
Report of the Head of Planning and Development

HUDDERSFIELD PLANNING SUB-COMMITTEE

Date: 09-Dec-2021

Subject: Planning Application 2021/91578 Erection of 9 detached dwellings with associated works land at, Lancaster Lane, Brockholes, Holmfirth, HD9 7BP

APPLICANT

J Wood

DATE VALID

28-Apr-2021

TARGET DATE

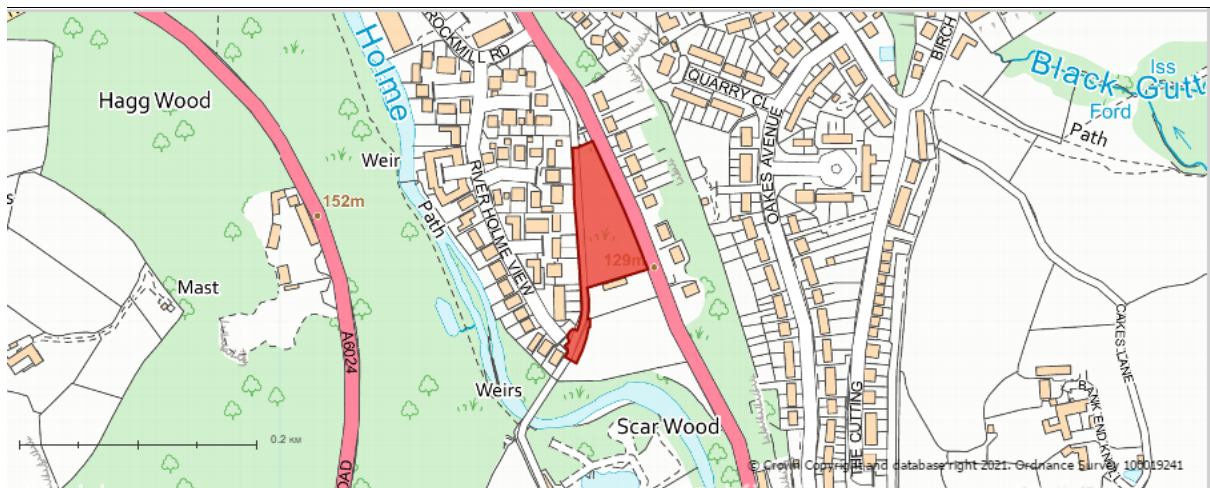
23-Jun-2021

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: Holme Valley North

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

To inform the Planning Inspectorate that the Local Planning Authority would have recommended the application for approval subject to conditions had its determination remained within its remit.

1.0 INTRODUCTION:

- 1.1 This application seeks full planning permission for the erection of 9 detached dwellings with associated works.
- 1.2 The application was originally brought to the Huddersfield Planning Sub-Committee for determination as the application was called in by Cllr Greaves given concerns with the non-adoption of Lancaster Lane proposed, and how this impacts on maintenance, road safety and the turning head.
- 1.3 An appeal against the 'non-determination' of the planning application has been lodged with the Planning Inspectorate and validated by the Planning Inspectorate. Thus, the Planning Inspectorate will now determine the application.
- 1.4 As part of the appeal process, this Authority is required to inform the Planning Inspectorate as to what decision it would have made if the determination of the application had remained within its remit. A resolution from the Huddersfield Planning Sub-Committee is therefore sought on this basis.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site comprises a triangular shaped parcel of land which lies between Lancaster Lane – an unmade track which forms a Public Right of Way (HOL/291/10) – and New Mill Road in Brockholes. The site comprises of overgrown brambles and scrub which slopes steeply upwards in a westerly direction from Lancaster Lane to New Mill Road. The site is accessed off River Holme View to the south.
- 2.2 Beyond Lancaster Lane to the east are residential properties belonging to River Holme View, which comprises 1 to 2 storey dwellings constructed from stone under tile roofs. The site is predominantly residential in character. The site is flanked to the south by 238 New Mill Road which forms a large 2 storey detached dwelling and separates the site from a parcel of grass and scrubland further to the south which is allocated for housing in the Local Plan, and benefits from planning permission for the erection of 8 dwellings (ref: 2019/90085), accessed off River Holme View. To the north of the site is an electricity substation.

2.3 The site is unallocated in the Kirklees Local Plan, is not within a conservation area and is not within close proximity to any listed buildings. The site does not contain any significant or protected trees however there is one large mature Sycamore, protected by TPO 36/93, to the south within the grounds of 238 New Mill Road.

3.0 PROPOSAL:

3.1 Planning permission is sought for the erection of 9 detached dwellings and associated works. The layout provides a row of 4 properties perpendicular to Lancaster Lane in the southern part of the site (these properties are to be served by a short section of estate road (turning head) which then turns into a shared private drive). The other 5 properties are to front onto Lancaster Lane (but would be a slight angle to it, with 4 properties having driveways directly off Lancaster Lane and 1 property having a driveway off the turning head. Gardens are proposed to the rear of every property. Access to the site at Lancaster Lane is via River Holme View. It is not proposed to divert Lancaster Lane which serves a Public Right of Way.

3.2 The dwellings are all proposed to be split level being three storeys to the front and two storeys to the rear with additional accommodation in the roof space. All dwellings are proposed to have an integral garage. Land is proposed to be regraded to accommodate the development and a number of retaining walls are proposed. Facing materials are proposed to be manufactured stone under imitation blue slate roofs.

3.3 A soft landscaping plan has been provided displaying tree planting is proposed along the western boundary of the site adjacent to New Mill Road. Tree planting is also proposed adjacent to the site access. Bird and bat boxes are proposed across the site.

3.4 Bin storage areas are proposed within the properties, with 2 collection areas within the site to the front of dwellings.

4.0 RELEVANT PLANNING HISTORY:

4.1 The following planning history at the application site is considered relevant to the assessment of this planning application:

- 2014/93549 – Outline planning application for residential development – Refused on 18/6/2015 and dismissed at appeal on 21/12/2015
- 2016/90138 – Outline application for erection of residential development – Section 106 outline permission approved 14/10/2016.
- 2018/92589 – Reserved matters application in pursuant of outline application 2016/90138 for residential development – Non-determination subject to appeal, and allowed at appeal on 7/1/2020.
- 2020/92415 – Discharge of conditions 2, 4 and 6 of previous permission 2018/92589 for erection of residential development – Approved on 3/8/2021
- 2020/92432 – Discharge of conditions 5, 6, 7, 8, 9, 10, 11, 13, 17, 18, 19, 22 and 23 of previous outline permission 2016/90138 – Fully approved on 10/9/2021
- 2021/90493 – Discharge of condition 15 (highway retaining structures) of previous permission 2016/90138 for outline application for erection of residential development – Pending Consideration.

