
Report of the Head of Planning and Development**HUDDERSFIELD PLANNING SUB-COMMITTEE****Date: 16-Sep-2021****Subject: Planning Application 2021/91384 Erection of 13 dwellings
(resubmission) land south of, 5-25, Clay Well, Golcar, Huddersfield****APPLICANT**Dax Bradley, Brierstone
LTD**DATE VALID**

15-Apr-2021

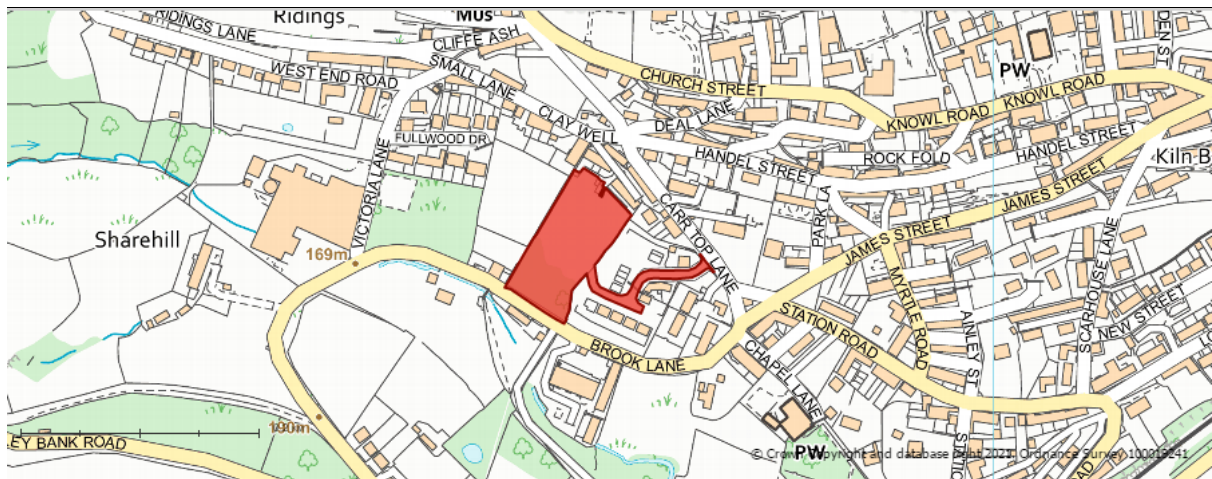
TARGET DATE

15-Jul-2021

EXTENSION EXPIRY DATE

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: Golcar

Ward Councillors consulted: Yes

Public or private: PUBLIC

RECOMMENDATION:

Approval of the application is again recommended, as set out in the previous committee report, including below, but subject to a revision to the open space contribution as set out below in this supplementary report, and with the addition of a condition related to sustainable energy technologies.

Members are asked to consider the commentary in this supplementary report, in particular the Legal Officer's advice relayed at section 12 regarding the potential award of costs at appeal.

Suggested reasons for refusal are set out in full for use in the event that Members are minded to refuse the application for all or some of those reasons.

1.0 INTRODUCTION:

- 1.1 This supplementary report relates to application 2021/91384, which is an application for full planning permission for a residential development of 13 dwellings.
- 1.2 That application was considered by the Huddersfield Sub-Committee on 05/08/2021. At that meeting, a vote to grant planning permission was not carried. Members then resolved to defer their decision to allow officers to draft a further report relating to the matters of concern raised by Members, and to provide suggested reasons for refusal for further consideration.
- 1.3 This supplementary report includes the requested reasons for refusal, as well as an update on relevant matters, and commentary on the implications of refusal of planning permission.
- 1.4 The previous committee report is appended to this supplementary report.

2.0 UPDATES TO PREVIOUS COMMITTEE REPORT:

- 2.1 The previous committee report included inconsistent information regarding the proposed unit size mix. At paragraph 3.3 a mix of eight 3-bedroom and five 4-bedroom units was referred to, whereas the breakdown provided at paragraph 10.43 referred to a mix of nine 3-bedroom and four 4-bedroom units. For the avoidance of doubt, the following breakdown correctly details what was considered under the previous committee report:
 - Unit 1 – detached, 4-bedroom, integral garage – 166sqm
 - Unit 2 – detached, 4-bedroom, integral garage – 166sqm

- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 111sqm
- Unit 7 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 10 – terraced, 3-bedroom – 111sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 12 – detached, 4-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

- 2.2 Further to paragraph 8.3 of the previous committee report, further comments had been received from the Lead Local Flood Authority (LLFA), confirming that outstanding queries regarding drainage calculations, flood routing and temporary drainage arrangements had been satisfactorily addressed. Conditions were again recommended by the LLFA.
- 2.3 As noted in the committee update issued on 04/08/2021, references (in the previous committee report) to the NPPF at paragraph 10.56, to reflect the changes made in July 2021, should read as paragraph 110 (was paragraph 108) and paragraph 111 (was paragraph 109).
- 2.4 The committee update issued on 04/08/2021 also included information related to financial viability, repeated here in the following paragraphs.
- 2.5 Further to paragraph 10.107 of the committee report, the applicant's more detailed information regarding abnormal development costs was summarised as follows:
- 1) Demolition and site clearance: £7,275
 - 2) Foundation abnormals: £80,100
 - 3) Tree protection works: £1,850
 - 4) Retaining structures: £336,390
 - 5) Cut/fill and import material: £27,490
 - 6) Surface water attenuation: £74,978
 - 7) Knotweed treatment: £46,340
 - TOTAL: £574,423
- 2.6 The council's consultant (Align) have an in-house quantity surveyor, who reviewed the above costs. Align advised that items 1, 3, 5 were reasonable. Parts of item 4 (relating to underbuild, concrete retaining walls, sheet piling and pre-cast concrete stairs) were also considered reasonable, as were parts of item 6 (relating to oversized pipes, attenuation tank and hydrobrakes). Officers concurred and recommended that they be accepted as inputs.
- 2.7 Regarding item 2 (foundation abnormals), Align advised that further details would be required. Regarding certain components listed under item 4, Align advised that the applicant's rate of £100 per metre (for stone facing) appeared high (in the absence of a further breakdown), and that the applicant's figure for tanking should not be accepted, as the figure has been priced per plot, whereas each plot is likely to have a different cost. Under item 6, Align queried the £10,718.10 for each of the four oversized manholes. Regarding item 7, while the eradication of invasive species can be accepted in principle as an

abnormal cost, Align queried whether the most expensive eradication option should be accepted, when cheaper options had been priced.

- 2.8 Given the above queries regarding some of the applicant's abnormal costs and given the earlier officer advice (in the previous committee report) regarding Benchmark Land Value, the position set out at paragraph 10.110 of the committee report remained applicable. It was not accepted that the proposed development was unviable, and it was again recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

3.0 UPDATES SINCE SUB-COMMITTEE MEETING OF 05/08/2021:

- 3.1 The following further consultee responses have been received:

KC Ecology – Given the proposed retention of the building with potential for roosting bats, provided the proposed measures (to avoid impacts to roosting and foraging bats) are secured via condition, the proposals are considered acceptable in this regard and impacts to European Protected species would be avoided. All proposed ecological and bat mitigation measures must be fully incorporated into the scheme and shown to scale on all relevant plans and drawings. The applicant's updated biodiversity metric calculations are now considered to be accurate, however the results indicate an overall loss in habitat units of -2.21 or a net loss of 40.35%. This is not in accordance with Local Plan policy LP30 or the NPPF. Therefore, as no compensation for this loss has been provided within the submitted report, options to provide a 10% net gain for biodiversity will need to be explored.

- 3.2 At the time of writing this supplementary report, no appeal against the non-determination of the application had been lodged.

- 3.3 Following the sub-committee meeting of 05/08/2021, officers contacted the applicant team to discuss possible amendments to help address Members' concerns.

- 3.4 On 02/09/2021 the applicant submitted amended drawings, showing two of the terraced dwellings (units 7 and 10) reduced in size and redesigned. This has resulted in an amended unit size mix comprising two 2-bedroom units, six 3-bedroom units and five 4-bedroom units. This improved unit size mix is summarised below, and is considered under section 5 of this supplementary report.

- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
- Unit 2 – detached, 4-bedroom, integral garage – 166sqm
- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 129sqm
- Unit 7 – terraced, 2-bedroom – 108sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 10 – terraced, 2-bedroom – 108sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 110sqm
- Unit 12 – detached, 4-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

- 3.5 The applicant also submitted an amended layout plan, reflecting the above changes to units 7 and 10.
- 3.6 On 01/09/2021 the applicant submitted a plan of the site's protected woodland, requesting that this area (measuring 1,952sqm) be counted as on-site open space in connection with the proposed development.
- 3.7 A further Planning Statement was also submitted by the applicant, in response to the concerns raised by Members at the sub-committee meeting of 05/08/2021.
- 3.8 The submission of the above-mentioned amended drawings did not necessitate public reconsultation.
- 3.9 Following the sub-committee meeting of 05/08/2021, discussion continued regarding the financial viability of the proposed development. A further report was issued by the council's viability consultant (Align) on 26/08/2021 (rev C).

4.0 OPEN SPACE:

- 4.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's lack of on-site open space.
- 4.2 An assessment of the proposed development's open space provision was provided in paragraph 10.50 of the previous committee report. In that report, it was stated that on-site provision of most types of open space would not be suitable for this sloped site, and that a financial contribution of £29,123 would instead be required. It was also recommended that an additional contribution be secured in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 4.3 Of note, a small area of open space was to be provided at the adjacent site to the east under permission ref: 2017/91173. A subsequent application to develop a further three dwellings on this space was refused by the council (ref: 2018/92848) but was subsequently allowed at appeal (ref: APP/Z4718/W/19/3229696), with the appeal Inspector referring to the same Local Plan policies that remain applicable today. That adjacent development is therefore being implemented with no on-site open space.
- 4.4 Had all applications for the development of the three sites on this hillside (allocated sites HS153, HS158 and HS157) been submitted after the adoption of the Local Plan and within a narrower timeframe, the council could have applied its masterplanning policies and required a co-ordinated approach to the provision of open space across the three sites. However, given that permissions for residential development were granted from 2015 onwards (beginning with the outline permission ref: 2015/90507 for what is now allocated site HS157), given the appeal decision regarding site HS157, and given that the development of site HS157 is now nearing completion, such a co-ordinated approach across the three sites has not been possible. Furthermore, it must be noted that opportunities for on-site provision on this hillside are limited due to the slope of the three sites, the presence of protected

trees, and other constraints that limit the available space. These considerations informed the officer's recommendation to accept financial contributions towards off-site provision in respect of the current application.

