
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 16-Dec-2021

Subject: Planning Application 2021/92801 Erection of 287 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive Land at, Merchant Fields Farm, off Hunsworth Lane, Cleckheaton

APPLICANT

Harron Homes Ltd

DATE VALID

30-Jul-2021

TARGET DATE

29-Oct-2021

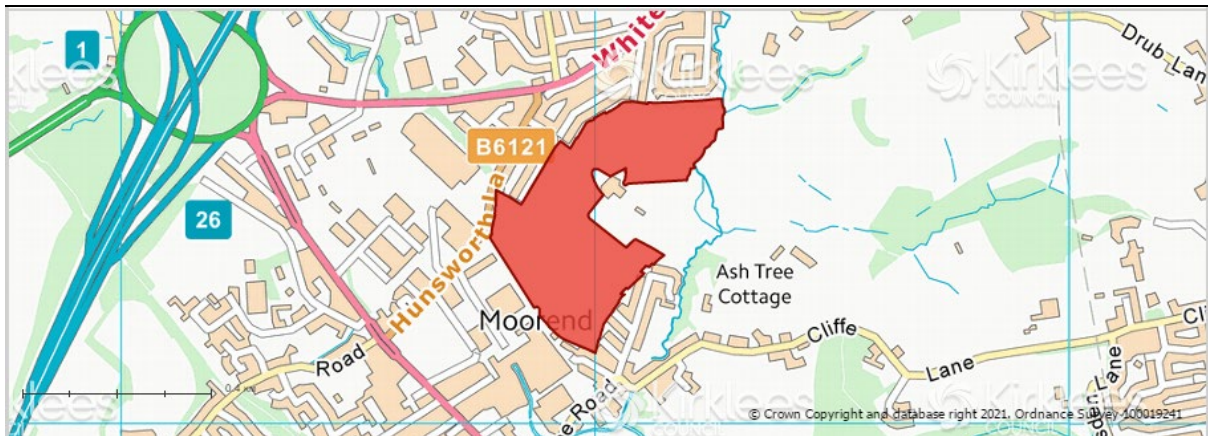
EXTENSION EXPIRY DATE

31-Dec-2021

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

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

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Cleckheaton

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

Subject to the Secretary of State not calling in the application, DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 57 affordable dwellings (31 affordable rent, 26 intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £419,324 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.
- 4) Education – £1,159,213 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).
- 5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.
- 7) Air quality mitigation – Contribution of circa £162,000.
- 8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.
- 9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

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

1.0 INTRODUCTION:

- 1.1 This is an application for full planning permission for the erection of 287 dwellings.
- 1.2 This application is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.
- 1.3 This application is a resubmission of application ref: 2019/93303 which related to a residential development 267 dwellings. That application was refused by the Strategic Planning Committee on 28/04/2021 (decision issued 21/05/2021) for the following reason:

“The proposed layout does not deliver a sufficient mix of housing suitable for different household types because it is overly dominated by four bedroom detached dwellings. Furthermore, the double hedgerow within the site, which is classed as ‘important’ under the Hedgerow Regulations 1997, would not be retained in situ and it has not been adequately demonstrated that this hedgerow can be translocated without unduly prejudicing its ability to survive. As such, the proposal results in a poor-quality layout and the application is contrary to Policies LP11, LP24 and LP65 of the Kirklees Local Plan and guidance in chapter 5 and chapter 12 of the National Planning Policy Framework.”
- 1.4 The current, revised scheme seeks to respond to the previous reason for refusal through changes to the site layout and housing mix, and the submission of additional information in relation to the translocation of the important hedgerow.
- 1.5 In relation to the current application, a position statement was considered by the Strategic Planning Committee on 21/10/2021. That position statement set out details of the application (when 284 dwellings were proposed), the consultation responses and representations that had been received, and the main planning issues relevant to the application. Members of the Strategic Planning Committee provided comments on the main planning issues.
- 1.6 Following Members’ consideration of that position statement, the applicant increased the number of dwellings proposed to 287 and provided further supporting information.
- 1.7 The application is now brought to the Strategic Planning Committee for determination, in accordance with the Council’s Scheme of Delegation.
- 1.8 It is noted that the Secretary of State for Levelling Up, Housing and Communities (SoS) has received a request from a third party to call in the current application. Officers have given an undertaking to the SoS not to issue the decision notice should the Strategic Planning Committee resolve to approve the application – this is to give the SoS an opportunity to decide whether or not to call in the application, which he would only do if the Strategic Planning Committee resolve to grant permission. The position regarding the SoS is reflected in the officer recommendation.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is located towards the northern extent of Cleckheaton and comprises unused agricultural grazing land amounting to some 12.01 hectares.
- 2.2 The site wraps around Merchant Fields Farm, which comprises a group of four dwellings. The access to these dwellings is via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 2.3 The area to be developed comprises five adjoining fields which are separated by tree and hedgerow boundaries. The two fields at the centre of the site are gently sloped, however the two fields making up the southern portion of the site and the field in the north-eastern part of the site slope down relatively steeply towards the site boundaries.
- 2.4 The site is located in an area where there are a mix of uses. Residential development lies to the north, northwest and south-eastern boundaries and there is employment land to the southwest. Open land exists to the east. Nearby residential streets are relatively densely-developed and accommodate mainly semi-detached and terraced housing. This includes two-storey houses, chalet bungalows and bungalows.
- 2.5 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site's south-eastern boundary. Nann Hall Beck meets the site's north-eastern boundary.
- 2.6 Land to the east of the site is within the green belt. Land to the southwest is within a Priority Employment Area.