- 2021/90504 – Variation of condition 14 (adoptable estate roads) of previous outline permission ref: 2016/90138 for erection of residential development – Pending Consideration.
- 4.2 Residential development at the site was initially refused by the Local Planning Authority in 2015 (2014/93549). This was refused by the Local Planning Authority by reason of the impact upon residential amenities of residents of River Holme View due to the proximity and use of the proposed access road. The application was appealed, but this refusal was dismissed by the Planning Inspectorate solely on the grounds that a planning obligation had not been provided in respect of affordable housing.
- 4.3 Residential development at the site was approved in 2016 under the outline application 2016/90138. Access was the only matter applied for under this outline application. The total number of units on the site was not confirmed. The permission was subject to a legal agreement, of note of which sought to regulate the provision and future maintenance of public open space.
- 4.4 The Reserved Matters application (2018/92589) at the site related to the matters of appearance, landscaping, layout and scale. The layout, design and scale of the development under this current planning application is similar to that approved under this Reserved Matters application. Condition 4 of the outline permission (2016/90138) specifies that the development should be begun before the expiration of two years from the final approval of the reserved matters which was 7th January 2020, thereby at the time of writing, this permission is still extant.
- 4.5 All pre-commencement conditions relating to the Reserved Matters permission have been discharged under application 2020/92415. A number of conditions relating to the outline permission have been discharged under application 2020/92432, but it is worth noting that conditions 9 and 10 have not been discharged. All pre-commencement conditions relating to the outline permission have been discharged apart from conditions 14 and 15
- 4.6 At the time of writing, there is one pending discharge of condition application (ref: 2021/90493) relating to a condition 15 attached to the outline permission of 2016/90138. Condition 15 outlines that the design and construction details of all temporary and permanent highway retaining structures within the site shall be approved in writing by the Local Planning Authority.
- 4.7 Further to this, at the time of writing, there is a pending variation of condition application at the site, which seeks to vary condition 14 of the outline permission at the site (ref: 2021/90504). Condition 14 is a pre-commencement condition and requests a scheme detailing the proposed internal adoptable estate roads including works to the public footpath and measures to restrict vehicle access to New Mill via Lancaster Lane. The applicant wishes to amend the condition so that Lancaster Lane and internal estate roads are not adopted and will remain under private ownership

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Not applicable in this case.

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).

6.2 The site is unallocated on the Kirklees Local Plan Proposals Map.

6.3 Kirklees Local Plan (2019):

- **LP 1** – Achieving Sustainable Development
- **LP 2** – Place Shaping
- **LP 3** – Location of New Development
- **LP 4** – Providing Infrastructure
- **LP 7** – Efficient and Effective Use of Land and Buildings
- **LP 11** – Housing Mix and Affordable Housing
- **LP 20** – Sustainable Travel
- **LP 21** – Highways and Access
- **LP 22** – Parking
- **LP 23** – Core Walking & Cycling Network
- **LP 24** – Design
- **LP 27** – Flood Risk
- **LP 28** – Drainage
- **LP 30** – Biodiversity & Geodiversity
- **LP 31** – Strategic Green Infrastructure Network
- **LP 33** – Trees
- **LP 43** – Waste Management Hierarchy
- **LP 47** – Healthy, Active and Safe Lifestyles
- **LP 51** – Protection and Improvement of Local Air Quality
- **LP 52** – Protection and Improvement of Environmental Quality
- **LP 53** – Contaminated and Unstable Land

6.4 National Policies and Guidance:

6.5 National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, 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 Health and Safe Communities
- **Chapter 9** – Promoting Sustainable Transport
- **Chapter 11** – Making Efficient Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Coastal Change and Flooding
- **Chapter 15** – Conserving and Enhancing the Natural Environment

6.6 Holme Valley Neighbourhood Development Plan (Referendum Plan) (2020-2031)

6.7 The Holme Valley Neighbourhood Development Plan has been passed in a referendum on 4th November 2021. The next and final stage for 'making' (bringing into force) the Plan will be at Full Council on 8th December 2021. Until formally adopted the Plan remains a material planning consideration in decision making and weight must be attributed in accordance with NPPF (July 2021) Paragraph 48. When weighing material considerations in any planning judgement, it is always the case that what is material is a legal fact, and the weight to be attributed thereto is, as always, for the decision makers to ascertain.

- **Policy 1** – Protecting and Enhancing the Landscape Character of the Holme Valley
- **Policy 2** – Protecting and Enhancing the Built Character of the Holme Valley and Promoting High Quality Design
- **Policy 6** – Building Homes for the Future
- **Policy 11** – Improving Transport, Accessibility and Local Infrastructure
- **Policy 12** – Promoting Sustainability
- **Policy 13** – Protecting Wildlife and Securing Biodiversity Net Gain

6.8 Supplementary Planning Guidance Documents

- Kirklees Housebuilders Design Guide (2021)
- Kirklees Waste Management Design Guide for New Developments (2020)
- Kirklees Highways Design Guide (2019)

7.0 PUBLIC/LOCAL RESPONSE:

7.1 Neighbour letters expired on 9th June 2021; Press advert expired on 4th June 2021; Site notice expired on 16th June 2021.

7.2 9 letters of representation have been received, 6 of which raise objections and 3 of which raise general comments on the scheme. The comments received are summarised below (full comments are available to view on the Council's Planning Webpage):

- Site not allocated for housing in the Local Plan.
- Lancaster Lane accommodates a Public Right of Way and is unfit to carry any traffic - Concerns with the stability of Lancaster Lane and walls to west.
- Who is to be responsible for the maintenance of Lancaster Lane and the retaining wall to the west.
- Lancaster Lane is of insufficient width to accommodate two way traffic.
- Footpath should continue to be maintained by the Council.
- Would result in the closure of the Public Right of Way during construction and on completion of the proposed development.
- Would be unsafe for users of the Public Right of Way.
- Overlook the properties on River Holme View.
- Sewer capacity concerns.
- Surface water flooding.
- Detrimental impact upon efficient operation of highway network.

- Would increase risk to pedestrians using pedestrian crossing on New Mill Road.
- Harm to protected trees.
- Concerns about the impact upon protected species.
- Further ecology surveys are required.
- Impact on local services (schools, dentists and doctors etc).
- Devaluation of property prices.
- Why has it taken the developer so long to submit their discharge of condition? If issues cannot be resolved, this suggests that the site is not suitable for development (topography and access issues).

Holme Valley Parish Council: Oppose due to lack of information regarding the adoption of the road.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

- The Environment Agency: No comments received.
- Yorkshire Water: No objections subject to conditions.

8.2 Non Statutory:

- KC Crime Prevention: Content with lighting scheme. Would wish to know what the proposed security measures are for the dwelling.
- KC Environmental Health: No objections subject to conditions.
- KC Highways Development Management: No objections subject to conditions.
- KC Lead Local Flood Authority: No objections subject to conditions.
- KC Trees: Concerns in relation to the potential impact of the development upon a protected tree to the south of the site.
- KC Ecology: No comments received.
- KC PRow: No comments received.
- KC Landscape: No comments received.

8.3 The above is a summary of the responses provided from consultees, with full comments being able to view on the Council's Planning Webpage.