4.5 As regards where such contributions would be spent, the two nearest appropriate locations are at Two Furrows Recreation Ground and Wellhouse. These are both within the 720m recommended maximum walking distance from the application site. The suitability and accessibility of these two sites are assessed as follows:

- Two Furrows – Located northwest of the application site, in the Golcar ward, on Manor Road, adjacent to Golcar Junior Infant and Nursery School. Approximately 220m from the site's northwest corner (as the crow flies), however the most direct walking route would be approximately 280m (via footpath COL/56/40, Clay Well, Deal Lane, crossing Church Street to access Manor Road), involving an ascent of approximately 25m. This route includes steps, road crossings and lanes lacking footways, making it unsuitable for people using pushchairs, and less than ideal in terms of pedestrian safety.
- Wellhouse – Located south of the application site, in the Colne Valley ward, on Lower Wellhouse Road. Approximately 380m from the site's southwest corner (as the crow flies), however the most direct walking route would be approximately 460m (via footpath COL/56/40, crossing Brook Lane, footpaths COL/56/10 and COL/56/30, and crossing Lower Wellhouse Road), involving a descent of approximately 25m followed by an ascent of approximately 40m. This route includes steps, road crossings, a length of road lacking a footway, and another road with narrow footways, making it unsuitable for people using pushchairs, and less than ideal in terms of pedestrian safety.

4.6 The above walking routes to the two open spaces will be mapped in a slide to be presented to Members at the sub-committee meeting.

4.7 Of the two open spaces considered above, Two Furrows is clearly the more accessible, but nonetheless has shortcomings in terms of ease and safety of access.

4.8 As noted above, on 01/09/2021 the applicant submitted a plan of the site's protected woodland, requesting that this area (measuring 1,952sqm) be counted as on-site open space in connection with the proposed development. This is indeed possible in accordance with the council's Open Space SPD. Given the nature of this space, it would be regarded as Natural and Semi-Natural Open Space (using the definitions of typologies set out in the council's SPD), and the proposed provision would assist in addressing known deficiencies in the Golcar ward of this open space typology. Public access into the woodland is not necessary for it to be counted as on-site open space.

4.9 With this on-site provision now proposed, the financial contribution towards off-site open space provision (as set out in paragraph 10.50 of the previous committee report) has been recalculated. A contribution of £22,948 would be required.

4.10 A lack of on-site open space was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Furthermore, Members are advised to take note of what was allowed at appeal at the adjacent site (where the appeal Inspector accepted an absence of on-site provision, with reference to the same Local Plan policies that are applicable today). Regard should also be had to the applicant's recent proposal to count the application site's woodland as on-site open space, and to the acceptability of these 1,952sqm being counted as Natural and Semi-Natural Open Space. In light of these considerations, it is not recommended that permission be refused in relation to open space provision.

4.11 However, should the sub-committee be minded to proceed with refusal on open space grounds, the following reason for refusal wording is suggested:

1) The proposed development, due to its lack of suitable on-site open space, would not provide adequate, usable outdoor space for its residents, and would not sufficiently mitigate its impacts. The proposed development is therefore contrary to policies LP4, LP24, LP47 and LP63 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

5.0 RESIDENTIAL UNIT SIZE MIX:

5.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's unit size mix. All units were proposed to have three or four bedrooms.

5.2 An assessment of the proposed unit size mix was provided at paragraph 10.44 of the previous committee report, where it was noted that this aspect of the proposals was unfortunate. A more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and could have helped to avoid visual monotony across the site. The previous committee report recognised this aspect of the proposed development as a shortcoming that attracts negative weight in the balance of planning considerations, but did not recommend that planning permission be withheld on these grounds.

5.3 Regarding relevant planning policy, LP11 in the Local Plan requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing 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 types of housing. This includes consideration of provision for those with specialist needs. For schemes of more than 10 dwellings or those of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. Furthermore, Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of unit sizes are not set out in the policy).

- 5.4 The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that, across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.
- 5.5 At the adjacent site, 2-, 3-, 4- and 5-bedroom dwellings have been developed.
- 5.6 As noted above, on 02/09/2021 the applicant submitted amended drawings, showing two of the terraced dwellings (units 7 and 10) reduced in size and redesigned. This has resulted in an amended unit size mix comprising two 2-bedroom units, six 3-bedroom units and five 4-bedroom units. This revised mix is considered to be an improvement on the mix previously considered by Members.
- 5.7 Of note, following this recent amendment to the unit size mix, all of the proposed dwellings would still comply with the Government's Nationally Described Space Standards (March 2015, updated 2016).
- 5.8 The proposed development's unit size mix was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve a scheme entirely comprised of 3- and 4-bedroom dwellings at this site under application ref: 2019/90925. Furthermore, Members are advised to take note of the recently-amended unit size mix, which now includes two 2-bedroom units.
- 5.9 However, should the sub-committee be minded to proceed with refusal on unit size mix grounds, the following reason for refusal wording is suggested:

2) The proposed development, due to its preponderance of larger (three- and four-bedroom) units, would not sufficiently meet known housing need or sufficiently contribute towards creating mixed and balanced communities. The proposed development is therefore contrary to policies LP5 and LP11 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

6.0 CHARACTER:

- 6.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact on the character of Golcar. It was not confirmed which specific aspects of the proposed development were considered to be harmful to the character of Golcar, however given the comments were made in relation to "old Golcar", it is understood that the concerns related to design and conservation matters, and the relationship between the application site and the historic village core.
- 6.2 An assessment of design and conservation matters was provided at paragraphs 10.14 to 10.37 of the previous committee report. This included a summary (at paragraphs 10.17 and 10.18) of those qualities of the Golcar Conservation Area that contribute towards the area's character.

6.3 It is acknowledged that development of the allocated site will inevitably be transformative. A certain quantum of development would be required to make residential development of the site viable, and a development of significantly fewer units (allowing a greater part of the site to be retained as undeveloped, soft landscaped space) is unlikely to be brought forward here.

6.4 The proposed development's impact upon the character of Golcar was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same proposals under application ref: 2019/90925, however should the sub-committee be minded to proceed with refusal on character grounds, the following reason for refusal wording is suggested:

3) The proposed development, due to its [Members to advise] would result in [Members to advise] and would cause unacceptable harm to the character of the village of Golcar. The proposed development is therefore contrary to policies LP24 and LP35 of the Kirklees Local Plan, and guidance in the National Planning Policy Framework.

6.5 Of note, for the above reason for refusal to be completed (and to enable this reason to be defended at appeal, if necessary), Members will need to advise what specific aspects of the proposed development are of concern (Members might wish to consider – for example – the density of development, its layout, materials, degree of tree cover, or other aspects relevant to design and conservation). Members will also need to advise what specific aspects of the character of Golcar would be harmed by these aspects of the proposed development.

7.0 DRAINAGE:

7.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact in relation to drainage, and specifically surface water run-off from the site.

7.2 Of note, subject to conditions and adequate management/maintenance provisions, the relevant consultees (the Lead Local Flood Authority and Yorkshire Water) did not object to the proposed development and the applicant's drainage strategy. Paragraphs 10.69 to 10.77 of the previous committee report provided an assessment of flood risk and drainage matters.

7.3 As recently demonstrated at the adjacent site to the west (where, following the removal of vegetation, complaints were received regarding water entering adjacent land), surface water run-off is certainly a relevant consideration at these three hillside sites. However, with appropriate provisions (including conditions relating to temporary drainage during construction, to avoid the problems that have occurred at the site to the west), it is considered that the application site can be developed without causing unacceptable impacts in relation to drainage and flood risk.

7.4 Drainage matters were not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Furthermore, relevant technical consultees have not objected to the proposed development on flood risk and

drainage grounds. Members are also advised to take note of Government guidance regarding the award of costs at appeal, and the potential for an appellant to argue that vague, generalised or inaccurate assertions (unsupported by objective analysis) have been made regarding a proposal's impact.

- 7.5 However, should the sub-committee be minded to proceed with refusal on drainage grounds, the following reason for refusal wording is suggested:

4) In the absence of adequate supporting information relating to flood risk and drainage, it has not been demonstrated that the proposed development does not pose unacceptable flood risk and risks to public safety. The proposed development is therefore contrary to policies LP27 and LP28 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

8.0 TREES:

- 8.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, Members expressed concern regarding the proposed development's impact in relation to trees.

- 8.2 As noted at paragraph 10.80 of the previous committee report, the applicant proposes the retention of group G14 and trees T12 and T24. Almost all other trees would be felled (or, it is understood, have already been felled). This represents a significant loss of trees from the site and is regrettable.

- 8.3 However, the previous committee report went on to explain why the proposed losses are considered acceptable, subject to adequate replacement being secured by a recommended condition, to ensure compliance with Local Plan policies LP24i and LP33. The report also addressed the concerns of the council's Arboricultural Officer. It is noted again that development of the allocated site will inevitably be transformative, and that major development at this allocated site would not be possible without a significant loss of trees.

- 8.4 Impacts in relation to trees were not deemed to be a reason for refusal by the sub-committee in March 2020, when Members resolved to approve the same layout under application ref: 2019/90925. Members could, however, make reference to the revised NPPF (July 2021), which – at paragraph 131 – now states that existing trees should be retained wherever possible (although it is noted that policy LP33 already had similar wording related to trees of significant amenity, and was applicable in March 2020).

- 8.5 Should the sub-committee be minded to proceed with refusal on tree impact grounds (contrary to officers' recommendations), the following reason for refusal wording is suggested:

5) The proposed development, due to it necessitating the removal of trees and its impacts on trees to be retained, would result in unacceptable loss of and harm to trees of significant amenity value, and would reduce the degree of tree coverage at this hillside. The proposed development is therefore contrary to policies LP24 and LP33 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.

9.0 GREENFIELD DEVELOPMENT:

- 9.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the proposed development of a greenfield site.
- 9.2 The application site is allocated for residential development, and no residential development could take place at this site without the use of at least some previously-undeveloped (greenfield) land. No part of the application site is brownfield land.
- 9.3 Paragraphs 10.1 to 10.7 of the previous committee report assessed the principle of development, and provided information regarding the process of allocating the site for development in the Local Plan.
- 9.4 Of note, the site was designated as Provisional Open Land in the since-superseded Unitary Development Plan.
- 9.5 Members are reminded that outline planning permission for residential development has previously been granted for this site (application ref: 2017/93719), and that the principle of developing greenfield land was not deemed to be a reason for refusal by the sub-committee in March 2020, when Members considered application ref: 2019/90925. Given the site allocation, the previous decision, and the previous resolution, it is not recommended that permission be refused in relation to the principle of developing greenfield land. Refusal of permission on these grounds would effectively be an assertion that no development at this greenfield site would be acceptable, which would be inconsistent with the council's decision to allocate the site, and its decision and resolution in relation to previous applications.
- 9.6 Should Members be concerned regarding matters related to the principle of developing this greenfield site (such as the loss of trees from the site, the lack of greenery within the proposed development, the design of the proposed development, and/or the impact of the proposed development upon the character of Golcar), it is advised that these concerns would be better conveyed via the suggested reasons for refusal set out earlier in this supplementary report.