3.0 PROPOSAL:

- 3.1 The application is for full planning permission for the erection of 287 dwellings.
- 3.2 A new vehicular access point is proposed on Hunsworth Lane (the B6121), where a new right-turn lane would be provided. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm. New estate roads would extend from these access points. Private drives (off the new estate roads) would serve some of the proposed dwellings. Pedestrian connections to the adjacent public footpaths are proposed.
- 3.3 Open spaces are proposed along the site's southwestern edge, in the site's north-eastern corner, and adjacent to Brookfield Terrace and Brookfield View. Small areas of green space are also proposed in other locations.
- 3.4 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.

- 3.5 Off-street car parking is proposed in private driveways and garages.
- 3.6 All dwellings would be two-storey. Eleven house types are proposed. The proposed external materials include red brick and artificial stone, and red and grey concrete roof tiles.
- 3.7 36x 2-bedroom, 70x 3-bedroom and 181x 4-bedroom dwellings are proposed. 57 of the 287 dwellings would be affordable, of which 31 dwellings (55%) would be affordable rent and 26 (45%) would be intermediate.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 2019/93303 – Erection of 267 dwellings with associated works and access from Hunsworth Lane and Kilroyd Drive – permission refused 21/05/2021

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

- 5.1 The table below sets out how the overall number of units and the unit size mix have changed since the previous application and the October 2021 position statement were considered.

Refused application 2019/93303		Application resubmission 2021/92801 – position statement considered 21/10/2021		Application resubmission 2021/92801 – current proposal		Change from the 267-unit proposal
Units	267	Units	284	Units	287	20-unit (7.5%) increase
1-bed	0	1-bed	0	1-bed	0	No change
2-bed	26	2-bed	36	2-bed	36	10-unit (38%) increase
3-bed	50	3-bed	61	3-bed	70	20-unit (40%) increase
4-bed	191	4-bed	187	4-bed	181	10-unit (5.2%) decrease

- 5.2 The increase in the quantum of development has been achieved by revising parts of the previous layout and extending the proposed built-up area closer to the south-eastern site boundary. Three dwellings have also been added close to Nann Hall Beck (units 49, 50 and 51).
- 5.3 The applicant has provided additional supporting information in relation to the methodology for the translocation of the “important” hedgerow. The submitted Hedgerow Translocation Method Statement has been prepared by a company who have previously carried out similar work.
- 5.4 During the life of the current application, negotiations regarding the following matters have been undertaken:
- Officers requested that the applicant review the proposals in light of paragraph 131 of the revised National Planning Policy Framework, which states that planning decisions should ensure that new streets are tree-

lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate). The applicant submitted an amended landscaping layout which seeks to respond to this matter.

- The amended landscaping plan also seeks to address concerns raised by Yorkshire Water regarding the proximity of planting to a sewer within the site.
- The applicant has submitted additional information in response to comments made by the Coal Authority regarding an identified coal mining feature close to the proposed access on Hunsworth Lane.
- Vehicle swept path tracking (intended to demonstrate that the proposed estate road layout can accommodate an 11.85m refuse collection vehicle) has been included on site layout drawings.
- A detailed drawing of the Hunsworth Lane site entrance was submitted.
- An updated Flood Risk Assessment (rev D) has been submitted.
- The applicant submitted missing and revised house type drawings and confirmed that the Salcombe house type is no longer proposed.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Unit size information and a breakdown of the proposed affordable housing provision was provided.

5.5 Pre-application negotiation, and negotiation undertaken during the life of the previous application (ref: 2019/93303), was detailed in the committee report for that application.

5.6 Amendments and further information submitted during the life of the application did not necessitate local reconsultation.

