
Report of the Head of Planning and Development

HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 14-Oct-2021

Subject: Planning Application 2021/91871 Erection of residential development (55 dwellings) including access and associated infrastructure Land adj, High Street and Challenge Way, Hanging Heaton, Batley

APPLICANT

Alex Baillie, Vistry
Partnerships Yorkshire,
Trustees of Lord Saville
Trust 1965

DATE VALID

05-May-2021

TARGET DATE

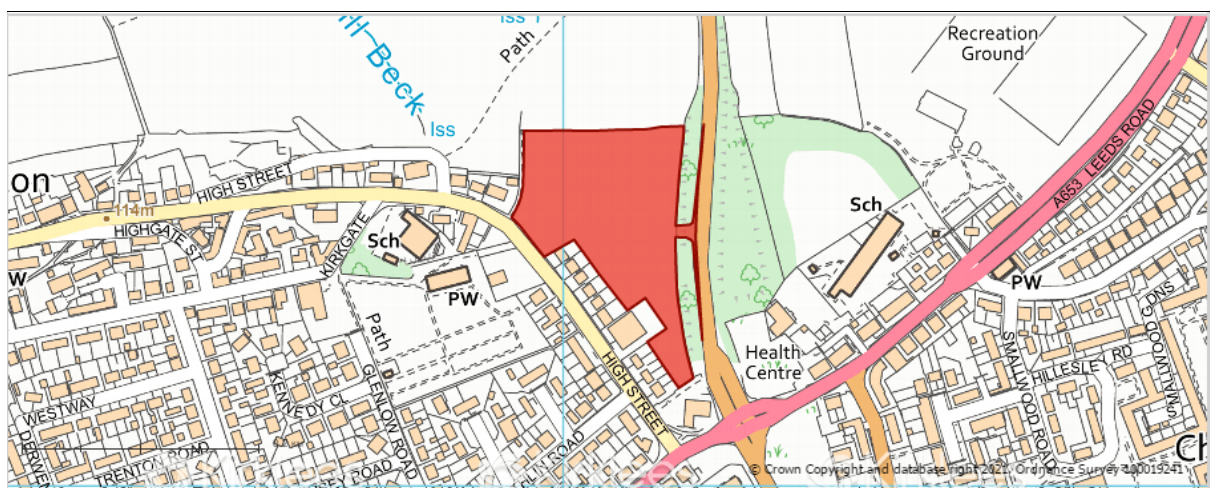
04-Aug-2021

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: Dewsbury East Ward

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 S106 agreement to cover the following matters:

1. Public open space off site commuted sum of £84,233
2. Contribution of £40,307 for off-site highway works for junction improvements to Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction.
3. £28,132 towards metro travel cards and/or other sustainable travel method improvements.
4. 20% of total number of dwellings to be affordable with a tenure split of 6 being affordable rent (social rent) and 5 being intermediate tenure (shared ownership).
5. £67,187 towards education requirements arising from the development
6. Management and maintenance arrangements of on-site public open space in perpetuity and drainage features (prior to adoption)

In the circumstances where the S106 agreement has not been completed within 3 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 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 the erection of 55 dwellings with associated works.
- 1.2 This application is brought to Heavy Woollen Planning Sub-Committee in accordance with the Delegation Agreement, as the proposal seeks residential development with a site area exceeding 0.5ha but below 61 units. Also, a significant level of objection has been received in response to the proposal during the representation period.
- 1.3 The site is a housing allocation within the local plan (HS51). The proposal is deemed to comply with local and national planning policy and would provide a complete planning obligation contribution. It is therefore recommended for approval by officers, subject to the signing of a S106 agreement and conditions.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is an irregularly shaped area of undeveloped land and has a size of 1.72ha. It is situated in Hanging Heaton and is approximately 1.3 miles northeast of Dewsbury and 1.5 miles southeast of Batley. Challenge Way (B6128) runs along the site's east boundary, with the junction between Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) being to the site's south-east. There is open Green Belt land to the north. To the south and west is the developed area of Hanging Heaton.
- 2.2 The site falls steadily to the north / north-east. A tree belt borders the east boundary, separating the field from Challenge Way. The tree belt is within the designated Green Belt. The north boundary is defined by a mature hedgerow, with sporadic trees and hedges elsewhere around the site. PROW BAT/45/20 runs along the north-west boundary, with the remainder of the west boundary abutting High Street, residential properties, and a working men's club.
- 2.3 There are no designated heritage assets within the site, however there is a historic stone boundary wall crossing the site which is considered a non-designated heritage asset. To the west are several Grade 2 listed structures, including a boundary stone (Batley and Dewsbury) and church (St Paul's) with curtilage buildings and wall.

3.0 PROPOSAL

- 3.1 The application is for full planning permission to erect 55 dwellings with associated works. The dwellings will be a combination of detached, semi-detached and terraced units, with the following size mixture:
- 1-bed (flat): 4
 - 2-bed: 22
 - 3-bed: 25
 - 4-bed: 4
- 3.2 All dwellings are to be two storeys (one dwelling type has rooms in the roof space). The flats are in a single block that has an appearance of a modern semi-detached pair, with two flats per floor. Units are to be faced in a mixture of brick and artificial stone, each with grey concrete roofing tiles.
- 3.3 The development is to be served by a new estate road which will branch into several cul-de-sacs. A single vehicle access, a priority T-junction, is to be formed from Challenge Way and will require partial clearance of the existing tree belt. Off-street parking is proposed in private driveways. Four dedicated visitor parking bays are proposed.
- 3.4 An area of public open space would be sited adjacent to the boundary with High Street. This public open space will include a path connecting the development to High Street and PROW BAT/45/20. A corridor of public open space would also be sited along the north and east boundaries, with the proposed attenuation tank to be sited in the north-east corner.

3.5 The following affordable housing provision has been offered:

- 1-bed: 4
- 2-bed: 5
- 3-bed: 2

This totals 11 units, which is 20% of the total units proposed. A total of 3,080sqm of on-site Public Open Space is proposed.

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

4.1 Application Site

None.

4.2 Surrounding Area

Challenge Way

89/06321: Highway construction and class B2 industrial development – Outline Permission Granted

89/06322: Highway construction and class B2 storage / warehousing development – Outline Permission Granted

89/06323: Highway construction and class B1 business development – Outline Permission Granted

91/00742: Road improvement scheme including new link roads – Granted

land at, Owl Lane, John Ormsby V C Way, Shaw Cross

2020/90450: Erection of restaurant with drive-thru, car parking, landscaping, play frame, customer order displays and associated works – Refused

Land at Owl Lane, Chidswell

2019/92787: Erection of 280 dwellings with open space, landscaping and associated infrastructure – S106 Granted

Land east of, Leeds Road, Chidswell

2020/92331: Outline planning application for demolition of existing dwellings and development of phased, mixed use scheme comprising residential development (up to 1,354 dwellings), employment development (up to 35 hectares of B1(part a and c), B2, B8 uses), residential institution (C2) development (up to 1 hectare), a local centre (comprising A1/A2/A3/A4/A5/D1 uses), a 2 form entry primary school including early years provision, green space, access and other associated infrastructure – Pending consideration

Land off, Soothill Lane, Batley

2018/94189: Outline application for residential development of up to 366 dwellings with details of access points only – Outline Granted

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

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

5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)

- 5.1 The applicant requested pre-application advice from the Local Planning Authority in October 2020 (ref. 2020/20431) for a proposal of 53 dwellings. Local ward members were notified, and comments were received and shared with the applicant. Discussions took place between the applicant and planning officers between October and November 2020, with written advice issued on the 23rd of November 2020.
- 5.2 The applicant submitted their current application in May 2021. Many, but not all, of officer recommendations from the pre-application stage had been accommodated. Following review of the submission, receipt of consultation and public representations, officers provided their initial feedback in June. Concerns were expressed over various matters, including the layout, highway arrangements, level of ecological information, amongst others. The applicant took these comments away. They provided substantive amendments to the proposal and additional supporting documents towards the end of July. A second period of public representation began on the 1st of September.
- 5.3 The revisions and amendments, along with agreement to the identified planning obligations, resulted in officers being supportive of the proposal subject to final minor amendments on certain details. These were provided.
- 5.4 Throughout the application process local residents have raised concerns over land ownership and access rights. Land ownership is not a material planning consideration, subject to appropriate notice being served on landowners. The applicant has provided evidence to demonstrate ownership of the land in question. No substantial evidence has been offered by residents. Notwithstanding this, the applicant amended their plans to accommodate residents' concerns by moving fencing away from the area to allow for further consideration as required. While this is reported for completeness, it is reiterated as not forming a material planning consideration.