9.0 MAIN ISSUES:

- Principle of the development
- Visual amenity
- Residential amenity
- Highways safety
- Ecological impacts

- Trees
- Flooding and drainage
- Other matters
- Representations
- Conclusion

10.0 APPRAISAL:

Principle of the development

- 10.1 NPPF Paragraph 11 and Policy LP1 of the Kirklees Local Plan outline a presumption in favour of sustainable development. Paragraph 8 of the NPPF identifies the dimensions of sustainable development as economic, social and environmental (which includes design considerations). It states that these facets are mutually dependent and should not be undertaken in isolation.
- 10.2 The dimensions of sustainable development will be considered throughout the proposal. Paragraph 11 concludes that the presumption in favour of sustainable development does not apply where specific policies in the NPPF indicate development should be restricted. This too will be explored.
- 10.3 The site is not displayed as allocated on the KLP Policies Map. Policy LP2 states that:
- “All development proposals should seek to build on the strengths, opportunities and help address challenges identified in the local plan, in order to protect and enhance the qualities which contribute to the character of these places, as set out in the four sub-area statement boxes below...”*
- 10.4 The site is within the Kirklees Rural sub-area. The listed qualities will be considered where relevant later in this assessment.
- 10.5 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 to 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).
- 10.6 As the Kirklees Local Plan was adopted within the last five years the five year supply calculation is based on the housing requirement set out in the Local Plan (adopted 27th February 2019). Chapter 5 of the NPPF clearly identifies that Local Authority's should seek to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development.
- 10.7 Policy generally seeks to support residential development upon unallocated sites. Thus, residential development at the site could be acceptable in principle. However, Policy 6 of the Referendum Holme Valley Neighbourhood Development Plan (HVNDP) states that proposals will be expected to demonstrate that densities make best and efficient use of land and reflect local settlement character. In addition, Policy LP7 of the Kirklees Local Plan establishes a desired target density of thirty-five dwellings per hectare. That said,

the text supporting Policy 6 of the Referendum HVNDP states that it is estimated that the housing density in the Holme Valley will be approximately 30 dwellings per hectare. By that standard, this site could, in theory, accommodate 15 dwellings. Policy LP7 of the Kirklees Local Plan states this target of 35 dwelling per hectare should be 'where appropriate' and in the policy justification set out in paragraph 6.40 that the policy allows for lower 'densities where a site would not be compatible with its surroundings'.

- 10.8 The site is approximately 0.48 hectares in size. In theory, the site could accommodate 16 dwellings in relation to 35 dwellings per hectare, or 14 dwellings in relation 30 dwellings per hectare. However, given the topography of the site and the triangular shape of the site, Officers consider that it would likely prove difficult to provide more than 9 dwellings on the site, whilst at the same time respecting local context (River Holme View has a density of approximately 26 dwellings per hectare), preventing the development from appearing cramped, providing future occupiers with a good standard of amenity, and preventing detrimental harm to neighbouring properties (especially those to the west on River Holme View). It is also pertinent to note, that there is extant permission on the site for 9 dwellings and this is considered to be a material consideration of substantial weight in the assessment of this application. In the Officer report for the approved Reserved Matters application at the site (2018/92589), it was noted that a scheme of 10 dwellings was reduced due to officer concerns with the overdevelopment of the site. Thus, in respect of the above, Officers consider the quantum of development is considered acceptable in respect of Policy LP7 of the Kirklees Local Plan.
- 10.9 Policy 6 of the Referendum HVNDP states that developments should have good access to public transport routes. The site would be located adjacent to the A616, which has bus stops along it (including one adjacent to the site) which accommodate a number of services. Brockholes also has a train station. Given this, the site is considered to have good access to public transport routes.
- 10.10 Policy LP11 of the Kirklees Local Plan states that for schemes of more than 10 dwellings or for site of 0.4ha or greater in size, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure as evidenced by the information set out in the latest Strategic Housing Market Assessment (SHMA) or evidence of local need submitted through the application process. The site is over 0.4ha in size. The Kirklees SHMA (2016) identifies that 1-2 bedroom houses, 3 bedroom houses and 4+ bedroom houses are particularly required across Kirklees. Further to this, Policy 6 of the Referendum HVNDP states that for schemes of more than 10 dwellings or on sites of 0.4 hectares or greater, proposals should include a mixture of one, two and three bedroom properties for sale and rent, and include housing designed to meet the needs of older people and properties for first time buyers.
- 10.11 Under this application, 9 detached 4 bedroom market houses are proposed therefore there is not a great mixture of dwellings. Whilst this is considered to be unfortunate, as noted previously, it is the case that a similar scheme at the site benefits from permission and is currently extant. This previous permission is considered to constitute a material consideration of substantial weight in this case, therefore the lack of a mixture of dwellings is considered acceptable by Officers.

- 10.12 Policy LP11 of the Kirklees Local Plan also outlines that the Council will negotiate with developers for the inclusion of an element of affordable homes in planning applications of more than 10 homes. Policy 6 of the Referendum HVNDP outlines that developments should also provide a suitable proportion of affordable housing in line with the recommendations in the Kirklees Local Plan. Given that the scheme is for 9 dwellings, there is no policy requirement to seek affordable housing under this application. It should also be noted that because 9 houses were approved under the extant scheme at the site, this did not trigger a policy requirement to provide affordable housing in 2018.
- 10.13 Given the above, the principle of 9 detached dwellings on the site could be acceptable. However, the acceptability of the proposal is also dependent on a number of other considerations, which Officers will go on to discuss below:

Visual amenity

- 10.14 The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 126 provides a principal consideration concerning design which states:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

- 10.15 Kirklees Local Plan policies LP1, LP2 and significantly LP24 all also seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity.

- 10.16 LP24 states that proposals should promote good design by ensuring:

“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”

- 10.17 Paragraph 129 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

- 10.18 Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*

- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

10.19 Policy 1 of the Referendum Holme Valley Neighbourhood Development Plan (HVNDP) relates to protecting and enhancing the landscape character of Holme Valley, and states that: *“All development proposals should demonstrate how they have been informed by the characteristics of the Landscape Character Area (LCA) in which they are located”*. The Policy goes on to note that proposals should be designed in accordance with the character and management principles in respect of landscape set out for each LCA in order to avoid detrimental impact on the LCA. This Policy also notes that a full hard and soft landscaping scheme is to be submitted with all planning applications for new buildings.

10.20 Policy 2 of the Referendum HVNDP relates to protecting and enhancing the built character of the Holme Valley and promoting high quality design. Policy 2 notes that proposals should be designed in accordance with the management principles for each LCA in respect of built character in order to avoid detrimental harm to the LCA.

10.21 In respect of Policies 1 and 2 of the Referendum HVNDP, the site is identified as being within LCA 7 (River Holme Wooded Valley). In terms of landscape, the Referendum HVNDP notes that key character management principles for this LCA are:

- Ensure new development respects glimpsed views between built form.
- Ensure views are maintained across the wooded valley landscape from elevated vantage points.
- Retain and restore existing stone boundaries and use stone walling in new boundary treatments.
- Maintain and enhance the network of PRow to promote access and consider opportunities to create new links to existing routes.