10.0 FINANCIAL VIABILITY

- 10.1 As noted above, following the sub-committee meeting of 05/08/2021, discussion continued regarding the financial viability of the proposed development. A further report was issued by the council's viability consultant (Align) on 26/08/2021 (rev C). This reflected Align's acceptance of the applicant's evidence regarding abnormal build costs, and included a summary of the profit outcomes of various scenarios where different affordable housing provisions and Section 106 contributions are secured. Assuming £78,486 of Section 106 contributions, Align found that 25.8% profit (on sales) would be achieved with no affordable housing provided. The provision of one intermediate unit would bring the developer's profit down to 20.3%, and the provision of one affordable/social rent unit would result in a profit of 18.8%. Any greater affordable housing provision would take the developer's profit to a level below the 15-20% range referred to in the council's Viability Guidance Note: two affordable/social rent units would result in a profit of 13.6%, and a policy-compliant provision (of two affordable/social rent units and one intermediate unit) would result in a profit of 8.9%.

- 10.2 The applicant has not accepted Align's latest findings, and has argued that build cost information submitted during the life of the application should be taken into account (and that this would result in profit outcomes illustrating worse viability than Align's figures suggest). There is also outstanding disagreement regarding the appropriate Benchmark Land Value.
- 10.3 The applicant has also stated that, following the sub-committee's decision to defer its decision, the applicant's option to secure favourable financing (which, the applicant says, enabled the applicant to agree to the full affordable housing and Section 106 requirements, shortly before the previous sub-committee meeting) has expired. The applicant has therefore reverted to the position that the site cannot support Section 106 contributions or affordable housing.
- 10.4 This is not accepted. Notwithstanding the findings of Align (that the proposed development can provide at least some affordable housing and Section 106 contributions, while delivering an adequate profit for the developer), there is no evidence currently before the council to suggest that the favourable financing previously available to the applicant could not be secured again. Furthermore, even if it were convincingly demonstrated that the current iteration of the proposed development was truly unviable, it would then be appropriate for the applicant team to work with officers, to establish whether amendments (to unit numbers, sizes and house types, for example) could improve viability and could enable a fully policy-compliant scheme (or a scheme closer to full compliance) to be brought forward.
- 10.5 Given these considerations, and having regard to paragraph 58 of the NPPF (which states that the weight to be given to a viability assessment is a matter for the decision maker), it is again recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

11.0 OTHER CONSIDERATIONS:

- 11.1 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the distribution of affordable housing within the proposed development. Notwithstanding the commentary provided at paragraph 10.54 of the previous committee report, pepper-potting of the required affordable housing can indeed be secured, although it is noted that – due to the size of the proposed development, and its layout – the three affordable dwellings will inevitably be located relatively close to one another in any arrangement.
- 11.2 At the meeting of the Huddersfield Sub-Committee on 05/08/2021, concern was expressed regarding the number of recommended conditions. It was implied that this suggested an unusually large number of issues were unresolved.
- 11.3 The 30 conditions recommended in the previous committee report are not unusual for a development or a site such as this. Some other major developments may well be subject to fewer conditions, however those sites are unlikely to be subject to all of the constraints and considerations that apply to the current application site. For example, not all development sites are adjacent to trees that require protection during works, not all include a derelict

building that needs retaining, and a potential bat presence does not apply to all sites. The number of recommended conditions does not indicate an unacceptable number of unresolved issues at the current application site. It is also noted that Government guidance states that planning permission should not be refused on grounds capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.

- 11.4 Having considered this supplementary report, should Members now be minded to grant planning permission in accordance with the previous officer recommendation (as amended), a condition related to sustainable energy technologies (as discussed at the committee meeting of 05/08/2021) can be applied.
- 11.5 If, however, Members are minded to refuse permission, careful consideration must be given to the need for consistency in planning decisions, and the risks involved in deviating from previous decisions. While such a deviation would not be unlawful (there is no planning legislation that requires planning decisions to adhere to earlier resolutions), there is an expectation placed upon the council to act reasonably in the execution of its duties as the local planning authority. Of note, the five suggested reasons for refusal set out in this supplementary report relate to matters that were not deemed to be reasons for refusal by the sub-committee in March 2020, when Members resolved to approve essentially the same proposals under application ref: 2019/90925. New policies and guidance documents have been adopted and published since March 2020, however the key changes therein relate to matters such as biodiversity and climate change, and not to the matters of concern raised by Members on 05/08/2021. Furthermore, relevant considerations on the ground (at the application site and its surroundings) have not significantly changed since March 2020.
- 11.6 Reference must be made to the Government's guidance regarding the type of behaviour that may give rise to an award of costs against a local planning authority at appeal. The Government has stated (in Planning Practice Guidance paragraph: 049, reference ID: 16-049-20140306) that examples of unreasonable behaviour include:
- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - failure to produce evidence to substantiate each reason for refusal on appeal;
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
 - persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable; and
 - not determining similar cases in a consistent manner.
- 11.7 Members will also be aware that the refusal of planning permission, and a subsequent appeal, brings with it a risk of an appeal Inspector taking a different view (to the council) regarding financial viability, and/or regarding what conditions and Section 106 obligations would be required in the event of an appeal being allowed.

12.0 LEGAL ADVICE AND IMPLICATIONS OF REFUSAL

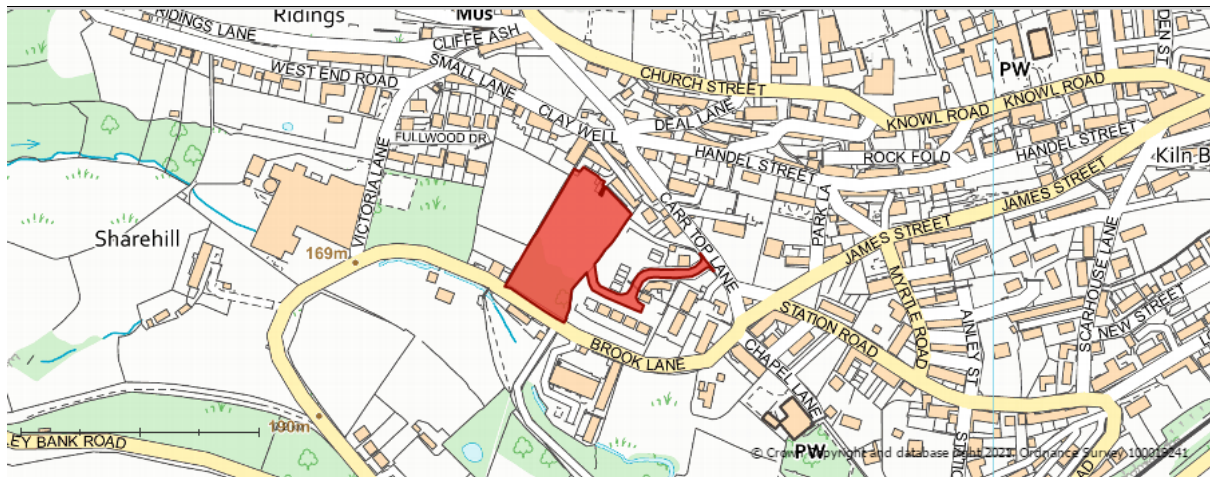
- 12.1 As advised in section 11 above, an appeal Inspector can make an award of costs in the event that unreasonable behaviour has resulted in unnecessary costs being incurred. This award can be made either upon the request of the appellant, or upon the appeal Inspector's own volition.
- 12.2 Having assessed the likely potential for such an award, it is considered that only suggested reason 3 (at paragraph 6.4 above, relating to the impact of the proposed development upon the character of Golcar) would be likely to not attract a costs award, as the assessment of character impact is subjective. The other suggested reasons for refusal (regarding drainage, unit size mix, open space and trees) could be said to have been reasonably addressed by conditions, the applicant's recent amendment to the unit size mix, and on-site provision of open space.

13.0 CONCLUSION:

- 13.1 Officers again recommend approval as per the previous committee report, included below, subject to a revision to the open space contribution as set out above, and with the addition of a condition related to sustainable energy technologies. Members are, however, invited to consider whether they are still minded to refuse permission in light of the above commentary and recent amendments to the proposals, and to consider the five suggested reasons for refusal.

PREVIOUS COMMITTEE REPORT

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Golcar

Ward Councillors consulted: Yes

Public or private: PUBLIC

RECOMMENDATION:

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

- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
- 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.

6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.

7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

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

1.0 INTRODUCTION:

1.1 This is an application for full planning permission, for a residential development of 13 dwellings.

1.2 The application is presented to the Huddersfield Sub-Committee as it relates to a site larger than 0.5 hectares in size and has attracted a significant volume of representations.

1.3 The application is a resubmission of application ref: 2019/90925, which the Huddersfield Sub-Committee resolved to approve at its meeting of 19/03/2020. That application was, however, subsequently refused on 26/03/2021 as the applicant had not completed the required Section 106 agreement.

2.0 SITE AND SURROUNDINGS:

2.1 The application site comprises site allocation HS158 (allocated for housing) and the estate road that serves the development under construction to the east. Although section 4 of the submitted application form states that the site is 0.39 hectares in size, the application site red line boundary includes a larger area, and in this report a site area of 0.74 hectares is used. This figure was also used when the previous application (ref: 2019/90925) was considered.

2.2 The site is within the Golcar Conservation Area. To the north of the site is a terrace of five Grade II listed cottages at 17-25 Clay Well, and the Grade II listed former factory/warehouse and dwellings at 27-29 Clay Well. To the southwest is a Grade II listed group of back-to-back buildings at 54, 54A, 56 and 58 Brook Lane. Undesignated heritage assets within and close to the site include footpaths, dry stone walls and field patterns.

2.3 The site slopes downhill from north (approximately 190m AOD) to south (approximately 170m AOD). No buildings exist within the site's boundaries other than a derelict stone building at the north end of the site. The site has previously been in agricultural use, and is previously-undeveloped (greenfield) land. Parts of the site are overgrown with self-seeded trees and shrubs, giving the site a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. Tree Preservation Order 06/15/w1 protects the woodland within the southern

part of the site, and the conservation area status of the site bestows protection on other trees. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site.

- 2.4 A public footpath (COL/56/40) runs along the site's west boundary.
- 2.5 Land immediately to the west and east is also allocated for housing (site allocations HS153 and HS157).