6.0 PLANNING POLICY

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

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

6.2 The application site is part of land allocated for residential development in the Local Plan (site allocation ref: HS51). The site allocation has an indicative housing capacity of 61 dwellings.

6.3 Site allocation HS51 identifies the following constraints relevant to the site:

- A combined sewer crosses this site
- Potentially contaminated land
- Noise source near site - noise from road traffic
- Site is close to listed buildings
- Part of the site is within a high-risk coal referral area

6.4 Relevant Local Plan policies are:

- **LP1** – Presumption in favour of sustainable development
- **LP2** – Place shaping
- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP11** – Housing mix and affordable housing
- **LP19** – Strategic transport infrastructure
- **LP20** – Sustainable travel
- **LP21** – Highway safety and access
- **LP22** – Parking
- **LP23** – Core walking and cycling network
- **LP24** – Design
- **LP27** – Flood risk
- **LP28** – Drainage
- **LP30** – Biodiversity and geodiversity
- **LP32** – Landscape
- **LP33** – Trees
- **LP38** – Minerals safeguarding
- **LP47** – Healthy, active and safe styles
- **LP51** – Protection and improvement of local air quality
- **LP52** – Protection and improvement of environmental quality
- **LP53** – Contaminated and unstable land
- **LP61** – Urban green space
- **LP63** – New open space

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

Supplementary Planning Documents

- Highways Design Guide SPD (2019)
- Housebuilders Design Guide SPD (2021)
- Open Space SPD (2021)

Guidance documents

- Kirklees Interim Affordable Housing Policy (2020)
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Waste Management Design Guide for New Developments (2020)
- Green Streets® Principles for the West Yorkshire Transport Fund

National Planning Guidance

6.6 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) 2021, published 20th July 2021, and the Planning Practice Guidance Suite (PPGS), first launched 6th March 2014, together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

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

6.7 Other relevant national guidance and documents:

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

Climate change

- 6.8 The Council approved Climate Emergency measures at its meeting of full Council on the 16th of January 2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.
- 6.9 On the 12th of November 2019 the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target; however, it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council would use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

7.0 PUBLIC/LOCAL RESPONSE

The applicant's statement of community involvement

- 7.1 The application is supported by a statement of community involvement which outlines the public engagement the applicant undertook prior to their submission. The applicant posted an information flyer to local residents which gave details of the proposal. The flyer also included a questionnaire seeking feedback on various aspects of the development. A total of 48 flyers were sent, and three questionnaires were received in response.
- 7.2 The following is the applicant's summary of the main points raised in the responses:
- the principle of housing on green fields
 - the increase of traffic flow on nearby roads
 - a lack of green space for local wildlife.
- 7.3 The applicant has responded to each of these points. Their responses are contained in their submitted Statement of Community Involvement and are to be considered where relevant within this assessment.

The planning application's public representation

- 7.4 The application has been advertised as a major development via site notices and through neighbour letters to properties bordering the site, along with being advertised within a local newspaper. This is in line with the Council's adopted Statement of Community Involvement. Following the amendment to the application it was readvertised via neighbour notification letter. These were sent to all neighbouring residents, as well as to those who provided comments to the original period of representation.

7.5 The end date for public comments was the 24th of September 2021. In total, 81 public representations were received in response to the proposal. The following is a summary of the comments received:

Surveys

- The noise and traffic surveys were undertaken during COVID and are not true representations of typical circumstances.
- The noise and air quality assessments are inadequate and should not be accepted.
- The Working Men's Club is also a noise pollutant and was closed at the time of the survey.
- The ecological surveys were not undertaken at the optimum times and should be discounted.
- Notwithstanding comments made on the noise survey, the noise level it did identify was excessive of appropriate levels and indicates there will be issues.

Tree loss

- The tree belt along Challenge Way is part of the green infrastructure network. It serves an important ecological function which will be broken.
- The tree belt is understood to have been planted as mitigation when the road (Challenge Way) was built, to screen noise, vibration, and air pollution. The removal of trees will invalidate these purposes.
- In addition to removing trees the development will likely kill others through damage to their roots.

Ecology

- The site is a meadow which attracts various invertebrates, birds and mammals. This includes numerous rare and endangered species.
- The proposal is not sustainable development as it destroys habitat.

Design and amenity

- The proposed development does not comply with the separation distances of the Householder Design Guide; specifically relating to properties on High Street. There will be privacy and overlooking issues, exacerbated by the topography.
- The proposed dwellings do not respond to the character of the area.
- Hanging Heaton is characterised by stone properties and its views over the countryside. This development will harm that.
- The development will remove the rural character of the area.
- Building upon this field will merge Hanging Heaton into Shaw Cross, removing local character and identity. It is urban sprawl.

Drainage / Flooding

- The flood risk report and its surveys were undertaken during light rainfall.

- The site is a soakaway for the wider area, with floodwater diverging on the site. There are watercourses under neighbouring buildings which must be considered. All drainage information must be re-submitted and re-assessed.
- The development will remove the area's soakaway and lead to the flooding of Batley centre.

Highways

- The proposed development will put too many cars on roads already too busy. More consideration should be given to cumulative impacts of development and their implications on the highway network.
- The traffic survey is 2017 figures + reasonable estimate. Residents have done a survey and it is very wrong.
- Cars use Challenge Way as a rat run and speed through it. Putting more people and cars here will exacerbate the issue.
- A nearby fast-food development was refused due to traffic concerns: this development is substantially worse.
- There are already hundreds of houses approved in the area: the local roads cannot accommodate them.
- Concerns that the sightlines inside the site are insufficient.
- The internal road layout looks inadequate for the turning of a refuse vehicle.
- Cars avoid Grange Road because of speedbumps upon it. Instead, they drive on High Street. The proposal will exacerbate this.

Pollution

- The site filters out Nitric Oxide from the roads and reduces it to 'background level' by the time it reached properties on High Street. The proposal will remove this filter.
- The site is too close to a main road(s), and future residents will suffer from the proximity. It is stated that 'The World Health Organisation have confirmed that living within 50 meters of a main road can cause an increase in diseases'. Furthermore, the Council has declared a climate emergency. This development, cumulative with others, must be assessed fully for air pollution and the effect on the area.
- The Local Plan's housing allocation should be revised following the Air Quality Action Plan being adopted and the climate crisis being declared in Kirklees. Other parts of Leeds Road have been declared 'air quality management areas'.
- The applicant does not own all the land they claim. This relates to a strip of land to the rear of properties on High Street.
- The proposed dwellings cause harm to St Paul's Church, which is a listed building, through being within its setting.

Other

- There is no playground proposes within the plans. Children have not been considered within this proposal.
- The development is poor quality and is just an attempt to make money.
- Greenfield sites should not be developed before brownfield sites.

- There are coal mining shafts in the area that should prevent development.
- These fields are used by walkers and are a public benefit. Accessible outdoor spaces have become increasingly valuable over lockdown and are needed for physical and mental health.
- The proposal would harm local schools, doctors and dentists which are already overstretched. It is already chaos during drop off / pick up time, more students and cars will make this much worse.
- The land is Green Belt and should not be built upon. If this is allowed more Green Belt land will be built upon.
- The proposal will remove views from properties which overlook the fields and affect their value. Compensation should be paid to residents for the loss of the field and council tax should be reduced for those affected.
- Footpaths crossing the site have been used for centuries.
- Approved planning permissions in the area for other housing estates should be built before more are granted. This will allow for an assessment on cumulative impacts.