10.22 In terms of the built character, the Referendum HVNDP states that the key character management principles for this LCA are:

- Ensure that new development respects the distinct character and built form of the LCA such as weaver’s cottages and folds and the sensitive conversion of former farm buildings.
- Strengthen local sense of place through improving the connection to past industrial heritage including through retaining or restoring mill buildings.
- Consider the use of traditional materials of millstone grit and slate for repairs and localised alteration with stone mullions retained.

10.23 Policy 2 of the Referendum HVNDP also states that: *“New developments should strengthen the local sense of place by designing the site layout to respect the existing grain of development in the surrounding area and through use of local materials and detailing,”* and that: *“Designs should respect the scale, mass, height and form of existing buildings in the locality and the site setting.”* Policy 2 also states that: *“Materials must be chosen to complement the design of the development and add to the quality or character of the surrounding environment.”*

- 10.24 The triangular shape of the site, its topography (which slopes steeply up from Lancaster Lane to New Mill Road), the land's function in retaining the adjacent section of New Mill Road serve to constrain development on the land and surrounding residential properties have influenced the layout of the site.
- 10.25 As outlined above, the proposed density of the development is considered to be broadly similar to that of River Holme View.
- 10.26 All of the properties form detached dwellings. The surrounding area has a mixture of house types including detached, semi-detached and terraced properties. Whilst the development proposed does not provide a mixture of house types, Officers hold the view that a group of detached houses in this location would not be out of keeping with the character of the area.
- 10.27 The dwellings are all split level, being three storeys to the front and two at the rear, which reflects the topography of the site. Additional accommodation is provided in the roof space of each dwelling.
- 10.28 Adjacent development on River Holme View consists of traditional two storey dwellings and bungalows. The finished levels of plots 6-9 have been designed so that these properties would not sit high above the level of Lancaster Lane, so as to prevent them appearing disproportionate to nearby housing on River Holme View. In addition, these dwellings include an asymmetrical roof so that the ridgeline of the dwellings is set further away from Lancaster Lane so as to prevent them dominating this right of way.
- 10.29 As the dwellings at plots 2-5 are set much further into the site it is considered the impact of their scale on visual amenity is mitigated. The side gable end of the dwelling at plot 1 is adjacent to Lancaster Lane, but Officers hold the view that the massing of this dwelling and the set off from Lancaster Lane is acceptable so as to prevent this dwelling dominating Lancaster Lane.
- 10.30 All of the dwellings would sit below the level of New Mill Road. The most prominent dwelling is considered to be the one proposed at plot 4 which has a gable end close up to the roadside. It would only be the first floor level and roof space that is visible from New Mill Road and as such, Officers consider that it would not appear as an unduly prominent feature within the streetscene. The remaining plots are all set much lower down and it would principally be the roofs of plots 5-9 that would be visible from New Mill Road.
- 10.31 The proposed dwellings would sit above the height of the houses on River Holme View, which occupy the flatter valley floor, and would sit well below the height of the existing houses on the eastern side of New Mill Road, which are located higher up the side of the valley. Officers are therefore of the view that the proposed development provides a natural stepping up in the height of development up the valley side.
- 10.32 In terms of appearance, the proposals provides some variety across the development and particular design features have been incorporated to help to break up the mass of the dwellings, for example stepped frontages and fenestration detailing. The asymmetrical roof to four of the plots results in a less traditional design but Officers consider the design remains acceptable.
- 10.33 Facing materials are to be manufactured stone and imitation blue slate.

- 10.34 More specifically, the proposed roofing material is a Forticrete Hardrow Duets concrete roof tile in 'Barley', and this material was considered acceptable for the approved development at the site which is extant (under discharge of condition application 2020/92415). This material is once again considered acceptable by Officers.
- 10.35 Natural stone was previously approved at the site, but manufactured stone is proposed under this application (Forticrete Sheartone Cotswold Village Cottage Walling). The applicant's agent has not provided any images of such walling under this application, but images of such stone were originally submitted alongside discharge of condition application 2020/92415 (although this material was not accepted by Officers). Officers have concerns how the use of manufactured stone, rather than natural stone, could reduce the quality of the development, and that the use of stone replicating that within the Cotswolds would not necessarily reinforce local distinctiveness. Officers would therefore prefer to see natural stone which would better harmonise with existing surrounding development. For this reason, Officers consider it necessary to recommend a condition outlining that notwithstanding the specified materials within the application form, samples of the external walling materials for the houses should be approved by the LPA before works to construct the superstructure of any of the dwellings commence.
- 10.36 Thus, Officers consider, that subject to conditions, the appearance of the houses would be of a good standard, and relatively similar in scale to neighbouring properties, thus complimenting existing residential development in the immediate vicinity of the site. It is also worthwhile noting that the layout and design of the dwellings is similar to that of the approved and extant scheme at the site, and this is a material consideration in the assessment of this current application.
- 10.37 In terms of landscaping, a detailed planting plan, boundary treatment plan and landscape management and maintenance plan have been submitted.
- 10.38 Regarding the hard landscaping, the boundary treatment plan outlines that the retaining wall adjacent to New Mill Road would be faced in new drystone walling. The existing drystone wall adjacent to Lancaster Lane, that forms the boundary with existing houses on River Holme View, is proposed to be repaired and raised to a maximum height of 750mm (150-200mm above the existing height). The rear gardens of plots 5-9 are proposed to have 1.8m hit and miss timber fencing. The southern site boundary and the boundaries between rear gardens and driveways on plots 1-4 would have new drystone walling to the face of the retaining wall with 800mm fencing behind (overall height 1.8m). The driveway to plot 1 where it is adjacent to Lancaster Lane would have 1.2m drystone walling. These boundary details have been approved in relation to the extant scheme at the site under Discharge of Condition application 2020/92415. Nonetheless, the use of drystone walling to the retaining walls is considered to be in keeping with the area. Officers consider that the boundary details submitted are acceptable from a visual amenity perspective.
- 10.39 The planting plan and landscape management and maintenance plan submitted are similar to previously approved under Discharge of Condition application 2020/92415 and Officers consider that these details are acceptable so as to help create a pleasant environment.

10.40 Given the above, and subject to conditions, Officers hold the view that the proposal would prevent detrimental harm to the visual amenities of the locality, in accordance with Policy LP24 (a) of the Kirklees Local Plan, Policies 1 and 2 of the Referendum HVNDP and Chapter 12 of the NPPF.

Residential amenity

10.41 Section B of Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring: *“They provide a high standard of amenity for future and neighbouring occupiers; including maintaining appropriate distances between buildings”*.

10.42 In addition to this, Paragraph 130 of the National Planning Policy Framework states that planning decisions should ensure that developments have a high standard of amenity for existing and future users.

10.43 Principle 6 of the Kirklees Housebuilders Design Guide SPD states that residential layout must ensure adequate privacy and maintain high standards of residential amenity to avoid negative impacts on light, outlook and avoid overlooking. For two storey houses, this SPD recommends minimum separation distances of:

- 21 metres between facing windows of habitable rooms at the back of dwellings.
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room.
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land.