3.0 PROPOSAL:

- 3.1 The applicant seeks full planning permission for the erection of 13 dwellings.
- 3.2 A new estate road is proposed as an extension to the estate road of the adjacent development (Hillcrest View, currently nearing completion), continuing north-westwards across the site and meeting the public footpath that runs along the site's western edge.
- 3.3 Dwellings would be arranged along this new estate road, provided as five detached houses, a pair of semi-detached houses, and in two short terraces. Eight 3-bedroom and five 4-bedroom dwellings are proposed. 12 of the proposed dwellings would have 3-storey elevations to one side, 2-storey elevations to the other. Natural stone walls and natural slate roofs are proposed.
- 3.4 No publicly-accessible open space is annotated on the applicant's drawings.
- 3.5 All dwellings would have off-street parking. Nine of the proposed dwellings would have integral garages.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/90925 – Full planning permission refused 26/03/2021 for the erection of 13 dwellings. Reason for refusal:

The proposed development, due to its lack of on-site affordable housing and open space, lack of related financial contributions to address these requirements off-site, and lack of a financial contribution towards education provision, would not sufficiently meet known housing need, would not provide adequate, usable outdoor space for its residents, would not make adequate provision for education, and would not sufficiently mitigate its impacts. Furthermore, with insufficient measures to encourage the use of sustainable modes of transport, to ensure land and infrastructure is managed, and to ensure access is provided to adjacent land, the proposed development would not be sustainable, would not sufficiently mitigate risk in relation to drainage and maintenance, and would not ensure development of adjacent land is enabled and that a connected, permeable neighbourhood would be created. This would be contrary to Kirklees Local Plan policies LP4, LP5, LP7, LP11, LP20, LP24, LP27, LP28, LP47, LP49 and LP63, and chapters 5, 8, 9, 11, 12 and 14 of the National Planning Policy Framework.

- 4.2 2017/93719 – Outline planning permission granted 14/03/2018 for residential development with details of point of access only.

- 4.3 95/90501 – Outline planning permission refused 31/03/1995 for approximately 23 residential dwellings.
- 4.4 94/93595 – Outline planning permission refused 10/01/1995 for approximately 23 residential dwellings.
- 4.5 The adjacent site to the west was granted outline planning permission for residential development (with details of access) on 14/03/2018 (ref: 2017/93638).
- 4.6 The adjacent site to the east was granted outline planning permission for residential development on 09/09/2015 (ref: 2015/90507), and reserved matters approval for a 19-unit scheme was subsequently granted at appeal on 14/11/2019 (refs: 2018/92848 and APP/Z4718/W/19/3229696). That scheme is currently under construction.

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

- 5.1 During the life of the current application, the applicant submitted new, amended or corrected documents including a biodiversity metric calculation and report, a Preliminary Ecological Appraisal and three versions of a Bat Mitigation Strategy, arboricultural information, swept path diagrams, flood risk and drainage information, construction management information, plans and elevations, a Design and Access Statement, a Transport Statement, a financial viability appraisal and related information, Phase I and II reports, and three versions of a Derelict Building Proposals document.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

- 6.2 Site allocation HS158 relates to 0.64 hectares (gross) / 0.43 hectares (net, excluding the mixed deciduous woodland), sets out an indicative housing capacity of 14 dwellings, and identifies the following constraints:

- Part of the site contains Habitats of Principal Importance.
- Public right of way runs along the western boundary of the site.
- The site is within a Conservation Area.

- 6.3 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce

LP11 – Housing mix and affordable housing
 LP20 – Sustainable travel
 LP21 – Highways and access
 LP22 – Parking
 LP23 – Core walking and cycling network
 LP24 – Design
 LP26 – Renewable and low carbon energy
 LP27 – Flood risk
 LP28 – Drainage
 LP30 – Biodiversity and geodiversity
 LP32 – Landscape
 LP33 – Trees
 LP34 – Conserving and enhancing the water environment
 LP35 – Historic environment
 LP47 – Healthy, active and safe lifestyles
 LP48 – Community facilities and services
 LP49 – Educational and health care needs
 LP50 – Sport and physical activity
 LP51 – Protection and improvement of local air quality
 LP52 – Protection and improvement of environmental quality
 LP53 – Contaminated and unstable land
 LP63 – New open space
 LP65 – Housing allocations

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 Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Affordable Housing SPD (2008)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide SPD (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)
- Golcar Conservation Area (character appraisal) (undated)
- Planning Applications Climate Change Guidance (2021)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)
- Biodiversity Net Gain Technical Advice Note (2021)

Climate change

6.5 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has

pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

- 6.6 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda. In June 2021 the council approved a Planning Applications Climate Change Guidance document.

National Planning Policy and Guidance:

- 6.7 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

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

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

- 6.9 Relevant national guidance and documents:

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

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development, as a development within a conservation area, and as a development that would affect the setting of a listed building and a public right of way.

7.2 The application has been advertised via three site notices posted on 12/05/2021, an advertisement in the local press dated 30/04/2021, and letters delivered to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 03/06/2021.

7.3 28 representations were received from occupants of neighbouring properties. The following is a summary of the points raised:

- Greenfield land should not be developed. Green spaces needed for exercise and mental health reasons. Brownfield sites should be developed instead. A proper plan is needed for Kirklees, instead of the current free-for-all. New houses have already been built recently in nearby locations.
- Previous refusal should be upheld.
- If council is minded to approve, fewer units should be proposed.
- Allotments should be reintroduced.
- Proposed development would be unsustainable.
- Harm to setting of adjacent listed buildings. Most nearby buildings are Grade II listed.
- Proposed dwellings not in keeping with local area. New yellow stone inappropriate. Windows do not match those of existing buildings. Development would be an eyesore.
- Harm to character, appearance and nature of historic village. Nature of village has been changed by recent developments.
- Site is within a conservation area.
- Objection to demolition of washhouse, which is part of area's local history.
- Bisecting ginnel with a path or road to Fullwood Drive would harm the village and its historic ginnel trail.
- Loss of trees, woodland cover and shrubs. Contrary to Golcar Conservation Area appraisal. Applicant already cleared site.
- Loss of wildlife habitat, contrary to Kirklees Biodiversity Strategy. Impact on bird, bats and insects. Bats roost in wash house. Newts are present. Protected and notable species present in the area. Site's habitats already destroyed, contrary to requirements for prior surveys. Badgers may have been driven away. Site should be restored to its original state.
- Japanese Knotweed present on site.
- Existing drainage system unable to cope. Yorkshire Water have had to carry out works. Natural springs exist at the site. Loss of vegetation and covering land with hard surfaces would adversely affect drainage.
- Run-off and mud from existing site blocked drains on Brook Lane. Streams regularly appear from hillside into Brook Lane after rain. Proposed development would cause similar problems.
- Houses would lack garden space.

- Increased noise and disturbance, during construction and following occupation.
- Dust during construction.
- Builders of adjacent site have made a mess. Untidy piles of cleared vegetation have been left on the site. Temporary fencing and portable toilet left on site.
- Increased odours.
- Loss of privacy at 5 to 25 Clay Well.
- Loss of natural light if fencing erected behind units 6, 7 and 8.
- Overlooking of properties on Carr Top Lane and of Heritage Mill.
- Loss of outlook.
- Loss of views from neighbouring properties.
- Four- and five-bedroom houses not needed. Recent developments have not alleviated perceived housing problem.
- Proposed dwellings would not be affordable. Affordable first-time buyer homes needed.
- Highways concerns. Increased traffic and congestion. Additional pressure at bottle neck in Milnsbridge. Lanes lack footways, are heavily parked, and have deteriorated in condition. Danger to pedestrians, including people with disabilities and schoolchildren. Serious accident will occur. Carr Top Lane is busy, single-track, and is a rat run. Existing problems are worse in winter.
- Objection to through-route to Fullwood Drive.
- Inadequate parking provision.
- Inadequate local public transport provision.
- Residents of the development are unlikely to cycle.
- Village is becoming overcrowded.
- Schools are full and health services are stretched. Inadequate medical and dental provision.
- Impact on property values.
- Viability claims not accepted.
- Council appears more interested in council tax revenue.
- Adjacent development has already resulted in damage to neighbouring dwelling.
- No objection to proposal, other than in relation to traffic.

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

7.5 Amendments made, and additional information submitted, during the life of the application did not necessitate public re-consultation. Local re-consultation is not normally considered necessary when technical supporting information is submitted by applicants.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 KC Highways Development Management – Proposed development is acceptable in highways terms, subject to conditions. Proposed layout is of a similar design to the adjacent scheme. Proposed development, including forward visibility and gradients, must be in accordance with the Highway Design Guide SPD – this will be addressed at conditions stage. Adequate tracking for an 11.85m refuse collection vehicle has been demonstrated.

Adequate off-street parking would be provided for a development of this scale. Conditions recommended regarding surfacing and drainage of parking areas, details of internal adoptable roads, details of waste storage and collection, and highways structures. All new storm water attenuation tanks/pipes/culverts with internal diameter/spans exceeding 0.9m must be located off the adoptable highway where possible.

- 8.3 KC Lead Local Flood Authority – No objection, but clarification regarding on-site storage required. Conditions recommended regarding detailed drainage, flood routing and temporary drainage. Maintenance and management arrangements need to be secured.

8.4 Non-statutory:

- 8.5 KC Ecology – Ecological Impact Assessment not necessary (as other documents have been submitted), subject to outstanding bat issue being resolved. Proposal to carry out further bat surveys at a later date prior to demolition is not acceptable – surveys are required at application stage, prior to determination. Given that the bat surveys are yet to be completed, and given that multiple bat roosting crevices and spaces are present in the derelict building and no detailed mitigation proposals have been provided, there is not sufficient information available to enable the council to ensure it has fulfilled its obligations regarding protected species on the site. Applicant's biodiversity net gain report identifies a loss of 2.3 habitat units (-41.98%). With no mitigation proposed, proposals are not compliant with Local Plan policy LP30ii or the Biodiversity Net Gain Technical Advice Note. Corrections needed to applicant's biodiversity net gain calculation.
- 8.6 KC Education – No comment, as the development is for less than 25 units, and the education Section 106 policy is not triggered.
- 8.7 KC Environmental Health – Phase I report satisfactory. Phase II report inadequate, therefore four conditions required to address land contamination. Condition recommended, requiring construction management proposals (including restrictions on hours) to be adhered to. Condition recommended to secure provision of electric vehicle charging points. Condition recommended regarding dust suppression. Advice provided regarding site contamination, dust and construction noise.
- 8.8 KC Highway Structures – Condition recommended requiring details of retaining walls and structures. Condition recommended requiring details of surface water attenuation within the highway (to be applied if LLFA have conditioned details of a storm water attenuation facility). Attenuation features with internal diameters or spans exceeding 0.9m must be located off the adoptable highway.
- 8.9 KC Landscape – £29,123 contribution required towards off-site open space provision. Golcar ward is deficient in all open space typologies. 13 dwellings triggers need for green space (except in relation to allotments) and Local Area for Play. Existing facilities in the area are within 720m walking distance. Concern regarding loss of TPO-protected trees, and shading of proposed gardens. Street trees required. Query as to whether sustainable urban drainage scheme is proposed. Landscaping details required. Links to public right of way required.