6.0 PLANNING POLICY:

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

Kirklees Local Plan (2019):

6.2 The application site is allocated for residential development in the Local Plan (site allocation ref: HS96). The site allocation sets out an indicative housing capacity of 413 dwellings, and identifies the following constraints relevant to the site:

- Noise sources near site – industrial estates on Hunsworth Lane and Riverside Drive and M62 motorway
- Potentially contaminated land
- Part of site lie within a UK BAP priority habitat
- Site is within the Wildlife Habitat Network
- Site is close to archaeological site
- Part/all of the site is within a High-Risk Coal Referral Area
- Public right of way crosses the north-eastern corner of the site

6.3 Site allocation HS96 also identifies the following site-specific considerations:

- Additional mitigation on the wider highway network will be required. Development of this site has the potential for a significant impact on the Strategic Road Network. Measures will be required to reduce and mitigate that impact. The transport assessment will need to demonstrate that any committed schemes are sufficient to deal with the additional demand generated by the site. Where committed schemes will not provide sufficient capacity or where Highways England does not have committed investment, development may need to contribute to additional schemes identified by Highways England and included in the Infrastructure Delivery Plan (IDP) or other appropriate schemes. If development is dependent upon construction of a committed scheme, then development will need to be phased to take place following scheme opening.
- Rivers and hedgerows are both Habitats of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Any application for this site will include a buffer from Nann Hall Beck to provide an opportunity for enhancement of the local ecological network. This buffer shall not form part of any domestic curtilage and enhancement can best be provided in this location by creating a flower rich grassland with scattered scrub.
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6.4 Site allocation HS96 refers to a gross site area of 12.10 hectares, but identifies a net site area of 11.65 hectares, allowing for the retention of the site's existing hedgerows and a vegetated buffer adjacent to the Nann Hall Beck at the northeast of the allocation.

6.5 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development
LP2 – Place shaping
LP3 – Location of new development
LP4 – Providing infrastructure
LP5 – Masterplanning sites
LP7 – Efficient and effective use of land and buildings
LP9 – Supporting skilled and flexible communities and workforce
LP11 – Housing mix and affordable housing
LP19 – Strategic transport infrastructure
LP20 – Sustainable travel
LP21 – Highways and access
LP22 – Parking
LP23 – Core walking and cycling network
LP24 – Design
LP26 – Renewable and low carbon energy
LP27 – Flood risk
LP28 – Drainage
LP30 – Biodiversity and geodiversity
LP32 – Landscape
LP33 – Trees
LP34 – Conserving and enhancing the water environment
LP35 – Historic environment
LP38 – Minerals safeguarding
LP47 – Healthy, active and safe lifestyles

LP48 – Community facilities and services
LP49 – Educational and health care needs
LP50 – Sport and physical activity
LP51 – Protection and improvement of local air quality
LP52 – Protection and improvement of environmental quality
LP53 – Contaminated and unstable land
LP63 – New open space
LP65 – Housing allocations

Supplementary Planning Guidance / Documents and other documents:

6.6 Relevant guidance and documents:

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

Climate change

6.7 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

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

National Planning Policy and Guidance:

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

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

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

6.11 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)
- National Model Design Code (2021)
- Hedgerows Regulations 1997

7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application has been advertised as a major development affecting public rights of way. Site notices were posted, a press notice was published on 02/09/2021, and notification letters were sent to neighbouring properties. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 23/09/2021.

7.2 105 representations have been received. A summary of the representations is provided below.

Planning history:

- Application now proposes more houses so impacts will be worse than previously refused application.
- Objections raised to the previous application are still relevant.
- Proposal does not address the previous reason for refusal in relation to housing mix. Proposed mix of housing is unsuitable.

- Proposal does not address the previous reason for refusal in relation to the hedgerow. The important double hedgerow should be incorporated into the layout, not translocated elsewhere within the site

Highways:

- Impact of increased traffic on local highway network, including key junctions.
- Local highway network cannot accommodate the additional traffic. There are already congestion problems in this area.
- Impact on queuing times at junctions. Additional traffic will be detrimental to highway safety.
- Local junctions will be operating well over capacity.
- Cumulative highway effects with other planned / committed developments in the area.
- Kilroyd Drive unsuitable to accommodate the additional traffic.
- On-street parking on Kilroyd Drive narrows its width and makes it unsuitable to serve the development.
- Impact of construction traffic and development traffic on Kilroyd Drive. Construction access should be taken from the proposed new access on Hunsworth Lane, not Kilroyd Drive.
- Concerned that the developer will not construct the Hunsworth Lane access, and all traffic will go via Kilroyd Drive.
- Traffic mitigation measures are required for development on this site, as set out in the Local Plan.
- Safety concerns with the proposed access on Hunsworth Lane. Access is on a bend.
- Public transport infrastructure inadequate to support this development.
- Development will be reliant on private car because of limited bus services in this location.
- Development will be used as a rat-run between the proposed points of access.
- Suggestion for a Traffic Regulation Order on Kilroyd Drive to prevent the site being used as rat-run and consequently limit the impact on residents of Kilroyd Drive.
- Internal road layout is unsuitable for large vehicles and will require reversing manoeuvres.
- Applicant's transport assessment is inadequate.
- The submitted Travel Plan is unrealistic and does not reflect the reality of local circumstances.
- Public transport infrastructure inadequate to support this development.
- Impact on footpaths.
- Cycle paths should be provided.