10.44 Policy 2 of the Referendum HVNDP also states that proposals should be designed to minimise harmful impacts on general amenity for present and future occupiers.

River Holme View

10.45 The layout of the site is such that only proposed plots 5-9 face towards River Holme View, whilst the east side elevation of plot 1 would not have any windows (and would be over 23 metres away from the rear wall of the nearest property on River Holme View). The separation distances between new and existing habitable windows would exceed 21 metres, with the exception of one instance where there is a shortfall of approximately 2 metres, but this would be between the study window in plot 9 and a conservatory at the rear of 35 (which is on lower land therefore helping to restrict views into this conservatory). Whilst Officers acknowledge that the Housebuilders Design Guide SPD outlines that the recommended separation distances refers to 2 storey dwellings, and these dwellings proposed would be 3 ½ storey in height, the orientation of the plots 5-9 means that there is an oblique relationship between habitable windows which would help mitigate the impact of the development on the privacy of adjacent properties to the west.

- 10.46 Further to this, due to the separation distances from adjacent gardens that back onto Lancaster Lane, and the oblique angle of dwellings on plots 5-9, it is considered that undue harm in terms of overlooking would be prevented to properties on River Holme View.
- 10.47 The increase in height of the wall along Lancaster Lane is only slight and so Officers consider that it would not unduly impact on the adjacent gardens on River Holme View, that are at a lower level to Lancaster Lane.
- 10.48 Officers the proposal would therefore prevent undue harm to these properties on River Holme View in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing effect.

238 New Mill Road

- 10.49 Plots 1-4 would back onto 238 New Mill Road. The rear wall of this neighbouring property immediately abuts the site and predominantly forms a mainly blank elevation although it does contain four small windows; two at ground floor level floor (one window that appears to serve a garage and one that serves living accommodation) and two upper floor windows that do not appear to be principal windows for main rooms. Separation distances are approximately 11.5 metres. No comments have been received from this neighbour in response to the publicity, but it is believed that the applicant owns this land. As noted, the Housebuilders Design Guide SPD advises a minimum separation distance of 12 metres between habitable windows and non-habitable windows. Considering the nature of 3 of the windows and that a similar relationship has been accepted under the approved and extant scheme at the site, Officers deem these separation distances acceptable in this case so as to prevent undue harm in terms of loss of light, the creation of an overbearing effect and overlooking.
- 10.50 The proposed 1.8 metre high retaining wall and fencing to the southern site boundary would be immediately adjacent to 238 New Mill Road. The lower-level windows are likely to be obscured by the proposed boundary treatment, with just a narrow gap between the rear wall of No.238 and the proposed boundary treatment. Officers hold the view that the proposed boundary treatment to the southern boundary is likely to have a significant impact on the amount of natural light to these windows as well as the outlook from them, although the size and location of the windows indicates that they are not main habitable windows and so living conditions are unlikely to be significantly harmed. In normal circumstances this type of relationship would not be considered acceptable, however, given that the impact would be limited to a property that the applicant appears to own, and given that the impact is unlikely to severely harm the standard of amenity that the occupiers currently enjoy, Officers consider it can be accepted in this case.

Properties on the Opposite Side of New Mill Road

- 10.51 The existing properties to the east on the opposite side of New Mill Road are set up from the site and are considered to be well separated from the new dwellings. The dwelling at Plot 4 has the closest relationship to these adjacent properties, being approximately 21 metres away from the property known as The Himing (463 New Mill Road). It is the gable end of plot 4 that faces onto

New Mill Road and there are no habitable windows in this side elevation (only landing windows). As such, Officers consider that the proposal would not cause undue harm in terms of overlooking. Plots 5-9, which have habitable windows facing onto New Mill Road, are separated by 24-34 metres from the nearest properties on New Mill Road with a significant difference in levels and an oblique relationship existing between windows. There is also existing and proposed screen planting and boundary treatments which will further prevent any scope for undue overlooking. Officers therefore consider that the proposed development would prevent undue harm to these properties in terms of loss of light, overlooking or loss of privacy, or the creation of an overbearing effect.

Environmental Pollution

- 10.52 The LPA has previously refused an application for residential development on the site (2014/93549), and this was due to the impact of a formalised carriageway serving such development upon residential amenity. It was previously considered that the proximity of the lane to adjoining rear gardens and the comings and goings associated with the development would give rise to an unacceptable detrimental impact on the amenity of adjoining properties. However, the decision was appealed and the Planning Inspector concluded that: *“the proposed access road would not have an unacceptable effect on the living conditions of nearby residents in respect to noise and disturbance”*. The Inspector was also satisfied that: *“the introduction of street lighting into the appeal site would not have an adverse effect upon living conditions of local residents”* and in any event a planning condition requiring details of the lighting scheme could be imposed in order to safeguard living conditions. The Inspector also commented that *“whilst the headlights of vehicles using the proposed access road could cause spill/glare to neighbouring dwellings, any such effect would be limited due to the low levels of traffic generated”*.
- 10.53 Following on from the conclusion from the Planning Inspector above, in the approved and extant outline application at the site Officers concluded that the impact on residential amenity from the proposed access was acceptable. However, a condition (18) was attached to the outline permission relating to street lighting of the approved means of access so to limit light spill or glare onto existing neighbouring properties. Details of lighting were provided under Discharge of Condition application 2020/92432, including an outdoor lighting report, lighting layout plan and lighting reality drawing displaying vertical illuminance. These plans displayed some light spill to the rear gardens that back onto Lancaster Lane, but this was limited to the lower parts of the adjoining gardens. The plans also show some spill within the front garden of 57 River Holme View, but this is principally a result of an existing lighting column to the front of this property. Officers were satisfied with the details provided hence and condition 18 of 2016/90138 was therefore discharged. The lighting report and lighting layout plan submitted under this Discharge of Condition application have also been submitted under this current planning application, which is similar to the approved and extant application at the site, and Officers consider that compliance with this, as well as lighting reality drawing pursuant to application 2020/92432 would help to prevent undue harm to the amenities of nearby residential properties.

Amenities of Future Occupiers

- 10.54 In terms of the amenities of the proposed occupiers, Principle 16 of the Kirklees Housebuilders Design Guide SPD states that: *“All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity for future occupiers. Although the government has set out Nationally Described Space Standards, these are not currently adopted in the Kirklees Local Plan.”* All the dwellings would comfortably exceed the minimum recommended internal floor space standards as specified in the NDSS, therefore internally, Officers consider that the proposed dwellings would provide a good standard of amenity for future occupiers.
- 10.55 Further to this, Principle 17 of the Kirklees Housebuilders Design Guide SPD outlines that: *“All new houses should have adequate access to private outdoor space that is functional and proportionate to the size of the dwelling and the character and context of the site. The provision of outdoor space should be considered in the context of the site layout and seek to maximise direct sunlight received in outdoor spaces.”* The properties would all benefit from private external amenity space to the rear, and Officers consider these gardens to be of a good size.
- 10.56 Thus, in respect of residential amenity, Officers consider that the proposal would be in accordance with Policy LP24(b) of the Kirklees Local Plan, Chapter 12 of the NPPF and Policy 2 of the Referendum HVNDP.