- 8.10 KC Public Health – Application falls outside Health Impact Assessment requirements.
- 8.11 KC Strategic Housing – 20% affordable housing provision required. On-site provision is preferred. In the Kirklees Rural West area there is a significant need for affordable 1- and 2-bedroom homes, as well as 1- and 2-bedroom affordable homes specifically for older people. Three affordable units (two affordable rented, one intermediate) would be sought from the proposed development. Affordable units should be distributed evenly throughout the development, and indistinguishable from market housing.
- 8.12 KC Trees – Proposals not supported, as they do not meet the requirements of Local Plan policies LP24i or LP33. A protected woodland exists within the site, and there is a protected tree on the site's southeast boundary. Golcar Conservation Area provides protection to all trees over 75mm diameter. Concern as to how levels would be achieved to enable construction of dwellings. Proposed development would result in considerable loss of trees – this should be minimised. Mitigation for tree loss, and details of landscaping, should be provided. Concern regarding shading of proposed dwellings, particular at units 1, 2, 3, which may result in future pressure to prune and fell trees, including those in the protected woodland. Parts of the protected woodland should not be incorporated into private curtilages. Categorisation of trees T7 and T8 is not understood, these trees should not be felled, and the estate road close to them should be redesigned as a private driveway requiring more tree-friendly construction. Root pruning of tree T24 acceptable.
- 8.13 KC Waste Strategy – Proposed bin stores are of a suitable size and would be accessible, however further details are required. Manoeuvring space for refuse vehicle appears tight, and information required regarding manoeuvring from Carr Top Lane and through Hillcrest View. Condition recommended regarding temporary refuse collection.
- 8.14 West Yorkshire Police Designing Out Crime Officer – Support development in principle, subject to crime prevention advice being incorporated. Details of boundary treatments, lighting, door and window security, and cycle/motorcycle security required. Further advice provided regarding access, boundary treatments, landscaping, lighting and other matters relevant to crime prevention.
- 8.15 Yorkshire Water – No objection to submitted flood risk assessment, which states that foul water will discharge to the public combined sewer, sub-soil conditions do not support the use of soakaways, the site is remote from a watercourse, and that surface water would discharge to public sewer via storage at a restricted discharge rate of 5 litres/second.
- 8.16 Yorkshire Wildlife Trust – Details of habitat creation and Ecological Design Strategy required. Clarity required regarding bat mitigation. Preliminary Ecological Appraisal would benefit from being updated to an Ecological Impact Assessment.

9.0 MAIN ISSUES

- Land use and principle of development
- Sustainability and climate change
- Design and conservation
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees and landscaping
- Ecological considerations
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations and financial viability
- Other matters

10.0 APPRAISAL

Land use and principle of development

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 The site comprises site allocation HS158 (allocated for housing), to which full weight can be given. It is also noted that outline planning permission for residential development has already been granted at this site (ref: 2017/93719, granted 14/03/2018, now expired), and that the previous application for this site (ref: 2019/90925) was the subject of a committee resolution to approve.
- 10.4 The site is not designated as Urban Green Space or Local Green Space in the Local Plan, but is greenfield land, and was previously in agricultural use and designated as Provisional Open Land in the superseded Unitary Development Plan. Allocation of this and other greenfield sites by the council was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of 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 development on greenfield land was also demonstrated to be necessary in order to meet development needs.
- 10.5 The 13 dwellings proposed would contribute towards meeting the housing delivery targets of the Local Plan.

- 10.6 An Ordnance Survey map dated 1955 annotated part of the site as “Allotment Gardens”, however that use has ceased, and aerial photographs do not show any cultivation in recent years (unlike at the land to the west, where some cultivation was evident in 2012). At the time the 2017 outline application for this site was considered, limited weight was attached to this previous use of part of the site. Officers noted that the site was privately owned, and that refusal of planning permission would not have resulted in local demand for allotments being met, as the council has no authority to allocate private allotments to people on the council’s waiting list.
- 10.7 The site is within a wider mineral safeguarding area relating to sandstone. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it.

Sustainability and climate change

- 10.8 The current application was submitted prior to the council’s adoption of the Planning Applications Climate Change Guidance document, and the applicant’s submission documents do not explain how the proposed development would help to address or combat climate change effects. It is noted, however, that relevant Local Plan policies are nonetheless applicable.
- 10.9 Measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage for residents) and electric vehicle charging would be secured by condition, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable.
- 10.10 Drainage and flood risk minimisation measures will need to account for climate change.
- 10.11 The application site is a sustainable location for residential development, as it is relatively accessible and is at the edge of an existing, established settlement relatively close to sustainable transport options and other facilities. The site is not isolated and inaccessible.
- 10.12 Golcar has pubs, convenience shops, a post office, a pharmacy, churches, schools, a library, eating establishments, the excellent Colne Valley Museum, and other facilities, such that many of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.13 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.

Design and conservation

- 10.14 Chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide and the council's Housebuilders Design Guide SPD.
- 10.15 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the council to pay special attention to the desirability of preserving or enhancing the character and appearance of the Golcar Conservation Area when determining this application.
- 10.16 The site and its context have a relatively high degree of townscape, landscape and heritage sensitivity, due to the site being located within the Golcar Conservation Area, its hillside location, and its visibility from the other side of the subsidiary valley that runs northwest-southeast between Golcar and Wellhouse.
- 10.17 The relevant conservation area character appraisal defines Golcar as a large, closely-knit hillside village of picturesque quality and special architectural and historic interest. The appraisal notes that the settlement's location on the steep hillside above the valley of the River Colne (and the subsidiary valley) gives it a highly dramatic setting, reminiscent of an Italian hill village. The subsidiary valley is identified as a defining influence on the character of the village, as is the village's organic form and limited formal planning. Important vistas north-eastwards from the bottom of the subsidiary valley and Albion Mill are also noted, and the appraisal suggests that when Golcar is viewed from here the natural landscape appears to frame the village. The hillside's green space is identified as a buffer that prevents the settlements of Golcar and Wellhouse from merging, thus protecting the character and setting of both areas. Tree coverage is identified as quintessential to Golcar's character, and panoramic views of the settlement reiterate the importance of trees to Golcar, creating extra interest, depth and character in the area. The surrounding landscape makes a vital contribution to the character and setting of Golcar, the topography creating a panorama not apparent in other areas. Steep slopes and footpaths, stone steps and narrow lanes with homogeneous vernacular stone architecture characterise the settlement. Golcar has several dry stone walls defining fields, open spaces and earlier boundaries, all of which impart character. Golcar's early settlement pattern is still visible, the urban grain of the conservation area is characterised by small linear plots, and there are few detached properties.
- 10.18 Another notable aspect of the Golcar Conservation Area is the orientation of many of its buildings. Within the conservation area, many streets including Ridings Lane, West End Road, Small Lane, Handel Street and Church Street follow the contours of the hillside, so that where the slope runs north-south, these streets run east-west, and the buildings on these streets are similarly aligned in accordance with the topography. This pattern of development is particularly noticeable from public vantage points including along Copley Bank Road on the other side of the subsidiary valley between Golcar and Wellhouse. Although some buildings within the conservation area do not follow this pattern of development, and have massing that stands perpendicular to the contours of the hillside, these are exceptions, and the predominant pattern

(which influences the character of the conservation area) is of buildings that are aligned with the east-west streets. Paragraph 5.2 of the council's Housebuilders Design Guide SPD notes that the "general character of the towns and villages of Kirklees is typified by stone-built properties closely following the hillside contours", and Golcar provides a notable example of this.

- 10.19 Of note, although three dwellings set perpendicular to the site's slope were granted planning permission at the adjacent site (refs: 2018/92848 and APP/Z4718/W/19/3229696), the majority of dwellings in that 19-unit scheme would be more respectful of the hillside's predominant pattern of development. The orientation of existing buildings on this hillside was referred to in the committee reports for applications refs: 2017/93719, 2017/93638 and 2019/90925.
- 10.20 In response to advice from officers provided under the previous application for this site (ref: 2019/90925), the applicant amended the proposals (under that application) so that they would be more reflective of the adjacent patterns of massing and orientation. The same layout has been resubmitted under the current application.
- 10.21 The proposed three-storey elevations are considered acceptable. Southwest-facing three-storey elevations already exist nearby at 41 and 43 Carr Top Lane and elsewhere on this hillside, and three-storey elevations have been erected at the adjacent site to the east (as per permission refs: 2018/92848 and APP/Z4718/W/19/3229696).
- 10.22 The proposed development is considered to be sufficiently reflective of the predominant patterns of development on this hillside. The proposed massing and grain would be an acceptable response to the site's context. Although the relevant character appraisal notes that there are few detached properties within the conservation area, the proposed five detached dwellings are considered acceptable, given their location, the surrounding trees to be retained, and the terraced and semi-detached dwellings proposed as part of the same development.
- 10.23 Although the application site's challenging topography would necessitate some levelling to enable the creation of development platforms and the provision of acceptable gradients along the proposed estate road, this would be relatively limited, and changes in levels would be largely accommodated through the use of differing front and rear elevation heights (most south-facing elevations would have three storeys, while most north-facing would have two), reducing the need for excavation and retaining walls. This is considered to be an appropriate response to the site's challenges, as developers are normally expected to work with a site's existing topography, rather than radically reshape it.
- 10.24 Local Plan policy LP5 (regarding masterplanning) is relevant to this application, not least because land immediately to the east and west is also allocated for housing. Local Plan policy LP7 is also relevant, and states that, to ensure the best use of land and buildings, proposals must allow for access to adjoining undeveloped land so it may subsequently be developed. Paragraph 6.41 of the Local Plan states that the council will continue to positively support measures to ensure the best use of land and buildings,

including through the application of relevant policies to ensure land is not sterilised for development.

