understood, it is not a matter that can be addressed by the planning system.



## **11.0 PLANNING OBLIGATIONS.**

- 11.1 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all the following: (i) Necessary to make the development acceptable in planning terms, (ii) Directly related to the development and (iii) Fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that it should be subject to a Section 106 agreement to cover the following:
- (i) Affordable housing – 20% of dwellings to be affordable with a split of 55% social or affordable rent to 45% intermediate housing;
  - (ii) Open space – contribution of £28,576.44 towards the improvement/enhancement of off-site open space within 720m of the site;
  - (iii) Education – contribution of £44,552 to be spent upon priority admission area schools within the geographical vicinity of the site;
  - (iv) Arrangements to secure the long-term maintenance and management of public open space and the applicant's surface water drainage proposals.
  - (v) A contribution to sustainable transport methods of £12,787.50.
- 11.2 The requirement for an obligation to retain the 20% affordable housing in perpetuity is set out in the report above.
- 11.3 The requirement in due course that a management scheme is in place for any open space is in accordance with guidance within the Council's Open Space SPD, which confirms that adequate management and maintenance of on-site open space would be necessary.
- 11.4 With regard to education, the contribution is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Contributions are only sought where the new housing will generate a need which cannot be met by existing local facilities. The number of additional pupils generated from new housing developments is estimated on the basis of an additional 3 children per 100 family houses per year group for primary and pre-school numbers, (7 year groups) and an additional 2 children per 100 family houses per year group for secondary (5 year groups).
- 11.5 This scheme would generate a requirement for 2.52 surplus places at Gomersal Primary School and 2.52 at Gomersal St Mary's Primary School. However, both have surplus places now and going forward such that additional primary school funding is unlikely to be required. At secondary level, the scheme would generate a requirement for 2.4 additional places and Whitcliffe Mount would require additional capacity to accommodate this. Consequently, a contribution of £42,552 would be required to be secured through the S106 agreement. This mechanism provides a consistent approach to securing the education

contribution within the planning application process. It is also proposed that the S106 agreement be worded to allow for the funding to be spent upon priority admission area schools within the geographical vicinity of this site, should the specific school requirements change as the development is commenced. This would be reasonable, necessary and directly related to the development.

- 11.6 The heads of terms in relation to drainage will ensure that arrangements are in place to secure long-term maintenance and management of the surface water drainage proposal. Similarly, the contribution to sustainable transport methods is reasonable and necessary to ensure that travel needs can be met by forms of sustainable transport other than the private car, which are encouraged, as a consequence of new development.
- 11.7 Finally, the requirement for a contribution to bio-diversity net gain is reasonable and necessary having regard to the requirements of Policy LP30(i) with 10% considered to be achievable and reasonable given the nature and size of the site.
- 11.8 For these reasons, these contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The requirement for these obligations therefore conforms to guidance within the Framework.

## **12.0 CONCLUSION**

- 12.1 This application seeks outline planning permission for the construction of 21 dwellings on a site allocated for housing within the Local Plan.
- 12.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, will be addressed at Reserved Matters stage, or via conditions and the S106 Legal Agreement.
- 12.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF, taken as a whole, constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would accord with the provisions of the development plan and it would constitute sustainable development. For this reason, it is therefore recommended for approval.

### **13.0 CONDITIONS (Summary list. Full wording of conditions, including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Details of the Reserved Matters of scale, appearance and landscaping.
2. Time limit for submission of Reserved Matters.
3. Time limit for commencement of development.
4. Submission of a Construction Management Plan to include means of access to the site for construction traffic.
5. Access and layout construction in accordance with approved plan.
6. A scheme detailing the proposed internal adoptable estate roads.
7. A scheme for the design and construction details for all new retaining walls.
8. Details for all new surface water attenuation tanks/pipes/manholes located in the highway.
9. Ecological Impact Assessment at Reserved Matters stage (landscaping) and development in accordance with the EiA recommendations.
10. Biodiversity Net Gain Plan at Reserved Matters stage (landscaping).
11. Detailing landscaping plan and details of boundary treatment.
12. Submission of Phase 2 Intrusive Site Investigation Report.
13. Submission of Remediation Strategy.
14. Implementation of Remediation Strategy.
15. Submission of Validation Report.
16. Procedures for dealing with unexpected contamination.
17. Borehole Investigations prior to commencement;
18. Details of final scheme detailing foul, surface water and land drainage.
19. Final details of overland flow routing.
20. Temporary drainage details.
21. Site to be developed by separate systems of drainage for foul and surface water on and off site.
22. No piped discharge of surface water from the development prior to the completion of surface water drainage works.
23. Elevation details of the pumping station (including materials)
24. Noise Assessment pursuant to the pumping station.
25. Provision of Electric Vehicle Charging Points.
26. Measures to promote carbon reduction and enhance resilience to climate change.

#### **Background Papers:**

Application and history files: <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90411>

Application form and Certificates: Certificate A signed.