Highways safety

- 10.57 Access to the site is proposed via River Holme View and Lancaster Lane. Lancaster Lane forms an unmade track which serves a public footpath (HOL/32/20). It is proposed to create a carriageway along Lancaster Lane to serve the proposed development and this would join the turning head at the end of River Holme View. The site falls steeply from New Mill Road down to Lancaster Lane.
- 10.58 As noted previously, the scheme is similar in terms of quantum of development and layout to the approved and extant residential development at the site (2016/90138 and 2018/92589). Under these applications, the traffic impact resulting from the development, as well as the cumulative impact resulting from other developments in the area, on the junction on the A616 New Mill Road and Rock Mill Road were considered acceptable (i.e. the junction has the capacity to accommodate the developments). It was also considered that the approved development was unlikely to have any significant detrimental impact on highway capacity and safety. Officers consider there to be no significant change in circumstances so as to reach a different view on such matters when considering the similarity between the current application and approved scheme, and Kirklees Highways Development Management have not raised any objections on such grounds.
- 10.59 The level of parking proposed for all of the dwellings is considered to be acceptable by Officers given that it is similar to the approved scheme and is compliant with guidance within the Kirklees Highways Design Guide SPD. The general layout of the site is also considered acceptable by Officers.

- 10.60 Under the approved outline permission at the site (which is extant), Condition 14 outlined that no development shall take place until a scheme detailing the proposed internal adoptable estates roads, including works to the public footpath and measures to restrict vehicular access to New Mill Road via Lancaster Lane have been approved by the LPA. It was noted that the scheme shall include full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with a safety audit covering all aspects of work.
- 10.61 Under this current application, the applicant has requested that Lancaster Lane as well as the internal estate roads are not adopted, but under private ownership. The applicant has also sought to vary Condition 14 of the outline permission under application (2021/90504) so that Lancaster Lane is not adopted. This Section 73 application is pending consideration. KC Highways have raised concerns with this element of the proposal, which has not been addressed by the applicant therefore at the time of writing is considered necessary to attach a condition similar to Condition 14 of 2016/90138.
- 10.62 Third party responses have raised concerns in relation to the stability of a public highway (Lancaster Lane) and the impact this could have on neighbouring properties, but it has been established in other applications at the site for residential development that this could be fully addressed by a condition, including in the extant permission at the site. The applicant has provided plans of retaining walls with this planning application, but not the depth of information expected, including method statements for works and removal of excavations and associated safety measures for the protection of the adjacent public highway, footpath and retaining wall.
- 10.63 The applicant has tried to discharge such a condition at the site (Condition 15 of 2016/90138) under application 2021/90493, and this condition states that no development shall take place until the design and construction details of all highway retaining structures within the site have been approved. At the time of writing, the Discharge of Condition application is still pending due to concerns by KC Highways Structure not being fully addressed due to the level of detail submitted. Given this, Officers once again consider it necessary to attach such a condition.
- 10.64 Lancaster Lane, over which the access road is to be formed, serves a Public Right of Way (Hol/32/20). The Public Right of Way also forms part of the Core Walking Network within the Kirklees Local Plan. Policy LP23 of the Kirklees Local Plan states that the core walking network will be safeguarded and extended. The Policy goes on to note that proposals that may prejudice the function, continuity or implementation of the core network will not be permitted, and that existing public rights of way that form part of the core network or elsewhere will be protected and enhanced. The Public Right of Way would still exist as a consequence of the proposed development. Recommended Condition 14 would deal with design details of the footpath. If the applicant wishes for the temporary closure of the footpath to facilitate the development, the applicant will require consent for this. An informative can be attached outlining that this right of way shall not be obstructed or closed without prior written consent.

10.65 Given the above, subject to conditions, Officers consider that the proposal would prevent detrimental harm to highways safety in accordance with Policies LP21, LP22 and LP23 of the Kirklees Local Plan, Policy 11 of the Referendum HVNDP and Chapter 9 of the NPPF.

Ecology

10.66 Chapter 15 of the NPPF relates to conserving and enhancing the Natural Environment. Paragraph 179 of the NPPF outlines that decisions should promote the protection and recovery of priority species, and identify and pursue opportunities for securing net gains for biodiversity. Paragraph 180 goes on to note that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

10.67 Policy LP30 of the Kirklees Local Plan and Policy 13 of the Referendum HVNDP echo the NPPF in respect of biodiversity. Policy LP30 outlines that development proposals should minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.

10.68 The site is included within the Strategic Green Infrastructure Network within the Kirklees Local Plan, and Policy LP31 states that the development proposals should ensure the protection and enhancement of biodiversity and ecological links.

10.69 A Preliminary Ecological Appraisal (PEA) and Badger Survey has been submitted alongside this application. This report provides an update to information previously submitted to the LPA in relation to the extant permission of 2016/90138 (the survey for this approved application was conducted in March 2016). This previous report outlined that badger activity on the site was restricted to commuting and this was predicted to decrease with continued shrub encroachment. The report recommended mitigation measures to prevent harm to bats, birds and reptiles and these were attached as a compliance condition to the outline permission. The report also recommended a number of measures to enhance the biodiversity of the site, including bat boxes and bat bricks. The report was considered acceptable and a condition was attached to the outline permission requesting details of bat and bird boxes to be incorporated into the development.

10.70 The updated PEA and Badger Survey outlines moderate potential for breeding birds and commuting badgers, as well as low suitability for roosting and foraging bats. Following on from this, the survey recommends mitigation measures, including: measures to retain existing and incorporate new roosting features for bats; measures taken to avoid killing birds or destroying their nests; measures to avoid killing or injuring badgers, hedgehogs and common toads. The survey report also outlines that a range of measures should be undertaken to satisfy the requirement of ecological enhancement, such as the provision of bat roosting and foraging opportunities and bird nesting opportunities. Given the recent date of this report, its overall content and that it was prepared by a suitably qualified individual, Officers are satisfied with the findings and recommendations. Should permission be granted, Officers consider that the mitigation measures within Section 4 of this report should be conditioned to prevent adverse harm to protected species.

- 10.71 Following on from this updated PEA and Badger Survey, a plan displaying bat and bird boxes across the site has also been provided alongside the application (Drg No. TWP21-NTF-E02-001). This plan is the same plan which was been submitted under discharge of condition application 2020/92432, relating to outline permission 2016/90138 (Condition 19 of which requested details for the provision of bird and bat boxes to be incorporated into the development to enhance the biodiversity of the development). Under this discharge of condition application, KC Ecology noted that the number of bat and bird boxes proposed was sufficient, but the location of these was not appropriate, thereby reducing the likelihood of bats utilising mitigative features. Following the advice of KC Ecology, an amended plan was submitted under Discharge of Condition application 2020/92432 (Drg No. TWP20-NTF-E02-003 Rev A). This addressed KC Ecology's concerns and Condition 19 of 2020/92432 was discharged. Given that the design of the proposed scheme is the same as the approved scheme at the site, this bat and bird box plan approved under 2020/92432 on 6th August 2021 is considered acceptable in respect of this current application. Officers will therefore recommend a condition that bat and bird boxes within this revised plan are provided before the first occupation of the dwellings, and retained thereafter.
- 10.72 A third party has raised concerns that a preliminary ecological assessment has been submitted. However, it is usual practice to conduct such a survey of the site to understand the ecological features on the site to begin with and understand whether a more detailed ecology survey is required. In this scenario, given the findings of the PEA and Badger Survey, further survey work is not considered necessary.
- 10.73 A condition (22) was attached to the previous outline application at the site requesting details of the external lighting for individual properties to mitigate the impact of the development on biodiversity. Such details were approved under Discharge of Condition application 2020/92432 and given the similarities between the scheme, it is considered that a compliance condition could be attached relating to the details approved under 2020/92432.