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

7.7 Later amendments and submissions of information were minor in scope and did not necessitate further public re-consultation.

7.8 The site falls within Dewsbury East Ward. The north boundary is also the boundary to Batley East Ward. Ward Members for each ward have been consulted on the application. Cllrs Scott and Firth provided no comment, however raised queries on behalf of local residents. Furthermore, MP Mark Eastwood requested to be kept informed of the application's progress.

8.0 CONSULTATION RESPONSES

8.1 Statutory

K.C. Highways Development Management: Provided advise and feedback through the application process. Expressed initial objections, specifically around the access arrangement and impact upon the nearby Shaw Cross roundabout and the internal layout. Following negotiations agreements were made over final contributions for highway improvements at Shaw Cross and internal layout changes were made. Based on the final plans, no objection subject to contributions being secured via S106 and conditions.

K.C. Lead Local Flood Authority: No objection subject to condition.

The Coal Authority: Confirmed that the site is not actually within the High Coal Risk Zone and falls within the Low Coal Risk Zone. No objection to the proposal.

The Environment Agency: No comments received.

8.2 Non-statutory

K.C. Crime Prevention: No objection to the principle of the development. Provided advice and feedback to planning officers and the applicant to ensure crime mitigation. These have been considered and incorporated where possible. Other aspects of the advice go beyond the planning system (i.e. lock standards) but have been given to the applicant for their determination.

K.C. Ecology: Expressed initial concerns due to lacking information. Were involved in discussions with the applicant and outlined expected information. This information was provided. On subsequent review, confirmed no objection subject to conditions.

K.C. Education: Identified that the proposal necessitates a contribution of £67,187.

K.C. Environmental Health: Have provided assessments on various environmental factors, including noise, contamination and air pollution. No objection subject to condition.

K.C. Landscape: Expressed initial concerns to the layout and suggested amendments and conditions.

K.C. Strategic Housing: Advised on matters of affordable housing provision, including that identified as in demand within the area. No objection to this proposal and the offered affordable housing, subject to it being secured within the S106.

K.C. Trees: No objection subject to condition.

K.C. Waste: Expressed initial concerns to the layout and suggested amendments and conditions.

9.0 MAIN ISSUES

- Principle of development
- Urban design
- Residential amenity
- Highway
- Drainage
- Planning obligations
- Other matters
- Representations

10.0 APPRAISAL

Principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. This approach is confirmed within Policy LP1 of the

Kirklees Local Plan, which states that when considering development proposals, the Council would take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan would be approved without delay, unless material considerations indicate otherwise.

Land allocation

- 10.2 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. As set out in the Authority Monitoring Report (AMR), the assessment of the required housing (taking account of under-delivery since the Local Plan base date and the required 5% buffer) compared with the deliverable housing capacity, windfall allowance, lapse rate and demolitions allowance shows that the current land supply position in Kirklees is 5.88 years supply. The 5% buffer is required following the publication of the 2020 Housing Delivery Test results for Kirklees (published 19th January 2021). As the Kirklees Local Plan was adopted within the last five years the five-year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authorities should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.3 The site falls within a housing allocation, reference HS51, within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Therefore, residential development is welcomed within the site. However, both the Local Plan and National Planning Policy Framework set out expectations to ensure proposals represent the effective and efficient development of land.
- 10.4 LP7 requires development to achieve a net density of at least 35 dwellings per ha, where appropriate. Local Plan allocations have indicative capacity figures based on this net density figure. Within the Local Plan HS51 is expected to deliver 61 dwellings. The application proposes 55 dwellings, which is a density of 31.25 dwellings per ha.
- 10.5 Site constraints include a watermain bisecting the site from east to west, and a foul sewer running north-to-south. Each of these features have easements which prevents structures being built upon them (although roads / gardens may be) and dictates the location of development. Furthermore, the irregular shape of the south portion of the site restricts the layout of development as do the root protection areas of the trees to be retained. From pre-application stage officers have discussed the site's density and explored options to maximise it (without causing undue harm to other material planning considerations). On balance, considering the site's constraints, officers are satisfied that the achieved density is an effective and efficient use of the land.
- 10.6 Looking beyond density, LP11 of the Local Plan requires consideration of housing mixture. LP11 requires a proposal's housing mix to reflect the proportions of households that require housing, achieving a mix of house size (2, 3, 4+ bed) and form (detached, semi, terrace, bungalow). The starting point for considering the mixture of housing types needed across the district is the

Kirklees Strategic Housing Market Assessment (SHMA). The following housing mixture is proposed:

- 1-bed (flat): 4 = 7.2%
- 2-bed: 22 = 40%
- 3-bed: 25 = 45.5%
- 4-bed: 4 = 7.2%

10.7 The proposed housing size mixture is considered acceptable. While a reduction in 2-bed units and an increase in 4-bed units would be ideal, a balance has been struck between housing delivery, design and mixture. That proposed is considered acceptable and in compliance with LP11.

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

Sustainable development and climate change

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

10.10 The site is within the urban envelope, within a location considered sustainable for residential development. It is accessible, lying within an existing established settlement and close to various local amenities and facilities. Notably the site is within close proximity of Dewsbury Town Centre. At least some, if not all, of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.

10.11 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, and other measures have been proposed or would be secured by condition (referenced where relevant within this assessment). A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change. These factors will be considered where relevant within this assessment.

Urban Design

10.12 Relevant design policies include LP2 and LP24 of the Local Plan and Chapter 12 of the National Planning Policy Framework. These policies seek for development to harmonise and respect the surrounding environment, with LP24(a) stating; 'Proposals should promote good design by ensuring: the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape'

- 10.13 The site currently forms a boundary to the settlement of Hanging Heaton and the proposal would represent an urban extension of the settlement. With development to the west and south, and a mature tree belt to the east, public views into the site are limited. However, the open land to the north and gentle topography do allow long distance views into the site from this direction. The development of the site will have notable impacts upon the appearance of the environment; therefore, a considered design is required.
- 10.14 The proposed dwellings would be accessed via a new main estate road from Challenge Way which would branch into several cul-de-sacs. Dwellings are well spaced to one another and would create an attractive pattern of development which would harmonise with the established urban grain of Hanging Heaton. There are some internal shortfalls in separation distances between dwellings as per the standards within the council's Housebuilders Design Guide SPD. Nonetheless, these breaches are minimal and do not result in an unattractive or otherwise harmful design. This is giving due regard to the previous consideration on the quantum of development, and the fact that greater spacing between dwellings could result in fewer units and/or a less acceptable unit size mix.
- 10.15 Negotiations between officers and the applicant particularly focused upon the relationship between High Street and the western edge of the development. This led to the inclusion of an additional area of Public Open Space which is accessible from High Street (via PROW BAT/45/20) and helps integrate the development into the rest of Hanging Heaton along with an open soft landscaped connection point. Elsewhere discussions took place on the southern portion of the site, which was difficult to design for given its shape. The proposed siting of the flats in this area is deemed an appropriate and effective use of a difficult part of the site.
- 10.16 Considering landscaping and external works, the site will form a new boundary to the Green Belt (north and east). The density of development drops to the north and an area of natural / semi-natural public open space would separate the developed land from the Green Belt boundary. Currently the boundary is predominantly hedgerows, which will be retained and filled in as part of the landscaping strategy. This is considered an appropriate transitional arrangement next to the Green Belt. A similar natural / semi-natural public open space will run along the east boundary and will be complemented by the existing tree belt, allowing for a higher density of development along this boundary without causing harm to the Green Belt.
- 10.17 There are no trees benefiting from Tree Preservation Orders within the site or on neighbouring land, including the tree-belt along Challenge Way. Nonetheless LP33 establishes a principle against the loss of trees of significant amenity value. The creation of the site access will necessitate the removal of a section of the tree-belt along Challenge Way, along with other the removal of other trees within the site. At pre-application stage the applicant initially proposed access from High Street. This caused various concerns, but predominantly issues for highways and the placement of traffic on High Street. As such it is was recommended that access from Challenge Way be considered (subject to appropriate highways, ecological and arboricultural assessments). As the tree-belt runs along the whole boundary with Challenge Way it is accepted this will inevitably require tree loss.