- 10.25 Although the adjacent allocated site to the west (ref: HS153) can be accessed from Fullwood Drive (as was approved by the Council under outline permission ref: 2017/93638), access from the east (via Hillcrest View and Carr Top Lane) would be preferable in highways terms, as traffic would not have to negotiate the gradients and other challenges of Victoria Lane. Highways Development Management officers have previously confirmed that the Hillcrest View / Carr Top Lane junction can indeed accommodate the expected traffic of allocated sites HS153, HS158 and HS157.
- 10.26 To address these concerns, and to help avoid creating a ransom strip scenario, the proposed estate road would extend to the site's western edge (where it would meet the adjacent public footpath), and would need to be built to an adoptable standard. In addition, an appropriate obligation (to be secured via a Section 106 agreement) is recommended, requiring to applicant to allow vehicular, cycle, pedestrian and construction access to site ref: HS153 without unreasonable hindrance.
- 10.27 With regard to crime prevention, it is noted that units 6 to 12 would partly complete a perimeter block with 5 to 25 Clay Well. Limiting exposure of rear gardens to public access in this way would reduce opportunities for unauthorised access and burglary. There would, however, be parts of the proposed development where garden fences abut the adjacent public footpath (COL/56/40) – here, careful design of boundary treatments and defensive planting will be necessary. Units 5 and 6 would present several windows (including windows of habitable rooms) to the adjacent footpath, which would provide welcomed natural surveillance of this north-south route. Other than the woodland area that forms the southern part of the site, no outdoor areas would be outside garden curtilages, so that there would be no ambiguous, leftover spaces at risk of anti-social behaviour such as fly-tipping. A condition related to crime and anti-social behaviour prevention measures is recommended. The recommended condition relating to boundary treatments would require security measures to be designed into the proposals, along with measures to limit the visual impact of boundary treatments at this highly-visible hillside site within the Golcar Conservation Area.
- 10.28 Off-street car parking is proposed in front or side driveways, and/or in integral garages. With appropriate landscaping, the proposed car parking would not have an overdominant or otherwise harmful visual or streetscape impact.
- 10.29 Regarding materials, section 7 of the applicant's application forms indicates that natural stone with grey mortar would be used for the walls of the dwellings, that natural blue slate roofs are proposed, and that grey UPVC windows and grey GRP doors would be used. Subject to details (and samples, if necessary) being submitted at conditions stage, and having regard to the materials approved at the adjacent site to the east, this palette of materials is considered acceptable for this site within the Golcar Conservation Area.
- 10.30 The route and gradients of the proposed development's estate road would help prevent surface water running into or pooling within residential curtilages, and ground levels and kerbs will need to be designed to direct any surface water flow away from building thresholds. The Lead Local Flood Authority

have recommended a condition requiring details relevant to flood routing in exceedance events.

- 10.31 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs.
- 10.32 With 13 units proposed in a site of 0.74 hectares, a density of only 18 units per hectare would be achieved. It is noted, however, that the site area (0.74 hectares) includes the estate road through the adjacent development, and the protected woodland in the southern part of the site. Subtracting these areas, under the previous application (ref: 2019/90925) the applicant asserted that the developable area is only 0.49 hectares (which, with 13 units proposed, results in a density of approximately 27 units per hectare), however it is reasonable to also note the site's other constraints and exclude other areas from this calculation – the site's challenging topography limits the site's developable space, and adequate spacing needs to be maintained between the new dwellings and the existing properties to the north on Clay Well. The proposed development must also take its cue (at least partly, in terms of quantum, density and layout) from existing adjacent development and the character and appearance of the Golcar Conservation Area, and it must again be noted that tree coverage is quintessential to Golcar's character. Furthermore, the proposed number of units (13) is close to the indicative site capacity figure (14) for site allocation HS158, and the number of units (14) indicatively shown on drawings submitted under the previous application for outline planning permission (ref: 2017/93719).
- 10.33 With all these matters taken into account, although the proposed density falls short of the 35 units per hectare density specified (and applicable "where appropriate") in Local Plan policy LP7, it is recommended that the proposed quantum of development, and its density, be accepted.
- 10.34 A derelict building exists within the application site red line boundary. This stands opposite the gap between 15 and 17 Clay Well to the north. It is not a listed building, however it is within the Golcar Conservation Area. A resident has stated that it is over 200 years old, and was the wash house which was used by the residents of the adjacent cottages. The applicant has submitted a Derelict Building Proposals document which states that the derelict building would be retained and made safe. This is welcomed – although it is considered that the derelict building does not make a significant positive contribution to the character and appearance of the Golcar Conservation Area or the settings of nearby listed buildings, the retained building would at least play a role in illustrating the history of this part of Golcar, and how land and buildings were used. The retained building would be included in the rear garden / curtilage of plot 9. A condition is recommended, requiring details of the retention, making safe and maintenance of the derelict building.
- 10.35 The applicant's Design and Access Statement asserts that the proposed development would not cause harm to local heritage and character due to its design and materiality. Officers concur. It is considered that the proposed

development would not cause harm to the Golcar Conservation Area, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant sections of Local Plan policy LP35 would be complied with.

- 10.36 Similarly, given the acceptable design (including scale, grain, orientation and materials) of the proposed dwellings, it is considered that the proposed development would not harm the significance (including the setting) of the nearby listed buildings at 17-29 Clay Well and 54, 54A, 56 and 58 Brook Lane. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act (which requires the council to have special regard to the desirability of preserving the setting of adjacent listed buildings) and the relevant sections of Local Plan policy LP35 would therefore be complied with.
- 10.37 Additionally, and in light of the above assessments, it is considered that the relevant requirements of chapters 11, 12 and 16 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP35 and LP24, would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide and the council's Housebuilders Design Guide SPD.

Residential amenity and quality

- 10.38 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.39 Acceptable separation distances are proposed between the proposed dwellings and existing neighbouring properties. Having regard to the site's topography, the proposed distances would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and outlook. Although distances of less than 21m would be maintained between the rear elevations of units 9 to 12 and 5-15 Clay Well, this is considered acceptable due to the significant difference in levels – the eaves of the proposed units would be lower than the ground floor level of the existing dwellings to the north.
- 10.40 In terms of noise, although residential development would increase activity and movements to and from the site (and passing the already-occupied units at Hillcrest View, as well as existing dwellings on Brook Lane and James Street), given the quantum of development proposed, it is not considered that neighbouring residents would be significantly impacted. It is not accepted that odours from the completed development would adversely affect neighbour amenity. The proposed residential use is not inherently incompatible with existing surrounding uses.
- 10.41 Although the applicant submitted construction management information during the life of the current application (in an attempt to avoid the need for a relevant pre-commencement condition), this is not complete, and it is not considered adequate. A condition requiring the submission and approval of a Construction Management Plan (CMP) is therefore recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed

at the same time. Details of dust suppression measures and temporary drainage arrangements would need to be included in the CMP. An informative regarding hours of noisy construction work is recommended.

10.42 The quality of the proposed residential accommodation is also a material planning consideration.

10.43 The applicant proposes:

- Unit 1 – detached, 4-bedroom, integral garage – 166sqm
- Unit 2 – detached, 4-bedroom, integral garage – 166sqm
- Unit 3 – detached, 4-bedroom, integral garage – 166sqm
- Unit 4 – semi-detached, 3-bedroom – 123sqm
- Unit 5 – semi-detached, 3-bedroom – 123sqm
- Unit 6 – terraced, 3-bedroom – 111sqm
- Unit 7 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 8 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 9 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 10 – terraced, 3-bedroom – 111sqm
- Unit 11 – terraced, 3-bedroom, integral garage – 111sqm
- Unit 12 – detached, 3-bedroom, integral garage – 161sqm
- Unit 13 – detached, 4-bedroom, integral garage – 143sqm

10.44 All units would have three or four bedrooms. This is unfortunate, as a more varied unit size mix would have catered for a wider range of household sizes, would have helped create a mixed and balanced community, and would have helped to avoid visual monotony across the site. Furthermore, it is noted that Local Plan policy LP5e requires masterplanned developments to provide for a mix of housing that addresses the range of local housing needs and encourages community cohesion (although specific proportions of unit sizes are not set out in the policy). While this aspect of the proposed development is a shortcoming that attracts negative weight in the balance of planning considerations, it is not recommended that planning permission be withheld on these grounds.

10.45 Although the Government's Nationally Described Space Standards (March 2015) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions have been required to be NDSS-compliant.

10.46 All 13 units would comply with this guidance, which is welcomed.

10.47 All of the proposed dwellings would benefit from dual aspect, which is welcomed. All would be provided with adequate outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.

10.48 All dwellings would have WCs at their entrance level, providing convenience for visitors with certain disabilities. All units would have ground floor bedrooms, ground floor habitable rooms that could be converted to bedrooms, or garages

that could potentially be converted to bedrooms (involving external alterations), which could help enable members of households with certain disabilities to remain resident.

- 10.49 All of the proposed dwellings would be provided with adequate private outdoor amenity space.
- 10.50 Regarding open space, it is accepted that on-site provision of most types of open space would not be suitable for this sloped site. A financial contribution would instead be required. This would be based on the 13 units currently proposed (having regard to local provision, and any on-site provision that could be offered by the applicant – it is noted that, in some cases, woodland can provide some of the attributes of open space), with an additional contribution required in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation. Based on the 13 units proposed, and with no details of publicly-accessible open space annotated on the applicant's drawings, a contribution of £29,123 would be required. Of note, under the previous application (ref: 2019/90925), an open space contribution of £78,486 was quoted by KC Landscape, however that figure was arrived at using the earlier £2,300-per-dwelling formula that has since been superseded by the more nuanced calculation method set out in the council's Open Space SPD.
- 10.51 Although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping, boundary treatment and management. Details of improvements (and the proposed pedestrian connection) to the adjacent public footpath would also be required.

Affordable housing

- 10.52 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.53 To comply with policy LP11, three of the proposed 13 units would need to be affordable, as 20% of 13 units is equivalent to 2.6 units. Three affordable units represents a policy-compliant 23% provision. In accordance with the 55%/45% tenure split detailed above, two of these units would need to be for social or affordable rent, and the other would need to be intermediate. Given on-site provision is preferred, it is recommended that three of the proposed development's units be secured as affordable housing via a Section 106 agreement. Financial viability considerations relevant to this provision are considered later in this report.
- 10.54 Given the size of the proposed development (and given that only three affordable units are required), it is accepted that opportunities for pepper-potting affordable housing around the site are limited. All units would be of an appropriate design, all would have three or four bedrooms, and the same

materials and similar detailing is proposed for all dwellings, which would help ensure the affordable units would not be visually distinguishable from the development's market units.