Trees

- 10.74 Whilst there are some trees on the application site, these are considered to be relatively young and of low amenity value. The loss of these trees is therefore considered acceptable by Officers.
- 10.75 The above said, there is one large mature Sycamore, protected by TPO 36/93, to the south within the grounds of 238 New Mill Road. The canopy overhangs the site by approximately 9 metres. The Council's Tree Officer has noted that although the canopy is high above the site, it will create a considerable area of shading and sense of overbearing to proposed plots 1 and 2. The Council's Tree Officer has raised concerns that plots 1 and 2 will be too close to the protected tree and that the proposals are likely to result in an increase in pressure to prune or fell the protected tree. The Tree Officer notes that though the Council can resist the application to fell protected trees, a Planning Inspector could take the decision to approve with more pressure to prune this tree. The Tree Officer considers that the layout of the scheme should be such as to provide additional room to a tree of this size and dominance.

- 10.76 The access for the site will also pass beneath the mature Sycamore tree and a smaller semi-mature Birch (also subject to a TPO (16/88/t3). The Tree Officer states that the impact upon these trees should be covered by an impact assessment.
- 10.77 In response to these comments from the Tree Officer, an Arboricultural Impact Assessment was received from the applicant's agent. This makes a number of recommendations so as to protect these trees, but an arboricultural method statement would also normally be required to prevent harm to these trees.
- 10.78 The Council's Tree Officer has acknowledged the planning history of the site, of note the extant permissions for a similar development, but still note concerns regarding the development upon the protected Sycamore tree. Officers understand these concerns in relation to pressure on the Sycamore Tree and this is considered to be unfortunate. That said, as the permission for a development with a layout the same as this scheme under this current application is still extant, Officers consider this to be a material consideration of substantial weight and the development from an arboricultural perspective is deemed acceptable by Officers. In relation to the impact of the access for the site on the TPO trees, it is worth emphasising that these protected trees are subject to protection.

Flooding and Drainage

- 10.79 Paragraphs 159-162 of the NPPF and Policy LP27 of the Kirklees Local Plan state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test.
- 10.80 The vast majority of the site is within Flood Zone 1 apart from a very minor section of the access off River Holme View to the south of the site (which is within Flood Zone 2). Flood Zone 1 is land with the lowest probability of fluvial flooding (less 0.1% chance of flooding any year), whilst Flood Zone 2 is land with a medium probability of flooding (land having between a 1 in 100 and 1,000 annual probability of river or flooding).
- 10.81 Whilst some development is required within Flood Zone 2, this being a very minor section of engineering works at the access from River Holme View, the majority of the site, including all proposed residential properties including gardens and driveways would be sited in land within Flood Zone 1. It is therefore considered that a sequential test is not required for such development, and a sequential test was not considered necessary under the assessment of the outline application at the site (which is still extant).
- 10.82 As a very minor part of the site is within Flood Zone 2, the Environment Agency were consulted. However, comments have not been received from this consultee. Officers are satisfied with the development from a fluvial flooding perspective.
- 10.83 In terms of surface water, a drainage strategy has been submitted. This outlines that surface water is proposed to be discharged to a Yorkshire Water sewer via a single flow control device rated at 5.0 l/s located at the southern boundary of the site. Two geocell tanks are proposed.

- 10.84 KC Lead Local Flood Authority (LLFA) have raised a number of concerns with the proposal based on the submitted drainage scheme, including: ways to prevent silt within the geocell storage tanks; that the free water storage volumes should be re-calculated for lower allowable discharge rates; that the routing of floodwater during exceedance events should be determined and should indicate no flood risk to existing or proposed properties; and temporary drainage measures to prevent silts from exposed sub-soils being washed off the site. As a consequence, KC LLFA has raised no objections to the proposal subject to a number of drainage conditions, with details being provided prior to commencement of the development. Similarly, Yorkshire Water has requested a condition of surface water drainage works as they consider the Drainage Strategy requires amendments, particularly in relation to surface water management.
- 10.85 A similar drainage strategy was submitted under Discharge of Condition application 2020/92432, in relation to Condition 11 of 2016/90138 (drainage strategy) and the LLFA similarly objected to this for a number of reasons. A revised Drainage Strategy was however submitted in August in relation to this Discharge of Condition application and the LLFA removed their objection to the discharge of this condition. The LPA discharged Condition 11 of 2006/90138 on 10th September 2021. Given that the scheme for this current application is the same as what has already been approved at the site (and this permission is still extant), the approved drainage details accepted under discharge of condition application 2020/92432, are also considered acceptable under this current application in respect to the treatment of surface water. Should permission be granted, Officers would recommend a condition that the drainage scheme is provided before any piped discharge of surface water from the development takes place and before any occupation of the development.

Other matters

Contamination:

- 10.86 The Council's Environmental Health Officer (EHO) has noted that whilst Phase II reports and Phase III Remediation Strategies have been submitted alongside this planning application, no Phase I report has been submitted. The EHO has stated that such a preliminary risk assessment is required to begin with to establish whether there are any potentially unacceptable risks arising from contamination at the site. The EHO goes on to note that in the absence of a Phase 1 assessment, the site's historical land use, site setting and the associated risks from contaminants to receptors are unspecified, and consequently, it is unclear whether all potential risks to site receptors have been identified and assessed. For this reason, the EHO has requested full staged land contamination conditions.
- 10.87 Whilst the concerns of the EHO are noted, a Phase I report for the site has already been submitted under a previous application at the site. A Phase I was submitted under Discharge of Condition application 2020/92432 and approved on 8/6/2021, which relates to the outline permission at the site for residential development (2016/90138). Under this discharge of condition application, the EHO noted they were satisfied with the Phase 1 report. The Phase II and Phase III reports submitted under this current planning application were also deemed acceptable by the EHO under Discharge of Condition application 2020/92432 and were discharged by the LPA on the same date. Given the site under

2016/90138 is similar to this site under this current application, and the relatively recent dating of the reports, Officers consider that such staged conditions are not required as stated by the EHO, but that a condition should be attached stating that the remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved under Discharge of Condition application 2020/92432. Such a condition should highlight the steps to take if remediation is unable to proceed in accordance with the approved remediation strategy or contamination not previously considered is identified. A condition requesting a validation report is also considered necessary by Officers.