- 10.18 A comprehensive landscaping strategy is recommended to be secured by condition. Beyond the standard information, this should include a requirement for compensatory tree re-planting throughout the site and look at methods to maximise tree planting both on-street and other open (public) areas around the site.
- 10.19 For public open space, as mentioned an area of amenity greenspace is to be provided adjacent to High Street. This provides connectivity and is immediately accessible for residents of the wider area. Other areas of public open space, designed as natural / semi-natural are along the north and east boundaries. Natural / semi-natural does not need to be publicly accessible, as it serves other purposes (i.e. visual, environmental) while still providing public benefits. However, these areas will still be accessible and allow for access around the site, albeit unpathed. A final area of public open space, to be amenity greenspace and therefore requiring access by the public, is proposed in the north-east corner. This is removed from the wider area, limiting access for existing residents, and is also removed from properties within the site to the south. Nonetheless, this is the lowest point of the site and therefore is required to host the attenuation tank. Furthermore, the site is not overly large so being 'remote' is relative and will not require a long walk. Given this, and the other accessible public open space, officers consider this siting to be acceptable.
- 10.20 Rear boundary treatments are to be 1.5m close boarded fencing, with a further 0.3m (for 1.8m height total) privacy panel. Rear boundary walls prominent within the streetscene are to be 1.8m high brick walls with timber fence infill, as a more attractive and characterful feature to enhance the streetscene. The boundary treatments are typical for a modern residential area and would mimic that common within the area. A condition requiring the boundary treatment to be installed as shown is recommended, to secure the appropriate design. In visual amenity and streetscape terms, acceptable parking is proposed, such that this provision would not result in a car-dominated street scene.
- 10.21 Turning to the architectural form and appearance of the dwellings, the proposed dwellings have a typical Pennine vernacular which will harmonise well with the surrounding form of development. This includes their massing, roof forms and fenestration size and layout. The predominance of semi-detached units, with less terraced and detached units is considered appropriate within the context of the wider area.
- 10.22 The dwellings would be predominantly faced in red-brick, however specified units on key viewpoints will have artificial stone frontages and sides. Red brick is the predominant material in the area, however secondary materials are varied, with artificial stone, natural stone, render, and buff brick being evident. The proposed use of materials and the mixture of brick and stone is considered acceptable and will reflect the character of the area. Roofing is to be grey concrete tiles. Roofing materials in the area are likewise varied, however in this case there is no clear predominance. Examples include red-tile, blue slate and grey concrete. The use of grey-concrete is therefore not opposed. Notwithstanding these comments, a condition requiring samples of facing materials be provided for review is recommended. This is to ensure suitable end products are used.

- 10.23 The proposed works would notably change the character and appearance of the site and wider area. However, as existing, the site is considered detrimental to the visual amenity of the built environment. The proposed development is considered to be sufficiently well designed and it would result in an attractive continuation of the residential environment. Through the retention of the woodland, there would also be no harm upon the setting of the open land to the south. Accordingly, the proposal is deemed to comply with the aims and objectives of Policies LP2 and LP24 of the KLP, and Chapter 12 of the NPPF.

Heritage

- 10.24 The site is neither within a Conservation Area, nor hosts any listed structures. However, it is adjacent to two heritage assets; St Paul's Church (Grade 2) and its associated curtilage structures, and the boundary stone opposite St Paul's (Grade 2), which marks the boundary between Batley and Dewsbury. A degraded wall associated with the boundary stone runs through the site and is deemed a non-designated heritage asset.
- 10.25 Section 66 of Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of listed buildings. In considering whether to grant planning permission for development which affects a listed building or its setting the LPA should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.26 First considering St Paul's Church, the proposed development is removed from it and will not impact its fabric. Consideration must however be given to its setting. The site sits on a lower level than the church and is well removed. K.C. Conservation and Design identified the importance of views of the church on approach to Hanging Heaton via PROW BAT/45/20, which would have been a historical route to the church. The applicant has reviewed this and demonstrated that the development would not negatively affect views of the church from the PROW.
- 10.27 Regarding the boundary stone, this too is outside the site and its fabric will not be affected. Its original purpose, indicating the separation between Batley and Dewsbury, has been deteriorated through successive development over time. Its remaining heritage value is as a past indicator, then a modern functional and therefore its value will not be unduly affected. Nonetheless development will be taking place close to it: a condition is recommended requiring a strategy for its retention, protection, and repair. Following negotiations, the degraded wall crossing the site is to be kept as part of the garden boundaries for several plots, with new boundary fencing erected behind it. This will retain the historic feature while enabling the development. A condition requiring the wall to be kept is recommended.
- 10.28 The proposed development will have a neutral impact upon the identified heritage assets. Accordingly, the development is deemed to comply with the requirements of S66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and the guidance contained within LP35.

Residential Amenity

- 10.29 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.
- 10.30 Acceptable separation distances are demonstrated between the proposed new dwellings and existing neighbouring properties. This is giving due regard to the relationship between the proposed dwellings and units to the south-west on High Street. The properties on High Street are on a ground level between 1m and 2m greater than the application site. Dwelling to dwelling minimum separation distances would vary between 21.3m and 25m.
- 10.31 Residents have raised particular concern over the relationship of plots 47 – 53 and nos. 191 – 201 High Street. The Householder Design Guide SPD states that typically 21m separation distances should be achieved between facing two storey dwellings. It is indicated that building heights and land levels may justify seeking high (or lower) distances, although no set distances are given. Properties on High Street present three storey elevations to the site, however the shorter separation distances are caused by extensions to the High Street properties. The extensions are maximum two storeys (although some are noted to have roof-balconies upon their extensions). The minimum three storey window separation to the new dwellings is circa 24m. The proposed dwellings will be on a lower land level, with the distances as outlined. Properties backing onto each other is not an unusual arrangement, and the arrangement outlined is not considered to cause materially harmful overlooking or overbearing for existing or future residents.
- 10.32 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.33 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not incompatible with existing surrounding uses. Representations have raised concerns over noise pollution from Challenge Way increasing following the removal of trees to form access. Trees are considered to offer limited acoustic screening, and the opening to be formed is limited. Most existing dwellings will have new dwellings between them and the new entrance, however it is accepted others will not. Nonetheless, given the separation distance and limited existing noise attenuation offered by the trees, the proposed loss of trees is not deemed harmful to the amenity of neighbouring residents.

- 10.34 Consideration must also be given to the amenity of future occupiers and the quality of the proposed units. Internal separation distances and the layout of the dwellings are adequate and will ensure an appropriate standard of privacy, outlook and natural light for units within the development. Some units have parking detached from their dwellings. While not ideal, this has been necessitated by the constraints of the site along with securing a reasonable density. Ultimately the separation is not so severe to cause material harm to the amenity of future occupiers.
- 10.35 The sizes (in sqm) of the proposed residential units are a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. In the current proposals, all dwellings would be NDSS-compliant, as set out within the table below table:

House Type	Number of units	Proposed (GIA, m ²)	NDSS (GIA, m ²)
Worsley (GF) – 1bed	2	50.0	39
Worsley (FF) – 1bed	2	61.9	39
Atkins – 2bed	5	70.9	70
Cartwright – 2bed	7	71.4	70
Wyatt – 2bed	10	81.0	70
Elmslie – 3bed	16	86.8	84
Becket – 3bed	9	95.2	84
Goodridge – 4bed	2	103.0	103
Mylne – 4bed	2	105.5	103

Garden sizes are considered commensurate to the scale of their host dwellings. All of the proposed houses would also benefit from being dual aspect, and would have satisfactory outlook, privacy and natural light.