Amenity:

- Detrimental impact on outlook.
- Overbearing / imposing impact on adjacent houses.
- Overshadowing / loss of light.
- Overlooking / loss of privacy.
- Noise and air pollution from additional traffic.
- Air quality monitoring needs to be carried out closer to the site with cumulative impacts of other planned / committed developments also taken into account.

- Impact on health as a result of increased air pollution.
- Increased light pollution.
- Loss of an accessible local beauty spot.
- Nuisance and disturbance from construction activities.
- Impact on amenity of residents of Kilroyd Drive by using this road as an access.

Land stability and contamination:

- Concern regarding the impact on public safety from the legacy of coal mining activity.
- Site instability due to historic mining legacy.
- Evidence of active subsidence on the site.
- The fourth mine shaft close to Hunsworth Lane has not been adequately investigated.
- Concerns regarding mine gas.
- Gas protection measures for new houses should be provided. No information regarding this has been submitted.
- There could be other mining features that have not been identified.

Flooding:

- Concerned that the development will increase flood risk on and off the site.
- There are existing flooding problems in this area. Proposal is likely to exacerbate these.
- Site is prone to flooding.
- There are existing road flooding problems on Kilroyd Drive. Any planning permission should be subject to existing problems being addressed.
- There have been flood incidents at nearby properties.
- Developing the land will mean surface water run-off is increased.
- Cumulative impact on flooding from this development and other planned / committed developments in the area.
- Increased risk of flooding to existing property from greater discharge to the adjacent beck.
- Loss of natural drainage provided by the existing fields, which will increase flood risk elsewhere.
- Impact of vegetation removal on flood risk.
- Proposed attenuation is inadequate.
- Section 19 report should have been considered.

Infrastructure:

- Increased pressure on schools and medical service providers.
- Inadequate infrastructure and amenities to support the additional housing proposed, including shops.
- Cumulative impact with other developments must be taken into account when considering the impact on facilities and services.

Ecology:

- Detrimental impact on flora and fauna including owls, bats, foxes, herons.
- Loss of habitat.
- Detrimental impact on the ecosystem of the adjacent watercourse.
- Impact on the “important” hedgerow by translocating it. Concern that it will not survive.
- Trees and hedgerows have previously been removed from the site.
- Net loss to biodiversity.
- Submitted ecological reports are out of date and contain inaccuracies.

Landscape and urban design:

- Loss of green fields.
- Land was green belt.
- Development will merge Hunsworth and Cleckheaton.
- Housing will detrimentally affect the established character of this area.
- Hunsworth will lose its rural feel and character.
- Overly dense form of development.
- Inadequate open space provided

Other matters:

- Development needs to be assessed in the context of other Local Plan allocations in this area – cumulative impact.
- Many of the submitted reports need updating.
- Size of new dwellings (majority large detached) is out of keeping with the area which is mainly 2/3-bedroom terraced and semi-detached.
- Brownfield sites should be built on first.
- Proposed community orchard may attract anti-social behaviour.
- There is a Roman road running through the site. Archaeological investigation and recording is required.
- Inadequate play areas for children of all ages.
- Inadequate engagement by the developer with the local community.
- A contribution should be sought to improve the public realm in Cleckheaton town centre.
- Building houses on these open fields is inconsistent with achieving net zero climate change and similar environmental commitments.
- Question the competency of the developer.
- Negative impact on house prices.
- Query as to whether pre-commencement conditions have been drafted and agreed with the developer.
- Residents’ rights under the Human Rights Act would not be upheld.

7.3 Councillor Kath Pinnock (Member for Cleckheaton ward) commented on the application as follows.

- *Please can this application be considered by committee given the size of the application and the number of objections?*

- *I am not convinced that the latest proportions of different house types and sizes in the plan are sufficient to meet the concerns raised at the last committee and meet the Council's policy objectives.*
- *The fourth mine shaft has still not been located.*
- *Currently the double hedge is both protected under the legislation but also deemed to be a significant feature in the local landscape. How can both these be retained if the hedge is moved as per the application?*

7.4 Councillor Kath Pinnock provided the following further comments on 08/11/2021:

I accept that the site has been allocated for housing. However, the application fails in a number of regards to fulfil the principles for housing development as set out in the Council's Planning Supplementary Guidance which was adopted in June 2021. These are:

1. *Density – the aim is for a density of 35 per hectare whereas the application is at a density of 25.6 per hectare. The consequence of accepting lower densities is that more land has to be allocated for housing across Kirklees.*
2. *Principle 2 set out in the Supplementary Planning Guidance refers to new sites taking their "cue from the character of the local built environment". This new application has reduced the number of detached dwellings by four but detached properties remain the overwhelming house type. This is despite the fact that terraces and semi-detached houses are the main house type in the area.*
3. *Active travel – the plan hardly fulfils the requirements of access to public transport. The applicant references the bus stops at the end of Kilroyd Drive. There are just two buses a DAY from these stops. To access buses to Bradford, Dewsbury, and Cleckheaton buses are from bus stops at Moorend. For cycling the nearest access to the Spen Valley Greenway is from Whitechapel Road. The consultation report from WYCA states "the analysis over emphasises the catchments for both modes and isn't a realistic indication of what the walking and cycling catchment is". WYCA further comments, "There are some long cul-de-sacs which mean that pedestrian/cycle connectivity is very poor. This means car travel becomes a more convenient alternative. This is particularly notable adjacent to Links Avenue."*
4. *Landscaping and play and amenity space – The consultation report from WYCA has some very critical comments to make: "The development's layout does not appear to be well connected into the surrounding area and seems to have been designed to be self-contained. The following layout features potentially mean that private car journeys are likely to be the preferred method of travel: • green spaces are concentrated at the edge of the development with none of them as a community focal point. A green space surrounded by houses overlooking it, even if it is quite small, can lead to more community activity and active travel; • Some of the green spaces are not sufficiently overlooked to make them welcoming for all - for instance the orchard, the entrance to the site and the informal kickabout space at the North East of the site." There is much to be concerned about in regards to play areas and amenity spaces which are all sited on the boundaries. One of the areas allocated for children is on a 1 in 6 slope leading onto the busy Hunsworth Lane.*

5. *Flooding – there are flooding issues associated with the site. The advice for the discharges from the 2 attenuation tanks has changed significantly from the previous application. The discharge rates are now advised to be reduced from 19.8l/s to 17.5l/s and 39 l/s (sic) to 3.5 l/s. There is also mention of the creation of a ditch and a "rain garden" which both indicate the flooding issues that occur. A further concern that needs to be addressed is the cumulative impact of the additional discharges from this site, from the "Amazon" application in Scholes, and the North Bierley waste water treatment works site in Oakenshaw all of which will feed into the River Spen at Balme Road where flooding is already a frequent problem.*

6. *Yorkshire Water – the consultation response could not be clearer. YW objects in very strong wording to the layout of the site and, in particular, the fact that an 800mm siphon sewer must have a 5m stand off on each side. The line of the sewer is not accurately known, and the applicant has not identified the sewer line which is clearly of vital importance.*

7. *Coal mine shafts – the location of the 4th shaft is still not known and although undevelopable land has been indicated where it is estimated to lie, nevertheless, it does seem neglectful that the 4th shaft hasn't been properly located.*

8. *Hedgerow – the double hedgerow, deemed to be a significant feature in the Local Plan, is to be dug up and re-planted as a single hedge on the boundary. This will inevitably result in a loss of biodiversity. The Council's SPG states that any development should result in a 10% improvement in biodiversity. Here there is a negative outcome. It is not acceptable for this to be offset elsewhere. The Cleckheaton area is already suffering a negative impact in terms of the environment. Improvements must occur on site.*

9. *Air quality – there are no measurements of the reduction in air quality as a result of the additional traffic from this large site. There must be prior to any development being agreed.*

10. *Traffic congestion – the traffic lights at Hunsworth Lane are already operating beyond capacity, as are those at the Moorend crossroads. It is now apparent that National Highways has decided that any slip road from the M62 to the M606 is now no longer to proceed. This slip road has been a possibility for at least 30 years. Its purpose was to remove traffic from the congested Chain Bar roundabout. What assessment has been made of the impact on Chain Bar of all the additional traffic from the various development sites in the area? As the traffic lights at Hunsworth Lane are already over capacity there will be queuing. This already occurs at peak times and takes traffic well up the A58 towards Birkenshaw. In such circumstances, how is traffic to exit the new development from Kilroyd Drive at peak times?*

In conclusion, there are many issues that the applicant has failed to address adequately. I hope that there will be a requirement for a further application to deal with these matters.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

8.2 KC Highways Development Management – No objection in principle, subject to design of Hunsworth Lane access being resolved, and submission of satisfactory road safety audit and designer's response.