Highway and transportation issues

- 10.55 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.
- 10.56 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.
- 10.57 Vehicular access would be provided via the adjacent site to the east. The estate road of that development (Hillcrest View, currently nearing completion) would be extended into the current application site, continuing northwestwards across the site and meeting the public footpath that runs along the site's western edge. This is considered appropriate. Given the extent of the application site red line boundary, no vehicular through-route to Fullwood Drive is (or could be) proposed. The applicant has demonstrated adequate tracking and turning space for an 11.85m refuse vehicle along the proposed extended estate road.
- 10.58 The applicant's Transport Statement predicts trip generation of approximately seven two-way vehicle movements in the morning peak hour and approximately eight two-way movements in the evening peak hour. This approximately equates to one vehicle emerging onto Carr Top Lane every 15 minutes. This is not considered significant in the context of local highway capacity. The concerns of residents regarding existing congestion are noted, however the local highway network nonetheless would not be severely impacted by the anticipated number of additional vehicle movement.
- 10.59 The cumulative traffic impacts of development are also a material consideration. Members will be aware of residential developments that have recently been completed (or are nearing completion) in the area, including:
- Weavers Chase (off Leymoor Road) – 96 units.
 - Century View (Swallow Lane) – 19 units.
 - Hillcrest View (Carr Top Lane) – 19 units.

- 10.60 In addition to the above, further permissions have been granted (or are being sought) for developments at Parkwood Road (totalling 27 units) and Swallow Lane. The site directly to the west of the current application site (land off Fullwood Drive) is also allocated for residential development.
- 10.61 In their representations, several residents have referred to traffic and congestion on the local road network (including at Milnsbridge), and have stated that problems have increased in recent years.
- 10.62 The applicant's Transport Statement does not address cumulative traffic impacts, and it would be disproportionate to require the developer of a 13-unit scheme to provide a such an assessment covering all potentially-affected junctions (including those at Milnsbridge). It would also be unreasonable to expect a development of this size to include mitigative measures relating to traffic largely generated by existing and recent developments. While the concerns of residents are noted, it is again noted that the allocation of this site (and those sites listed above) followed a rigorous assessment of their suitability for development, and that the Local Plan (including its site allocations) was found to be an appropriate basis for the planning of the borough by the relevant Inspector. Also of note are the low predicted numbers of additional vehicle movements associated with the proposed development, and the fact that development at this site is unlikely to put significant additional pressure on a single route or junction – residents of this development would have a number of potential routes available to them (when accessing Huddersfield, the A62 or M62), such that the traffic impacts of the development are likely to be reasonably well dispersed. It can, in turn, be concluded that the proposed development's contribution towards cumulative impacts would similarly be limited.
- 10.63 Although not assessed in the applicant's Transport Statement, it is considered that pedestrian, cyclist and public transport trips are also likely to low and can be accommodated by the existing pedestrian and public transport infrastructure. Pedestrian infrastructure surrounding the site is mixed, with several local streets lacking footways, however a footway exists on the south side of Carr Top Lane and the southeast side of James Street, and residents of the proposed development would be able to make use of public footpath COL/56/40, to which a pedestrian connection is proposed. This connection would help create an appropriately connected, walkable, permeable neighbourhood in compliance with Local Plan policies LP20, LP24dii and LP47e, and is welcomed. Appropriate adjacent boundary treatments, landscaping, and details of the pedestrian connection can be secured to ensure the usability and attraction of the footpath is not significantly reduced.
- 10.64 A development of this size would not normally trigger a need for the submission and implementation of a Travel Plan, however it is recommended that measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) be secured via Section 106 obligations.
- 10.65 Regarding the proposed development's internal arrangements, detailed drawings and specifications would need to be submitted, and compliance with the council's Highway Design Guide SPD would need to be demonstrated, at conditions stage. As per the comments of KC Highway Structures, a condition

relating to details of any highway retaining walls and structures is recommended.

- 10.66 Acceptable off-street parking is proposed for the proposed residential units in accordance with council's Highway Design Guide SPD. Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.67 Storage space for three bins would be required for all dwellings. Further details of waste collection, including details of management and measures to ensure any waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways. This would also consider the visual impact of waste storage arrangements within the development.
- 10.68 A further condition is also recommended, requiring details of temporary waste storage and collection arrangements for any dwellings that would become occupied prior to completion of the development.

Flood risk and drainage issues

- 10.69 The site is within Flood Zone 1. The site slopes downhill from north to south. The nearest watercourse is located to the south of the application site, on the other side of Brook Lane. A combined public sewer runs north-south beneath the adjacent site to the east.
- 10.70 A site-specific Flood Risk Assessment (FRA) was submitted by the applicant during the life of the current application. This notes that site investigation is yet to be undertaken but suggests that infiltration is unlikely to be appropriate as a means of disposal of surface water, due to the nature of the underlying bedrock strata. The FRA also notes that connection to the nearest watercourse would require construction through third party land, and the FRA concludes that this rules out watercourse connection as a means of disposal of surface water. The FRA goes on to recommend that surface water flows from the site (post-development) be disposed of via the existing combined public sewer at an attenuated rate of 5 litres per second. Attenuation would be provided in the form of pipes, manholes and two hydrobrakes.
- 10.71 It is accepted that infiltration is not appropriate for this site, due its gradient. It is also noted that there is no known existing watercourse close to the site to which surface water could be discharged without having to negotiate Brook Lane and pass through third party land. The principle of disposing surface water to the combined sewers, therefore, is considered acceptable. Yorkshire Water have not raised an objection to this surface water disposal proposal.
- 10.72 The Lead Local Flood Authority (LLFA) have not objected to the proposed development, but have raised queries regarding the volume of and annotations relating to on-site attenuation. These matters can be addressed via details to be submitted at conditions stage, if they are not addressed by the applicant sooner. Of note, and in accordance with the comments of KC Highway Structures and KC Highways Development Management, the detailed drainage scheme to be submitted at conditions stage may need to

amend the current proposals (which include 1,200mm diameter pipes) so that the development's estate road can be considered for adoption.

- 10.73 Details of flood routing are provided in the applicant's FRA. These suggest that surface water can be directed away from the proposed dwellings, however the LLFA have requested more details of flood routing during exceedance events. Again, this information can be provided at conditions stage.
- 10.74 The LLFA have also recommended a condition regarding temporary construction-phase drainage, and have provided advice on what provisions should be made. Measures to be secured at conditions stage should address residents' concerns regarding run-off onto Brook Lane.
- 10.75 Foul water from the proposed development would discharge to the existing combined public sewer to the east of the application site at an unrestricted rate. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.76 It is noted that the adjacent allocated site to the west (ref: HS153) may be similarly unsuitable for infiltration or connection to an existing watercourse, and that a connection across the current application site to the above-mentioned existing combined sewer may be necessary. In the interests of masterplanning and ensuring development of adjacent land is enabled, a condition is recommended, requiring details of how such a connection would be allowed for.
- 10.77 It is recommended that management and maintenance arrangements for the proposed drainage infrastructure (until adopted by Yorkshire Water) be secured via a Section 106 agreement.

Trees and landscaping

- 10.78 Tree Preservation Order 06/15/w1 protects the woodland within the southern part of the site, and the conservation area status of the site bestows protection on other trees. Outside the site to the east, a Tree Preservation Order (06/15/t1) protects a single tree. The requirements of Local Plan policies LP24i and LP33 are noted, as is the importance of trees to the significance of the Golcar Conservation Area, especially when viewed from public vantagepoints to the south. The site's existing trees certainly make a positive contribution towards public amenity, and to the distinctiveness of this specific location.
- 10.79 The applicant's Arboricultural Report includes a detailed tree survey, which identified group G14 (the protected woodland in the southern part of the site), tree T12 (a mature sessile oak to the north of the woodland) and tree T24 (the protected mature sycamore within the adjacent site to the east) as Category B trees of moderate quality whose retention is desirable. Most other trees were identified as Category C trees of low quality which could be retained, and two trees were identified as Category U trees which are unsuitable for retention.
- 10.80 The applicant proposes the retention of group G14 and trees T12 and T24. Almost all other trees would be felled (or, it is understood, have already been felled). This represents a significant loss of trees from the site and is regrettable, however almost all of the trees identified for felling have diameters of less than 75mm, and are therefore not protected by the site's conservation

area status. Given the size and quality of these trees, and the fact that efficient use of this allocated site would not be possible with these trees retained, the proposed losses are considered acceptable, subject to adequate replacement being secured by a recommended condition, to ensure compliance with Local Plan policies LP24i and LP33.

- 10.81 The council's Arboricultural Officer expressed concern regarding the spur of the estate road proposed between units 5 and 6, and requested that this be altered to become a private drive (similar to what is proposed at plot 12) so it can be constructed using no-dig construction methods which would have less impact upon trees T7 and T8 which are outside the application site. This suggestion is noted, however for the reasons set out under paragraph 10.26 above it is considered necessary for this spur to be built as an estate road to an adoptable standard.
- 10.82 To address another concern of the council's Arboricultural Officer, the applicant's Arboricultural Method Statement has been amended to no longer suggest that trees T7 and T8 would be felled.
- 10.83 The proposed root pruning of tree T24 would be limited, would be required to allow the construction of the adjacent driveway, and is unlikely to result in any significant decline of the tree.
- 10.84 The council's Arboricultural Officer has expressed concern as to how levels would be achieved for the building of the proposed dwellings, and how this could be achieved without impacting on the site's tree cover. The applicant's Arboricultural Method Statement, however, states at paragraph 4.2.1 that no ground level changes are required within the root protection areas of any tree to be retained, and that no mitigation actions are therefore considered necessary.
- 10.85 Shading of the proposed dwellings and their curtilages are a potential concern, and the council's Arboricultural Officer has highlighted the gardens of units 1, 2 and 3 which would be shaded by the protected woodland to the south, potentially resulting in pressure to prune or fell trees. This concern is noted, however to remove or mitigate the potential impact a redesigned proposal involving fewer dwellings (and, therefore, less efficient use of land) would need to be proposed.
- 10.86 The previously-proposed inclusion of parts of the protected woodland within private curtilages was of concern. To help address this, on 22/07/2021 the applicant submitted an amended site layout plan, which reduced the size of the rear gardens of units 3 and 5 so that they would not incorporate parts of the protected woodland. Although the rear gardens of units 1 and 2 would still include parts of the protected woodland, excluding those areas from the curtilages of those units would result in unacceptably small private outdoor amenity spaces for those dwellings.
- 10.87 The same amended site layout plan also includes annotation, confirming that the protected woodland would be the responsibility of the residents' management company. A related provision in the required Section 106 agreement is recommended.

- 10.88 As noted above, although some details of landscaping proposals have been shown on the applicant's drawings, a condition is recommended, requiring further details of the development's outdoor spaces and their purpose, design, furnishing, landscaping and boundary treatments. A further condition regarding the implementation of tree protection measures during the construction phase is recommended. It is also recommended that management and maintenance of landscaped areas outside private curtilages be secured via the required Section 106 agreement.