- 10.36 Noise from nearby main roads can negatively affect the amenity of future residents. Traffic noise from Challenge Way is noted as a site constrain for this allocation within the Local Plan. The applicant has provided a noise assessment along with recommendations to mitigate the harm caused by the identified noise. This has been reviewed by K.C. Environmental Health. The report demonstrates that adequate mitigation may be implemented via glazing. However, the mitigation requires windows to be closed to be effective. To ensure appropriate ventilation the application suggests trickle ventilation. This is not accepted by Environmental Health. They therefore recommend a condition for a noise and ventilation mitigation strategy, which does not rely on trickle ventilation, be secured via condition. This includes a post implementation review to confirm the required mitigation has been achieved. This is considered reasonable.
- 10.37 Residents have raised concerns that the noise survey was undertaken during lockdown (March 21) and is therefore not a fair assessment of the noise climate. This is noted. The Association of Noise Consultants have provided guidance through the pandemic on how their members should process. At the

time, the guidance was for noise impact assessments to go ahead, however for professionals to apply their judgement on a case-by-case basis on whether a proposal was unduly affected by lockdown and how to accommodate this. While the traffic levels in March 2021 are accepted to be below standard, they were not significantly would not make a substantial difference in traffic noise levels, likely no more than a couple dB. The recommend glazing to act as mitigation, notwithstanding the above comments on ventilation, has an 8dB tolerance based on the survey's noise levels. As such it would remain appropriate if the noise level increased as expected. Therefore, while the impact of lockdown is noted, there is no indication that noise from traffic would have an undue impact on the development. The aforementioned post-implementation review will also secure the appropriate level of mitigation and ensure the amenity of future occupiers.

- 10.38 Local residents have raised that the noise survey was undertaken when the adjacent Working Men's Club was closed due to COVID. This is accepted by officers. However, the club has operated in a residential area for a prolonged period. K.C. Environmental Health only have a single complaint on record, and this related to a specific incident (an external disturbance) as opposed to noise breakout / music. Therefore, the principle of putting more dwelling adjacent to the Working Men's Club is not opposed and there is no reasonable likelihood that any noise it generates cannot be adequately mitigated. However, to ensure appropriate mitigation is secured, the aforementioned noise and ventilation mitigation strategy condition will include a requirement for review of noise generated by the club.
- 10.39 Public Open Space of 3,080sqm would be provided on site and would contribute to the amenity of future and neighbouring residents. However, this falls below the required on-site contribution, calculated in accordance with Local Plan policy LP63 and the methodology set out in the Open Space SPD, nor would a dedicated Local Area of Play (LAP) be provided on site. Dewsbury East Ward is acknowledged to be deficient in natural and semi-natural greenspace. To offset this shortfall a contribution of £84,233 would be provided, to be spent in the local area. It is recommended that this contribution be secured in the required Section 106 agreement, along with provisions to secure details of the management and maintenance of open spaces.
- 10.40 To summarise, the proposed development is not considered detrimental to the amenity of neighbouring residents. Furthermore, the proposal would secure an acceptable standard of amenity for future residents. Subject to the proposed conditions, the proposal is deemed to comply with LP24 of the Kirklees Local Plan.

Highway

- 10.41 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development would normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.

- 10.42 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.43 A single point of access is proposed onto Challenge Way. Using the national TRICS database, at 55 dwellings the following car – traffic generation is expected during the am and pm peak hours.

Peak Hour	Arrivals	Departures
AM	8	30
PM	23	10

- 10.44 The maximum number of vehicular trips arising from the development will be 38 two-way trips (arrival + departure) during the AM peak hour and 33 two-way trips during the PM peak hour. Volumetrically, this equates to roughly one additional vehicle movement on the local highway network every 1.5 minutes during the AM peak hour and one additional vehicle movement every 1.8 minutes during the PM peak hour. The applicant calculates that 37% of departures from the site are expected to travel north on Challenge Way whilst 63% are expected to travel south. K.C. Highways accept the applicant's methodology for calculating anticipated traffic generation and movements.
- 10.45 Consideration was given to whether the proposal warranted a dedicated right turn lane into the site from Challenge Way. Based on the identified traffic level and direction of travel at the PM peak (when site access is at its highest demand) 9 vehicles can be expected to turn right into the site. This equates to one vehicle every 6.5 minutes. This low level of movement does not justify a dedicated right turn lane. Furthermore, regular gaps in the northbound traffic flows are created by the traffic signal junction to the south. Therefore, the limited volume of turning traffic would have little difficulty in safely entering the site in the gaps created. Finally, the installation of a right turn lane would likely require the removal of additional trees.
- 10.46 As noted, the majority of traffic exiting the site is expected to travel south, towards the Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction. This junction is identified within the Local Plan as requiring junction improvements to accommodate local development and as outlined within LP19. Other development nearby has already part funded improvements works to this junction, including 2019/92787 (Land at Owl Lane, Chidswell – 260 dwellings). A contribution of £40,307 has been calculation for the development to contribute towards these improvements: this contribution is proportional to the scale of development when compared to that provided by 2019/92787. It is recommended this contribution be secured within the S106 agreement. Beyond the impact upon Shaw Cross junction, to be mitigated via the outlined contribution, K.C. Highways are satisfied that the level of traffic associated with the development may be adequately accommodated into the network without causing harm.

- 10.47 Progressing to the internal road arrangements, the submitted road layout details and Stage 1 Road Safety Audit have been reviewed by K.C. Highways, who considered there to be no prohibitive reason preventing a scheme for adoption being brought forward at S38 stage. It is deemed to comply with the standards of the Highways Design Guide SPD. Full technical details of the new access road, to an adoptable standard, are to be sought via condition.
- 10.48 All dwellings would have a level of dedicated off-road parking in accordance with the Highways Design Guide SPD, with one exception. Unit 14, a four-bed unit, would have two parking spaces instead of three. Options to overcome this were explored but ultimately provided more harmful to other considerations. Weighing the proposal as a whole, the shortfall of one parking space (bearing in mind it is the 3rd parking space for a dwelling, therefore having a lesser impact), is not a cause for concern. In terms of visitor parking, the Highways Design Guide recommends one per four dwellings, or 14 for this application. Four designated visitor parking bays would be provided. The applicant has demonstrated that the remaining ten units may be accommodated upon the proposed road without causing access or turning difficulties for even a refuse collection wagon. This is deemed acceptable.
- 10.49 Swept path analysis has been provided which demonstrates acceptable turning arrangements for refuse vehicles. Several share private drives are proposed; each of these would be served by a waste collection area, allowing for effective collection by refuse services. The provision of these waste collection areas may be secured by conditions. Given the scale of the development, which will likely be phased, a condition is to be imposed for a waste collection strategy during the construction phase. This is because refuse services will not access roads prior to adoption therefore appropriate arrangements must be considered and implemented.
- 10.50 K.C. Highways raised concerns that the provided share private drives do not have turning for medium sized vehicles (i.e, food delivery vans). The provision of these were explored, however due to the site's constraints alongside the previous outlined considerations on density, appropriate solutions could not be reached. While medium sized vehicle turning on private drives would be preferable, officers are satisfied that their use of either the adopted turning areas, with a longer walk, or reversing is not fundamental cause for concern and will not unduly affect highway safety or efficiency.
- 10.51 The application site has a retaining wall to High Street, with works proposed near it. A condition is recommended requiring full technical assessments of the retaining wall and works nearby to it. This is to ensure the safety of the adopted highway.
- 10.52 Progressing to sustainable travel, the site is within the urban environment with nearby amenities. The site is within 2km of Dewsbury and Batley centres, with nearby bus links into Dewsbury. Dewsbury in turn has public transport links to the wider region. West Yorkshire Metro have calculated a figure of £28,132, recommended to be put towards metro cards to promote bus usage. It is recommended that this figure may, if a more appropriate method of enhancement is identified following assessment, be put towards alternative sustainable travel improvements. This may be secured within the S106. The provision of cycle storage facilities and electric vehicle charging points, one per dwelling, are also recommended to be secured via condition. This is to promote alternative, low emission, methods of travel.