- 8.3 KC Lead Local Flood Authority – No objection subject to conditions and Section 106 agreement. No objection to 17.5l/s maximum discharge rate to Nann Hall Beck, or to 3.5l/s maximum discharge rate to sewer overflow. Conditions recommended regarding detailed design of surface water attenuation, temporary (construction phase) surface water drainage, and swale maintenance. Section 106 should secure management company responsibilities for sustainable drainage systems until adopted, and for ditch / watercourse.
- 8.4 The Coal Authority – No objection subject to conditions. Site is within the defined Development High Risk Area. There are four mine shafts present within the application site. Regarding shaft 418426-008, applicant has confirmed that the proposed layout of development is such that no building plots or highway infrastructure will be located within the calculated zone of influence of the shaft, which will be accommodated entirely within a landscaped area. Welcome applicant's intention to undertake remedial works to stabilise shallow mine workings present beneath the site and to treat mine shafts 419426-001, 419426-002 and 419426-005. Mine gas should be considered. Implications of sustainable drainage systems should be considered in relation to the stability and public safety risks posed by coal mining legacy. Conditions recommended regarding implementation and validation of remedial works.
- 8.5 National Highways (formerly Highways England) – No objection subject to condition requiring a construction phase traffic management plan.
- 8.6 Non-statutory:**
- 8.7 KC Ecology – The development would result in a net biodiversity loss and an off-site financial contribution is necessary in order to deliver a net biodiversity gain of 10%.
- 8.8 KC Education – A contribution of £1,159,213 is required towards education provision.
- 8.9 KC Environmental Health – Regarding air quality, condition recommended requiring revised Air Quality Assessment. A financial contribution towards air quality mitigation will be required. Regarding site contamination, conditions recommended securing revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation. Regarding noise, condition recommended securing revised Noise Impact Assessment. Conditions also recommended regarding electric vehicle charging and a Construction Environmental Management Plan.
- 8.10 KC Landscape – There is an opportunity to provide high quality open space provision on this site, including play provision for children and young people. On-site provision to meet the needs of children and young people should be considered in the first instance, before an off-site commuted sum is considered. Aspects of the proposed open space provision have been well thought-out, such as the community orchard. However, a much more expansive and detailed scheme is necessary for the development to fully meet the different open space typologies, particularly in relation to parks and recreation and equipped play. The scale of the development also generates a requirement for outdoor sport provision, which would be sought as a commuted sum.

- 8.11 KC Public Health – No objections raised. Detailed comments provided regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure.
- 8.12 KC Strategic Housing – There is significant need for affordable 1-, 2-, 3- and 3+-bedroom homes in Batley and Spen. The proposal triggers a requirement for 57 affordable dwellings (20% of the total number of units). A tenure split of 55% social or affordable rent to 45% intermediate housing should be sought. The affordable housing should be distributed evenly throughout the development and not in clusters and must be indistinguishable from market housing in terms of both quality and design. Strategic Housing would prefer to see the clusters of affordable homes further dispersed where possible.
- 8.13 KC Trees – No objection. Condition recommended requiring the development to be carried out in accordance with the submitted hedgerow translocation method statement.
- 8.14 KC Waste Strategy – All plots appear to have bin storage and presentation points which is welcomed. However, consideration should be given to providing suitable screened and secure bin storage to the front of terraced plots and any plot which has stepped rear access. On these plots rear access for the storage of bins is poor and convoluted which may discourage use. Formal provision of bin stores at the front of these dwellings would help to avoid the casual storage of bins at the front of houses in full view of the street, under windows and blocking driveways / footways. Swept paths for an 11.85m refuse collection vehicle are required. A condition is recommended requiring temporary waste collection arrangements if properties are to be occupied before the site construction is complete.
- 8.15 West Yorkshire Combined Authority (WYCA Metro) – Applicant's Transport Assessment over-emphasises site's walking and cycling catchments. Proposed layout does not appear to be well connected with the surrounding area and seems to have been designed to be self-contained. Proposed layout features potentially mean that private car journeys are likely to be the preferred method of travel. Due to its size, it is inevitable that parts of the site will have longer walk distances to access local bus stops and services than the recommended 400m distance. This would be improved by amending the site layout and incorporating more pedestrian access points to the surrounding residential areas. Bus stops 16701 and 15500 on Bradford Road should be upgraded to include a real time passenger information display, costing £20,000. Stop 15448 on Whitehall Road should be upgraded to include a real time information display, and a real time display enable pole should be provided at stop 15449, costing £20,000. Submitted Travel Plan is informative but lacks commitments to implement measures to encourage sustainable travel to ensure its targets are met. Sustainable travel fund of circa £145,000 appropriate. Digital connectivity and electric vehicle charging also required.
- 8.16 West Yorkshire Police Designing Out Crime Officer – No objection subject to conditions.

8.17 Yorkshire Water – Objection to the site layout as currently shown. Prior to determination, it must be made clear that the below-mentioned syphon sewer's stand-off distance is maintained, and that Yorkshire Water's statutory duties to inspect, maintain, adjust, repair and alter the pipe (under Section 159, Water Industry Act 1991) will be unhindered, prior to development. The submitted Landscape Masterplan P20-2441.001 revision H, dated 27/09/2021 still indicates numerous trees within close proximity to the recorded 800 mm diameter public combined syphon sewer to the southwest of the site. Although the "utilities easement" is indicated within the drawing, no distance is specified within the key. In addition, Yorkshire Water require the sewer to be surveyed to ensure its accurate position has been recorded.