Ecological considerations

- 10.89 The application site is previously-undeveloped (greenfield) land and was previously in agricultural use. Parts of the site are overgrown with self-seeded trees and shrubs, giving those areas a ruderal character, although some clearance and movement of earth has occurred, some in connection with the development of the adjacent site. A Biodiversity Opportunity Zone (Valley Slopes), an SSSI Impact Risk Zone, and a Twite buffer zone cover the site. Great crested newts may also be present in the surrounding area.
- 10.90 When considering the previous application for outline planning permission in relation to this site (ref: 2017/93719), officers noted that trees and shrubs, and the relative lack of human activity on the site, may mean the site provides, or had the potential to provide, habitats for wildlife. It was also noted that some neighbouring residents had stated that bats, deer and many species of bird had been seen at this site, that two ponds existed within 500m of the site, and that to the south of the site, on the other side of Brook Lane, was land forming part of the then-proposed Wildlife Habitat Network. This network connects designated sites of biodiversity and geological importance and notable habitat links, and any development within or close to the network will need to support and enhance these links.
- 10.91 The application is supported by a number of ecological documents including a Preliminary Ecological Appraisal (PEA), a Bat Mitigation Strategy and a Biodiversity Metric Report. This is welcomed. A PEA is not normally considered adequate at full application stage (an Ecological Impact Assessment (EclA) is normally required), and it is noted that the submitted PEA makes further recommendations for bat activity surveys, however as this is the only outstanding issue it is considered that, if these surveys were addressed via an appropriate bat mitigation strategy, there would be sufficient information to enable officers to assess the impacts of the proposals. Therefore, in this case the submission of an EclA is not considered necessary.
- 10.92 Multiple bat roosting crevices and spaces are present in the derelict building that stands at the north end of the site, close to Clay Well. KC Ecology have therefore expressed concern regarding the demolition of this building, and have advised that further bat surveys are required at application stage. The comments of KC Ecology were, however, made prior to the applicant reverting back to their previous proposal to retain the derelict building. Retention of this building, and implementation of the measures set out in the applicant's latest Bat Mitigation Strategy, obviate the need for further application-stage surveys, however conditions relating to bat mitigation measures will be necessary.

- 10.93 Given the applicant's proposals (as set out in the submitted Bat Mitigation Strategy) to create a "dark corridor" between the derelict building and the protected woodland to the south, for use by commuting bats, a condition requiring details of external lighting is recommended.
- 10.94 In accordance with Local Plan policy and the council's Biodiversity Net Gain Technical Advice Note, the applicant has submitted a biodiversity net gain metric calculation and associated report. This found that the proposed development would result in a loss of 2.3 habitat units (a -41.98% loss). The applicant has not yet demonstrated how this loss can be compensated for on-site, and concerns have been raised by KC Ecology regarding aspects of the applicant's calculation. A revised metric calculation was submitted on 15/07/2021, and the further comments of KC Ecology (including advice on what measures or contribution would be needed for the development to achieve the required biodiversity net gain) are awaited. Related to this, it is recommended that provision for the payment of a financial contribution (payable in the event that a biodiversity net gain cannot be achieved on site or nearby) be included in the required Section 106 agreement. Also related to this, a condition requiring the submission and implementation of an Ecological Design Strategy is recommended.

Environmental and public health

- 10.95 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, measures to encourage residents of the proposed development to use more sustainable modes of transport (including public transport, walking and cycling) and the uptake of low emission fuels and technologies, should be secured via Section 106 obligations.
- 10.96 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.
- 10.97 Regarding the social infrastructure currently provided and available in Golcar (which is relevant to the public health impacts and the sustainability of the proposed development), and specifically local GP 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.

Ground conditions

- 10.98 Conditions regarding site contamination remediation are recommended in accordance with advice from the council's Environmental Health officers.

- 10.99 The applicant's submission documents state that Japanese Knotweed and Himalayan Balsam are present on the site. A condition, requiring the submission of a method statement for the removal and eradication of these invasive species (and the implementation of approved measures) is recommended.

Representations

- 10.100 A total of 28 representations were received from occupants of neighbouring properties. The comments raised have been addressed in this report.

Planning obligations and financial viability

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

- 1) Affordable housing – Three affordable housing units (two affordable/social rent, one intermediate) to be provided in perpetuity.
- 2) Open space – £29,123 off-site contribution and an additional contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153) and the cumulative impacts of both developments require mitigation.
- 3) Education – Contribution payable in the event that development comes forward at the adjacent site (site allocation ref: HS153), the education contribution threshold (by both developments considered together) is met, and the cumulative impacts of both developments require mitigation.
- 4) Sustainable transport – Measures to encourage the use of sustainable modes of transport.
- 5) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties (including the application site's protected woodland), and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). Section 106 agreement to include a plan clearly defining all land which would be the responsibility of the management company.
- 6) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 7) Adjacent land – Agreement to allow vehicular, cycle, pedestrian and construction access to adjacent site (site allocation ref: HS153) without unreasonable hindrance.

- 10.102 No financial viability information was submitted by the applicant under the previous application (ref: 2019/90925) prior to that application being considered by the Huddersfield Sub-Committee, however an unacceptably late attempt to submit such information was made prior to the refusal of that application earlier this year. Also of note, no financial viability information was submitted under the earlier application for outline planning permission (ref: 2017/93719) relating to this site.

- 10.103 Affordable housing is to be provided at the adjacent site, where the same applicant is implementing a permission for 19 dwellings. That development is to provide three affordable housing units.

- 10.104 Under the current application, the applicant submitted a Residential Viability Report (Grasscroft Development Solutions, March 2021). This states that “without any S106 contributions the scheme is at the limits of viability. The imposition of on-site affordable housing or S106 commuted sums exacerbates the viability constraints”.
- 10.105 The applicant’s viability information has been assessed by the council’s independent viability consultant, Align Property Partners. Officers have also had regard to the council’s Viability Guidance Note, approved by Cabinet on 02/06/2020. Align’s assessment concluded that – with the required affordable housing and open space contribution included – the proposed development could in fact deliver an acceptable level of profit (£545,144) – this equates to a profit margin of 14.6% on sales (taking the profit on affordable units at 7%) or 16.3% on costs.
- 10.106 One key input that differs between the applicant’s appraisal and Align’s assessment is the Benchmark Land Value (BLV). The applicant initially put this at £405,000, based on an assumed possibility that the land could have value as a pony paddock or for hobby farming, and based on a 15x multiplier. Officers do not consider the land to be suitable (or readily available) for those uses, given its gradients, limited accessibility and current condition. Officers are also unconvinced that a 15x multiplier is appropriate to arrive at a BLV using the EUV+ (existing use value, plus a premium) approach – it has not been demonstrated that a landowner (acting reasonably) would require a sum that is fifteen times the land’s current value (or EUV) to be sufficiently incentivised to release it for sale.
- 10.107 Align also queried the applicant’s assumptions regarding abnormal costs. These had not been broken down or explained in detail by the applicant, yet they were referred to by the applicant as a key factor that is adversely affecting the proposed development’s viability.
- 10.108 On 14/07/2021 the applicant responded to Align’s assessment. The applicant provided further detail regarding abnormal costs, queried various assumptions and inputs used by Align (including the BLV, which the applicant referred to as “implausibly low”), argued that a 20% profit level was reasonable, and submitted an updated appraisal, including adjustments to BLV (revised to £225,000) and sales and marketing fees. Based on no affordable housing or Section 106 contributions being provided, the updated appraisal arrived at a 19.08% profit level (based on gross development value), and the applicant has therefore argued that the site remains constrained by viability and cannot support Section 106 contributions or affordable housing.
- 10.109 These findings are not accepted. The applicant’s £225,000 BLV is still considered too high, and it is considered reasonable to expect the applicant to adjust their profit expectations to a level below 20%. The information provided by the applicant regarding abnormal costs is currently being reviewed by Align’s quantity surveyor (QS).
- 10.110 Subject to Align’s QS providing commentary on the recently-submitted information regarding abnormal costs, and given the above assessment, it is not accepted that the proposed development is unviable, and it is recommended that all the required Section 106 obligations (including a policy-compliant 20% affordable housing provision) be secured.

- 10.111 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and although the proposed development does not meet the relevant threshold (housing developments which would deliver 60 dwellings or more), any agreement by the applicant to provide a training or apprenticeship programme to improve skills and education would be welcomed. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided.

Other planning matters

- 10.112 A condition removing permitted development rights for extensions and outbuildings from the proposed dwellings is recommended. This is considered necessary due to the site's location within Golcar Conservation Area, and its visibility in views from public vantagepoints to the south. Extensions and alterations under permitted development allowances here could be harmful to the significance of this heritage asset and could cause visual harm in longer views across the subsidiary valley.
- 10.113 The impact of the proposed development upon the values of adjacent dwellings is not a material planning consideration.
- 10.114 Loss of views across private land (not under the control of the viewer) is not a material planning consideration.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS158, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of the Golcar Conservation Area, the site's topography, adjacent residential development (and the amenities of these properties), biodiversity, drainage and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage. Some aspects of the proposed development attract negative weight in the balance of planning considerations, however approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan.
4. Submission of details of temporary (construction-phase) surface water drainage arrangements.
5. Drainage and surfacing of parking spaces.
6. Submission of details relating to internal adoptable roads.
7. Submission of details of any highways retaining walls and structures.
8. Submission of details of the internal road's pedestrian connection to the adjacent public right of way COL/56/40.
9. Submission of details of cycle parking, and provision prior to occupation.
10. Provision of electric vehicle charging points (one charging point per dwelling with dedicated parking).
11. Submission of details of waste storage and collection, and provision prior to occupation.
12. Temporary refuse storage and collection arrangements during construction
13. Submission of detailed drainage scheme (including clarification regarding on-site attenuation volume of and annotations).
14. Submission of flood routing details.
15. Submission of details to allow for a surface water connection across the site from site ref: HS153.
16. Submission of an intrusive site investigation report (phase II report).
17. Submission of a remediation strategy.
18. Implementation of remediation strategy.
19. Submission of a validation report.
20. Submission of details of crime prevention measures.
21. Submission of details of the retention, making safe and maintenance of the site's derelict building.
22. External materials (details and samples to be submitted).
23. Submission of details of boundary treatments.
24. Submission of details of external lighting.
25. Implementation of tree protection measures.
26. Submission of full details of a hard and soft landscaping scheme, to include replacement trees.
27. Submission of details and implementation of bat mitigation measures.
28. Submission of an Ecological Design Strategy.
29. Submission of an invasive species removal and eradication strategy, and implementation of measures.
30. Removal of permitted development rights for extensions and outbuildings.

Background Papers:

Application and history files

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91384>

Certificate of Ownership – Certificate A signed