- 10.53 PROW BAT/45/20 runs along the site's north-west boundary. An area of Public Open Space would be sited next to it, with path connecting the proposed adoptable road to the PROW, as well as a private drive. To ensure the path is kept to an appropriate standard, and the new development connects into it appropriately, and to promote use of the PROW network, a condition is recommended for a scheme to improve the PROW BAT/45/20 where it is adjacent to the application's red line. This is to comply with LP20's aim to support pedestrians in the sustainable travel hierarchy.
- 10.54 The application is supported by a Travel Plan which sets out a series of measures that would encourage changes in the travel patterns of residents and their visitors to the development from the use of the single occupied private vehicle to more sustainable forms of transport. This is welcomed, however given the scale of the development, the level of traffic expected, and the sustainable location, of the site, on balance a Travel Plan monitoring contribution is not deemed necessary.
- 10.55 Given the scale and nature of the development officers recommend a Construction Management Plan be secured via condition. This is to ensure the development does not cause harm to local highway safety and efficiency. This would be required pre-commencement, given the need to ensure appropriate measures from the start of works. K.C. Highways DM have also advised that a 'highway condition survey' be undertaken, via condition. This would include a review of the state of the local highway network before development commences and a post completion review, with a scheme of remediation works to address any damage attributed to construction traffic. This request is considered reasonable, and a condition is proposed by planning officers.
- 10.56 In summary, officers are satisfied that, subject to the referenced conditions and financial contribution towards junction improvement works at Shaw Cross, the development would not cause harm to the safe and efficient operation of the Highway, in accordance with the aims and objectives of Policies LP21 and LP22 of the Kirklees Local Plan and the aims and objectives of Chapter 9 of the National Planning Policy Framework.

Drainage and flood risk

- 10.57 Assessing flood risk first, the site is within flood zone 1, which is land having a less than 1 in 1,000 annual probability of river or sea flooding (low risk). Nonetheless, all developments over 1ha in size are required to be supported by a Flood Risk Assessment. This has been provided and reviewed by the LLFA; there are no main rivers near the site and the only other open water is a minor beck 210m away with negligible risk to the site. The LLFA confirm they have no concerns regarding fluvial flooding.
- 10.58 A surface water drainage strategy to address pluvial events has been provided. The applicant has followed the drainage hierarchy and, discounting infiltration due to impermeable ground conditions, proposes to discharge to Green Hill Beck. This is not opposed in principle by the LLFA or Yorkshire Water. Technical details, including discharge rate and attenuation size, are supported by both the LLFA and Yorkshire Water, and indicate that a viable drainage solution may be achieved upon the site. Nonetheless, to enable flexibility through the development process, the LLFA recommend that the submission of full technical details be secured via condition.

- 10.59 A watermain and foul sewer cross the site. Yorkshire Water do not object to the layout, which avoids the easements of the piping. However, Yorkshire Water have requested that a condition be imposed preventing any future structure (i.e., permitted development rights) being erected within the easements. This is considered reasonable and is recommended as a condition.
- 10.60 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. Details of temporary surface water drainage arrangements, during construction, are proposed to be secured via a condition.
- 10.61 A flood routing plan has been provided. Overall, the scheme is acceptable and indicates appropriate routing of floodwater. However, the plan shows one instance of possible flooding within the curtilage of a dwelling. Therefore, the LLFA raise concerns over it however they do not consider the issue to be prohibitive. This has been raised with the applicant. If amended prior to the committee, members will be informed within the update. Alternatively, the LLFA are satisfied that this is a minor issue which can be addressed via condition if required.
- 10.62 Representations have raised concerns of flooding on High Street and in association with the adjacent Working Men's club. As the site is on lower ground level the proposed development would not exacerbate any existing flooding issues. Furthermore, notwithstanding the above commentary on a single dwelling, the flood routing plan demonstrates any flooding from High Street / the Working Men's club into the site would be appropriately routed through the site.
- 10.63 Foul water from the proposed development would discharge to the existing combined sewer crossing the site, located to the west. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.
- 10.64 Considering the above, subject to the proposed condition and securing management and maintenance arrangements via the S106, the proposal is considered by officers and the LLFA to comply with the aims and objectives of policies LP28 and LP29 of the LP and Chapter 14 of the NPPF.

Planning obligations

- 10.65 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

Affordable Housing

10.66 LP11 of the Local Plan and the Council's Interim Affordable Housing Policy requires major developments (10+ dwellings) to contribute 20% of total units as affordable housing. For this site, a 20% contribution of 55 units would be 11 units. This has been offered by the applicant.

10.67 The offered units are:

1-bed: 4

2-bed: 5

3-bed: 2

The site lies in the Dewsbury and Mirfield Market Area, where there is a demand for 3 and 3+ bed homes. However, it also borders the Batley and Spenningsdale Market Area, which has a need for 2 bed homes. Overall, the proposed mixture is considered acceptable. In terms of tenure 6 are to be social rent and 5 sub market (shared ownership). This mixture complies with LP11 and the Kirklees Interim Affordable Housing Policy.

10.68 The offered units all comply with the Nationally Described Space Standards. It is noted that the applicant proposes all of the propose 1-bed flats that are to be built, and in that regard may be considered 'distinguishable'. However, there is no indication that they are any less quality than the market units proposed. The units are adequately spaced through the site.

Education

10.69 K.C. Education have reviewed the capacity at nearby schools. The schools assessed were Mill Lane Primary, Batley Girls' High, Upper Batley High, and Manor Croft Academy. Batley Girls' High and Manor Croft Academy were identified as being above capacity and a contribution will be required to address this.

10.70 To address the identified issue K.C. Education have calculated a necessary contribution of £67,187. This has been agreed by the applicant.

Highway improvements

10.71 As outlined in paragraph 10.46 a contribution of £40,307 has been calculation for the development to contribute towards the planned improvement works for the Challenge Way / John Ormsby VC Way / Leeds Road (Shaw Cross) junction. This is to comply with the aims of LP19 of the Kirklees Local Plan.

Management and Maintenance

10.72 It is recommended that the S106 agreement include terms for the provision of long-term maintenance and management of the surface water drainage features (until adoption) and the on-site public open space. This is to ensure appropriate responsible bodies are in place to ensure the ongoing management and maintenance of these assets.

Public Open Space

- 10.73 In accordance with LP63 of the Kirklees Local Plan new housing developments are required to provide public open space, or contribute towards the improvement of existing provision in the area.
- 10.74 The application proposes 3,080sqm of on-site Public Open Space, with an off-site contribution of £84,233 agreed, which is in accordance with the Public Open Space SPD. The contribution is recommended to be secured within the S106. This is considered appropriate to comply with policy LP63 of the Kirklees Local Plan.

Sustainable travel measures

- 10.75 The site is within walking distance of numerous bus stops that connect the development to the wider area, including Dewsbury Town Centre that in turn connects to the greater region. To assist in the promotion of alternative, sustainable methods of travel, as opposed to the primary use of private vehicles, West Yorkshire Combined Authority have calculated a contribution of £28,132 for the provision of metro travel cards (bus only). It is recommended that this figure may, if a more appropriate method of enhancement is identified following assessment, be put towards alternative sustainable travel improvements.
- 10.76 The provision of this contribution is considered to comply with the aims of LP20 of the KLP.

Other Matters

Air quality

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

Contamination

- 10.80 The Coal Authority has confirmed that the site does not fall within the High-Risk Coal Zone. It falls within the Low-Risk Coal Zone, and therefore the CA recommend an informative note be placed on the decision notice.