9.0 MAIN ISSUES

- Previous refusal of permission
- Principle of development
- Sustainability and climate change
- Quantum and density
- Housing mix
- Unit sizes
- Affordable housing
- Urban design issues
- Residential amenity and quality
- Important hedgerow
- Other tree, biodiversity and landscaping issues
- Highway issues
- Flood risk and drainage issues
- Environment and public health
- Coal mining legacy
- Representations
- Planning obligations
- Other planning matters

10.0 APPRAISAL

Previous refusal of permission

- 10.1 The application is a resubmission of previous application ref: 2019/93303 which related to a development of 267 dwellings and which was refused on 21/05/2021. The council's assessment and refusal of that application is a significant material consideration relevant to the council's assessment of the resubmitted application.
- 10.2 The previous proposal for 267 dwellings was refused on the basis of the housing mix, which was considered to be overly dominated by 4-bedroom detached dwellings. Permission was also refused due to concerns regarding the proposal to translocate the "important" hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.

- 10.3 Given the council's clear reasons for refusal, it is appropriate for this committee report to focus on the two main issues pertinent to the council's refusal – these matters are considered under the "Housing mix" and "Important hedgerow" headings below. This committee report also responds to the comments made by Members on 21/10/2021, and provides commentary relating to other information and amendments submitted by the applicant following the previous refusal of permission, and relating to other material considerations that have emerged in recent months, including the adoption of the council's Open Space SPD and Housebuilder Design Guide SPD in June 2021, the publication of the council's Planning Applications Climate Change Guidance and Biodiversity Net Gain Technical Advice Note in June 2021, the publication of an updated NPPF in July 2021, and the passing of the Environment Act in November 2021.
- 10.4 Relevant considerations on the ground (at the application site and its surroundings) have not significantly changed since April/May 2021. This further justifies a focus in this committee report on the two main issues pertinent to the council's refusal.
- 10.5 Notwithstanding the focus of this committee report, Members are free to consider any planning matters relevant to this application, however careful consideration must be given to the need for consistency in planning decisions, and the risks involved in raising concerns that were not deemed to be reasons for refusal earlier in 2021. Raising such concerns would not be unlawful (there is no planning legislation that requires planning decisions to adhere to earlier resolutions), however there is an expectation placed upon the council to act reasonably in the execution of its duties as the local planning authority. Reference can be made to the Government's guidance regarding the type of behaviour that may give rise to an award of costs against a local planning authority at appeal. The Government has stated (in Planning Practice Guidance paragraph: 049, reference ID: 16-049-20140306) that examples of unreasonable behaviour include not determining similar cases in a consistent manner.

Principle of development

- 10.6 As set out in the committee report for application ref: 2019/93303, the site is allocated for housing in the Local Plan (site allocation ref: HS96) and therefore the principle of residential development at the site is considered acceptable. The proposed 287 dwellings would make a significant contribution towards the supply of housing in Kirklees.
- 10.7 The housing land supply position in Kirklees has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The council can currently demonstrate 5.17 years of deliverable housing land supply and therefore Kirklees continues to operate under a plan-led system.
- 10.8 The site is within a wider mineral safeguarding area relating to surface coal resource (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.

Sustainability 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 application site is a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. The surrounding area has food outlets, shops, two pubs, Hunsworth Park and Recreation Ground, Moorend Park and Cleckheaton Sports Club, such that at least some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, and combined trips can be made, 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 space), electric vehicle charging points, a Travel Plan and other measures have been proposed or would be secured by condition or planning obligations. 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.
- 10.12 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

Quantum and density

- 10.13 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to ensure land is efficiently and sustainably used (having regard to all relevant planning considerations) which will help ensure the borough's housing delivery targets are met. Under-use of scarce, allocated development land could potentially contribute towards development pressure elsewhere, at less appropriate sites, including at sites where sustainable development is harder to achieve.
- 10.14 The 287 dwellings proposed falls short of the 413-dwelling indicative capacity set out in site allocation HS96. 287 dwellings are approximately 69% of 413 dwellings. The under-delivery of dwellings at this site is a shortcoming of the proposed development that attracts negative weight in the balance of relevant planning considerations.