Planning Obligations & Infrastructure:

10.88 A third party concern has been received regarding the impact of the development upon local services (schools, dentists and doctors etc). However, the number of dwellings proposed under this application does not trigger contributions towards health or education with reference to the Local Plan. It is pertinent to note that such contributions were not sought for the approved scheme for 9 houses at the site which is still extant.

10.89 It is noted that the approved and extant development was subject to an off-site contribution towards open space. However, since the approval of this application, the Kirklees Open Space SPD has since been adopted (June 2021), and this outlines that the trigger for such contributions is 11 dwellings or over. For this reason, Officers are not seeking such contributions. For schemes under 11 dwellings, there is also no requirement to provide open space.

10.90 Yorkshire Water have recommended a compliance condition in order to allow for sufficient access for maintenance and repair work at all times. This recommended condition outlines that no building or other obstruction including landscape features shall be located 3.5 metres either side of the centre line of the public 450mm diameter sewer and 3 metres either side of the centre line of the 375mm diameter sewer and this can be conditioned should permission be granted. A similar condition was attached to the extant permission at the site.

Climate Change:

10.91 On 12th 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 will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.92 Given the above, and in accordance with the West Yorkshire Low Emissions Strategy, Officers would like to see an electric vehicle recharging point installed within the dedicated parking area/garage of each of the dwellings. A plan has been provided displaying a charging point on the driveway of each proposed dwelling, and the plan notes that the cable and circuitry ratings would ensure a

minimum continuous current demand of 16 Amps and a maximum demand of 32Amps. These details are considered acceptable by Officers and it will be conditioned that these are installed before the dwelling to which the recharging point relates is first occupied.

- 10.93 Policy 12 of the Referendum HVNDP states that all development is expected to be designed to contribute a number of elements of sustainability, including promoting renewable energy and energy efficient. This policy outlines that the requirements should be met unless it can be demonstrated that this would render the development unviable. Whilst a sustainability and energy statement has not been submitted alongside the application, given that there is extant permission at the site for something similar which does not outline how the development will be made energy efficient or promote renewable energy, and that electric vehicle charging spaces are to be conditioned, it is not considered necessary or reasonable to attach a condition requesting such a statement in this case.

Construction:

- 10.94 Compliance with the Construction Management Statement (reference Arcuss Ltd, August 2020, Rev – 2), pursuant to Discharge of Condition application 2020/92415 is considered necessary to protect the health and safety of construction workers, the living conditions of existing nearby occupiers and in the interests of highway safety, and this can be conditioned.

Representations

- 10.95 9 letters of representation have been received, 6 of which raise objections and 3 of which raise general comments on the scheme. The comments raised have been mainly addressed in the above assessment of this committee report. However, Officers will now address any outstanding comments below:

- Third Party Comment: Devaluation of property prices.

Officer Response: This is not a material planning consideration in this case.

- Third Party Comment: Why has it taken the developer so long to submit their discharge of condition application? If issues cannot be resolved, this suggests that the site is not suitable for development (topography and access issues).

Officer Response: It is not the responsibility of Officers to ask such a question, but Officers consider that the proposal can be implemented.

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 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.

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

1. Development shall be begun within three years of the date of the permission.
2. Development to be in complete accordance with plans and specifications (unless specified otherwise).
3. Notwithstanding details provided, samples of stone for the external walls of the dwellings to be approved prior to the construction of dwellings above slab level.
4. The external roof of the development to be Forticrete Hardrow Duets roof slate in 'Barley' as specified in the application form.
5. Retaining walls within the site shall be faced in a 140mm Split Face Tumbled Stone from Abacus Stone Sales as approved under Discharge of Condition application 2020/92415.
6. Hard and soft landscaping of the site in accordance with Boundary Treatment Details plan (Drg No. TWO20-NFT-E02-004), Detailed Planting Plan (Drg No. PL62L01 Revision PR1) and Landscape Management and Maintenance Plan (ref: PL62R01 Rev P02, dated 30/11/2020). The approved planting scheme shall be maintained for a period of five years from its completion.
7. Development to be in accordance with the Preliminary Ecological Appraisal and Badger Survey undertaken by The Ecological Consultancy (Ref: B5610 Version 1) dated 23/04/2021 incorporating all of the recommendations set out in Section 4 (Potential Impacts and Recommendations).
8. Construction arrangements in accordance with the Construction Management Statement (reference Arcuss Ltd, August 2020, Rev – 2), pursuant to Discharge of Condition application 2020/92415.
9. Remediation of the site in accordance with the Phase III Remediation Strategy GEOL Consultants dated 4th August 2021 (ref: GEOL20-9775) and Phase III Remediate Strategy -Hot Spot Delineation by GEOL Consultants dated 05/04/2021 (ref: GEOL20-9775) pursuant to Discharge of Condition application 2020/92432. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered or encountered on site, all works on site shall cease immediately and the LPA shall be notified.
10. Following the completion of any measures identified in the approved remediation strategy, a Validation Report shall be approved in writing by the LPA prior to any of site being brought into use.
11. Development in accordance with Drainage Strategy prepared by Holloway Jennings (reference number: Bm/5017/Drainstrat) dated 13 August 2021 pursuant to Discharge of Condition application 2020/92432. The drainage scheme shall be provided before any piped discharge of surface water from the development takes place and before any occupation of the development.
12. No building or other obstruction shall be located over or within: 3.5 metres either side of the centre line of the public 450 mm diameter public sewer; and 3 (three) metres either side of the centre line of the public 375 mm diameter public sewer.
13. An electric vehicle recharging point shall be installed within the dedicated parking area of each of the approved dwellings in accordance with Drawing No. TWP21-NFT-E02-002 before the dwelling to which the recharging point relates is first occupied.
14. No development shall take place until a scheme detailing the proposed internal adoptable estate roads including works to the public footpath and measures to restrict vehicular access to New Mill Road have been approved.
15. No development shall take place until the design and construction details of all highway retaining structures within the site have been approved.

16. All external vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' before the dwellings to which they relate are first occupied.
17. Street lighting in accordance with Lighting Layout Plan (Drg No. 1258-DFL-HLG-XX_XX-DR-EO-1301 Rev A) and Outdoor Lighting Report by Designs for Lighting (Ref: 1258) dated 1/6/2020, as well as Lighting Reality drawing (ref: 1258) dated 1/6/2020 pursuant to Discharge of Condition Application 2020/92432.
18. Bird and bat boxes in accordance with Bird and Bat Mitigation Plan (Drg No. TWP21-NTF-E02-001 Rev A) pursuant to Discharge of Condition Application 2020/92432, and shall be provided before any of the dwelling to which they relate are first occupied.
19. External lighting for individual properties in accordance with Property Lighting Plan (Drg No. TWP20-NTF-E02-003 Revision A) pursuant to Discharge of Condition Application 2020/92432, and provided before the dwelling to which the lighting relates is first occupied.

Background Papers:

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2F91578>

Certificate of Ownership – Certificate A signed