- 10.81 The site is within the 250m buffer zone of a historic landfill site at an infilled railway cutting to the east of the site. The Environment Agency have been consulted; however, they have provided no comment. Nonetheless this designation does not prevent the approval of residential development at this site.
- 10.82 Notwithstanding the identified buffer zone, all major residential developments are required to be considered general ground contamination. The applicant has submitted Phase 1 and Phase 2 ground investigation reports which have been reviewed by K.C. Environmental Health. The Phase 1 has been accepted; however, the Phase 2 provides inadequate assessment has been provided for Environmental Health to support the conclusion. Accordingly Environmental Health recommend conditions relating to further ground investigations. Subject to the imposition of these conditions' officers are satisfied that the proposal complies with the aims and objectives of LP53.

Crime Mitigation

- 10.83 Regarding crime and anti-social behaviour and the potential for unauthorised access to rear gardens, some rear and side ginnels are proposed (albeit to relatively few dwellings). The need for these is understood – residents of mid-terrace dwellings are likely to want to be able to access their rear gardens without having to pass through their homes, for example when carrying out gardening jobs, or moving bicycles. To help address the concerns relating to potential crime committed via these ginnels, it is recommended that details of boundary treatments, and of gates to rear ginnels (to minimise public access to vulnerable parts of the proposed development) be secured by condition.
- 10.84 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant, with many incorporated into the proposal during the amendments. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24(e).

Ecology

- 10.85 Policy LP30 of the KLP states that the Council would seek to protect and enhance the biodiversity of Kirklees. Development proposals are therefore required to result in no significant loss or harm to biodiversity and to provide net biodiversity gains where opportunities exist.
- 10.86 The application is supported by an Ecological Impact Assessment (EclA) which has been reviewed by K.C. Ecology. The site comprises species poor former grazing pasture, since overgrown due to current limited management, along with native and ornamental hedgerow. No priority habitats are present within the site, nor on adjacent land, and the majority of habitats on-site are considered to be of low ecological value. Features within the site identified as having moderate ecological value, namely the woodland to the east and hedgerow to the north, are to be retained (bar the formation of the access). The site was concluded to have limited value to amphibians, reptiles and terrestrial mammals.

- 10.87 The woodland corridor that runs immediately adjacent to the eastern boundary of the site is included as part of the Kirklees Wildlife Habitat Network. LP30iii requires development to safeguard and enhance the function and connectivity of the Habitat Network. Due to the proposed loss of trees, which would create a break in the network, a bat survey was undertaken and an assessment of the likely impacts. The survey results indicate no trees suitable for roosting bats were identified, however the site supports low levels of individual bats, utilising the site for commuting purposes only. Despite this, the proposal would create a gap in the tree-belt of circa 10m. The species recorded utilising the woodland however, will regularly cross gaps of up to 150m, and therefore the gap created will not represent a significant dispersal barrier for these species. In addition, mitigative measures are specified within the EclA to minimise impacts to the connectivity of this corridor. The proposal will also introduce new artificial lighting to the site and therefore a sensitive lighting design strategy is recommended via condition to minimise the impact of this.
- 10.88 Other mitigation proposed includes no vegetation clearance within the bird breeding season, without prior survey, which may be secured via condition. One invasive non-native species (INNS) was identified on site (montbretia). A condition for an INNS removal strategy is proposed.
- 10.89 Representations have raised concerns that the site hosts butterfly populations. The habitats on site are common and widespread in the area with a limited array of wildflower species recorded within the grassland on site. Therefore, it is expected that the site would only support generalist species with no specialist habitat requirements. Nonetheless, as outlined above, the site at present is considered to be of low ecological value. Post development, areas of existing grassland will be retained and enhanced to species-rich wildflower meadows (in order to provide a biodiversity net gain) which is likely to benefit a greater diversity of butterfly and other pollinating invertebrate species.
- 10.90 All developments are expected to demonstrate a net gain to ecology, in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. The applicant has undertaken the metric calculations and concluded, post on-site interventions, a net gain of 14.88% habitat units and 30.86% hedgerow units. These are more than the desired 10% and are welcomed. The provision of a minimum 10% net gain (as required via the Biodiversity Technical Advice Note), along with specifics of how it would be achieved and thereafter retained for a minimum of 30 years, is recommended to be secured via a condition for a Biodiversity Enhancement Management Plan (BEMP). This may include features such as bat boxes and hedgehog holes amongst others. Subject to this condition, officers and K.C. Ecology consider the proposal to comply with the aims of LP30 of the Kirklees Local Plan.

Minerals

- 10.91 The site is within wider mineral safeguarding area (SCR with Sandstone and/or Clay and Shale). 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 and affordable housing need, having regard to Local Plan delivery targets) for it. The proposal is therefore not considered to conflict with LP38.

Representations

10.92 A total of 81 representations have been received to date. Most matters raised have been addressed within this report. The following are matters not previously directly addressed.

Surveys

- The noise and traffic surveys were undertaken during COVID and are not true representations of typical circumstances.
- The noise and air quality assessments are inadequate and should not be accepted.

Response: Different industries that undertake surveys have responded to the constraints of the COVID pandemic differently. The submitted noise report and highway statements have each been completed in accordance with their industry best practise to respond to COVID related constraints. The methodologies for their reports have been reviewed by K.C. Highways and K.C. Environmental Health, who have each confirmed they have been undertaken with reasonable approaches.

Officers have no cause for concern over the quality of the reports or the professional competence of their authors.

- The Working Men's Club is also a noise pollutant and was closed at the time of the survey.

Response: This is addressed within paragraph 10.38.

- The ecological surveys were not undertaken at the optimum times and should be discounted.

Response: Bat surveys were undertaken in October 2020 and September 2021. While towards the end of the bat activity season, they do fall within it and are considered acceptable by K.C. Ecology.

- Notwithstanding comments made on the noise survey, the noise level it did identify was excessive of appropriate levels and indicates there will be issues.

Response: This is known, therefore noise mitigation measures (glazing specification) are required and proposed via condition.

Tree loss

- The tree belt along Challenge Way is part of the green infrastructure network. It serves an important ecological function which will be broken.

Response: This matter is addressed within paragraph 10.87.

- The tree belt is understood to have been planted as mitigation when the road (Challenge Way) was built, to screen noise, vibration, and air pollution. The removal of trees will invalidate these purposes.

Response: The construction of Challenge Way was granted via an outline application in 1989 and a subsequent application in 91. The 1991 application file gives no indication that this was deemed the case. The 1989 files are being delivered from archive and commentary of their content will be provided to members in the update.

Notwithstanding this, subsequent planning applications may overrule previous planning decisions. Furthermore, the area of tree loss from the tree-belt is minimal. Trees, due to being an inconsistent and low density 'wall' provide limited acoustic / vibration screening and pollution absorption. Challenge Way is not identified as an air quality management area. The proposed tree removal will not result in materially harmful noise, vibration or air pollution to existing residents.

- In addition to removing trees the development will likely kill others through damage to their roots.

Response: An Arboricultural Method Statement has been provided which outlines how trees will be protected during the construction phase. This has been reviewed by K.C. Trees, who find it acceptable. Compliance with the AMS's recommendations is to be secured via condition.

Ecology

- The site is a meadow which attracts various invertebrates, birds and mammals. This includes numerous rare and endangered species.
- The proposal is not sustainable development as it destroys habitat.

Response: These matters are addressed within the report. Please see paragraphs 10.85 – 10.90.

Design and amenity

- The proposed development does not comply with the separation distances of the Householder Design Guide; specifically relating to properties on High Street. There will be privacy and overlooking issues, exacerbated by the topography.
- The proposed dwellings do not respond to the character of the area.
- Hanging Heaton is characterised by stone properties and its views over the countryside. This development will harm that.
- The development will remove the rural character of the area.
- Building upon this field will merge Hanging Heaton into Shaw Cross, removing local character and identity. It is urban sprawl.

Response: These matters are addressed within the report. Please see paragraphs 10.85 – 10.90.

Drainage / Flooding

- The flood risk report and its surveys were undertaken during light rainfall.
- The site is a soakaway for the wider area, with floodwater diverging on the site. There are watercourses under neighbouring buildings which must be considered. All drainage information must be re-submitted and re-assessed.
- The development will remove the area's soakaway and lead to the flooding of Batley centre.

Response: Flood routing is considered in paragraph 10.61. This includes water flowing into the site from neighbouring land, such as High Street. The flood routing plan indicates that water may flow through the site and discharge to the north, away from built land.

No evidence has been provided regarding watercourses under neighbouring buildings. They do not show up on records and neither Yorkshire Water or the LLFA have raised them as issues. Nonetheless, as they are on neighbouring land, the proposed development is not expected to affect them. If this refers to the Yorkshire Water sewers on site, these are known and considered by the development.

Highways

- The proposed development will put too many cars on roads already too busy. More consideration should be given to cumulative impacts of development and their implications on the highway network.
- The traffic survey is 2017 figures + reasonable estimate. Residents have done a survey and it is very wrong.
- Cars use Challenge Way as a rat run and speed through it. Putting more people and cars here will exacerbate the issue.
- A nearby fast-food development was refused due to traffic concerns: this development is substantially worse.
- There are already hundreds of houses approved in the area: the local roads cannot accommodate them.
- Concerns that the sightlines inside the site are insufficient.
- The internal road layout looks inadequate for the turning of a refuse vehicle.
- Cars avoid Grange Road because of speedbumps upon it. Instead, they drive on High Street. The proposal will exacerbate this.

Response: The development's Highways implications are considered in paragraphs 10.41 – 10.59.

While highways were considered as a possible concern, the nearby fast-food restaurant was refused, via 2020/90450, on health grounds only.

The LPA have not been provided why any alternative traffic survey figures. Nonetheless, K.C. Highways are satisfied with those provided and their methodology for collection.

Cumulative highway impacts and the local network have been provided. To enhance the network's capacity the development is to contribute £40,307 towards highway improvements at Shaw Cross junction.

Pollution

- The site filters out Nitric Oxide from the roads and reduces it to 'background level' by the time it reached properties on High Street. The proposal will remove this filter.
- The site is too close to a main road(s), and future residents will suffer from the proximity. It is stated that 'The World Health Organisation have confirmed that living within 50 meters of a main road can cause an increase in diseases'. Furthermore, the Council has declared a climate emergency. This development, cumulative with others, must be assessed fully for air pollution and the effect on the area.
- The Local Plan's housing allocation should be revised following the Air Quality Action Plan being adopted and the climate crisis being declared in Kirklees. Other parts of Leeds Road have been declared 'air quality management areas'.

Response: The site and Challenge Way are not Air Quality Management Areas. While the WHO report is noted this site is not deemed to be at specific risk from poor air pollution (nor would the development unduly contribute to a poor area). Air pollution from roads drops by distance: the field will not offer substantial absorption affects.

Other

- The applicant does not own all the land they claim. This relates to a strip of land to the rear of properties on High Street.

Response: The applicant has provided sufficient evidence to demonstrate land ownership, with no substantial counter evidence provided. Beyond this, land ownership is a private matter.

- The proposed dwellings cause harm to St Paul's Church, which is a listed building, through being within its setting.

Response: This is addressed within paragraphs 10.24 -10.28.

- There is no playground proposes within the plans. Children have not been considered within this proposal.

Response: The on-site provision has been reviewed by K.C. Landscape, who do not consider a dedicated playground appropriate for this site. Alternative play sites are available within an appropriate vicinity. An off-site POS contribution of £84,233 is to be secured and may be used to enhance local facilities, if required. The exact use of the finance will be determined when received.

- The development is poor quality and is just an attempt to make money.

Response: The development quality is considered acceptable. The reason for the development is not a material consideration.

- Greenfield sites should not be developed before brownfield sites.

Response: The planning system and guidance contained within the NPPF does not require that brownfield sites must be prioritised over development greenfield.

- There are coal mining shafts in the area that should prevent development.

Response: The proposal has been reviewed by The Coal Authority, who have no objection to the proposal and comment that the site is within their 'low risk area'. Even if within a 'high risk area' typically remediation methods may be employed to enable development.

- The proposal would harm local schools, doctors and dentists which are already overstretched. It is already chaos during drop off / pick up time, more students and cars will make this much worse.

Response: There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice.

With regard to schools, K.C. Education have calculated a contribution of £67,187 towards supporting local schools affected by the development.

- The land is Green Belt and should not be built upon. If this is allowed more Green Belt land will be built upon.

Response: The land was removed from the Green Belt and is now a Housing Allocation within the Local Plan. The removal of the land from the Green Belt was considered by the Local Plan's inspector and found to be acceptable.

- The proposal will remove views from properties which overlook the fields and affect their value. Compensation should be paid to residents for the loss of the field and council tax should be reduced for those affected.

Response: House prices are not a material planning consideration, nor is the calculation of council tax.

- These fields are used by walkers and are a public benefit. Accessible outdoor spaces have become increasingly valuable over lockdown and are needed for physical and mental health.
- Footpaths crossing the site have been used for centuries.

Response: PROW BAT/45/20 runs along the site's north-west boundary and will be retained. The PROW provides access to open countryside. No other formal paths are within the site. The development will retain connectivity between High Street and Challenge Way and will not prejudice pedestrians.

- Approved planning permissions in the area for other housing estates should be built before more are granted. This will allow for an assessment on cumulative impacts.

Response: The planning system does not enable the Local Planning Authority to take this approach.

11.0 CONCLUSION

- 11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.2 The proposal seeks residential development on a housing allocation. While the proposal does fall below the Local Plan's target density of 35 dwellings per ha and does not achieve the allocation's indicative capacity, the layout of the development is considered a logical response to the site's constraints. To seek a higher density than that proposed
- 11.3 Site constraints including topography, neighbouring residential properties, trees and ecology, and various other material planning considerations. Nonetheless, the proposed development adequately addresses each. The design and appearance of the proposed development is considered acceptable. There would be no harm to the amenity of neighbouring residents or future occupiers. The proposed access and highway impacts have been assessed to be acceptable. Other planning issues, such as drainage, ecology and protected trees, have been addressed through the proposal.
- 11.4 The proposal would not harm material planning considerations. Furthermore, it would provide an enhancement to local affordable housing, providing 11 affordable units, and open space, with circa 3,080sqm on-site and off-site contributions to enhance local facilities, in line with policy. Highways and education contributions are also secured to mitigate the impacts of the proposal.
- 11.5 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval, subject to conditions and planning obligations to be secured via a Section 106 agreement.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications
3. Material samples to be provided
4. Landscaping strategy, to include compensatory tree re-planting
5. Boundary treatment details to be provided and implemented, including ginsels.
6. Stone boundary wall to be
7. Noise and ventilation mitigation strategy, which does not rely on trickle ventilation, to include assessment of adjacent Working Men's Club and post implementation review.
8. Submission of Construction Environmental Management Plan (CEMP)
9. Development to be done in accordance with Arboricultural Method Statement
10. Road to an adoptable standard
11. Submission of Construction Management Plan (CMP)
12. Road condition survey.
13. Waste collection areas to be provided
14. Construction phase waste collection strategy
15. Cycle storage facilities
16. Technical details of retaining walls.
17. Scheme to improve PROW BAT/45/20
18. Electric Vehicle Charging Points
19. Contaminated Land investigation
20. Submission of technical drainage strategy.
21. Development to be done in accordance with flood route plan or notwithstanding flood route plan, updated version to be provided for review.
22. Easements preventing building over sewerage infrastructure.
23. Temporary drainage strategy during construction period.
24. Lighting design strategy for ecology
25. No vegetation clearance within the bird breeding season, without prior survey
26. Invasive non-native species (INNS) removal strategy

Background Papers

Application and history files

Available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/91871>

Certificate of Ownership

Certificate B signed. Notice served on Kirklees Council (access works).