- 10.15 Notwithstanding the site's constraints and the policy requirements relevant to a 287-dwelling development (which, it is accepted, reduce the developable area), it remains the case that the applicant's decision to propose a significant proportion of larger detached houses is driving down the development's quantum and density, is limiting the efficient use of land, and may have adverse implications in relation to energy efficiency and affordability (as detached dwellings can be less energy efficient and more expensive to heat). In the current proposals, 204 (71%) of the 287 dwellings would be detached, and the remaining 83 would be terraced or semi-detached. 181 (63%) of the 287 dwellings would have four bedrooms. Using a site area of 11.8 hectares (to enable comparison with the indicative site capacity), the proposed 287 dwellings would achieve a density of only 24 dwellings per hectare.
- 10.16 Comparison with the following similarly sized recent schemes is appropriate:
- Owl Lane, Chidswell (ref: 2019/92787). 260-unit scheme, 100 dwellings (38%) are to be detached, 44 (17%) are to have four bedrooms, and a density of 33 dwellings per hectare is to be achieved. Approved.
 - Land east and west of Netherton Moor Road, Netherton (ref: 2019/93550). 250-unit scheme, 114 (46%) are to be detached, 53 (21%) are to have four bedrooms, and a density of 30 dwellings per hectare is to be achieved. Approved.
 - Bradley Villa Farm, Bradley (ref: 2021/92086). 270-unit scheme, 171 (63%) detached dwellings are proposed, 136 (50%) four-bedroom dwellings are proposed, and a density of 27 dwellings per hectare would be achieved. Pending decision (considered by Strategic Planning Committee on 29/07/2021, position statement raised concerns regarding unit sizes, quantum and density).
- 10.17 Compared with the previously refused scheme at the Merchant Fields site, the current proposal increases the quantum of development, albeit by a relatively modest 20 units.
- 10.18 Although the above assessment identifies concerns regarding the proposed development's quantum and density, there are other key considerations that must be taken into account.
- 10.19 Firstly, it is noted that the allocated site's indicative capacity is based on a site area of approximately 11.8 hectares and the 35 dwellings per hectare expectation of Local Plan policy LP7 and does not take into account site constraints and other considerations. As set out in the committee report for application ref: 2019/93303, it is considered that the site's topography, coal mining legacy and easements are material constraints on development at the site. These constraints will make it difficult to deliver the expected 413 units at this site.
- 10.20 Taking into account these constraints, it is appropriate to also consider what density would be achieved by the proposed development based on a smaller site area figure that reflects the part of the allocated site that is developable. Using the net developable area figure used at paragraph 10.13 of the committee report relating to application ref: 2019/93303 (8.84 hectares), the current proposal for 287 dwellings would achieve a density of 32 dwellings per hectare, which is closer to the 35 dwellings per hectare expectation of Local Plan policy LP7.

- 10.21 It should also be noted that, although under-use of an allocated site attracts negative weight in the balance of relevant planning considerations, the weight to be attached to that shortcoming is lessened by the limited or lesser impact that such a low quantum of development may have upon the local highway network and social infrastructure, when compared with the impact that a 413-dwelling scheme would have.
- 10.22 Finally, given that the previous, less dense proposal for this site was not refused on quantum grounds (of note, the council's refusal reason referred to the preponderance of 4-bedroom detached dwellings and the need to meet the needs of different household types, and did not refer to the overall number of units, the need to use land efficiently, or Local Plan policy LP7), given the applicant's attempts to increase quantum, and given that 287 new dwellings would undoubtedly make a welcome contribution towards the supply of housing in Kirklees, it is recommended that the proposed quantum and density be accepted.
- 10.23 The applicant's recent increase in the quantum of development has partly been achieved by extending the proposed built-up area closer to the south-eastern site boundary, and by adding three dwellings close to Nann Hall Beck (units 49, 50 and 51). These revisions bring new housing closer to the existing properties towards the south on Brookfield View, Brookfield Terrace and Brookfield Avenue, and also affects the amount of open space that would be provided on site. The proposed layout nevertheless retains a buffer to these existing houses and to Nan Hall Beck in the north-eastern part of the site. The reduction in the open space would be taken into account as part of the calculation for open space contributions.

Housing mix

- 10.24 As noted in the table at paragraph 5.1 above, since the previous application (ref: 2019/93303) was considered, the applicant has increased the proposed number of 2-bedroom dwellings by 10 and the number of 3-bedroom dwellings by 20. The number of 4-bedroom dwellings has been reduced by 10. The unit size mix and the relevant percentages are now:
- 1-bedroom – 0 units – 0%
 - 2-bedroom – 36 units – 13%
 - 3-bedroom – 70 units – 24%
 - 4-bedroom – 181 units – 63%
 - 5-bedroom – 0 units – 0%
- 10.25 Paragraph 3.5 of the Local Plan recognises that “If identified housing needs are to be met, houses of all sizes are needed together with an increasing number of bungalows and flats/apartments”, and policy LP11 requires all proposals for housing to contribute to creating mixed and balanced communities in line with the latest evidence of housing need. It goes on to state that all proposals for housing must aim to provide a mix (size and tenure) of housing suitable for different household types which reflect changes in household composition in Kirklees in the types of dwelling they provide, taking into account the latest evidence of the need for different types of housing. For major developments, the housing mix should reflect the proportions of households that require housing, achieving a mix of house size and tenure. The council's most recent published assessment of housing need is the Kirklees Strategic Housing Market Assessment (2016). This suggests that,

across Kirklees, the greatest requirement within the private housing sector is for 3-bedroom houses, however there is also a significant requirement for 1-, 2- and 4-bedroom houses. There is some (albeit less of a) requirement for private flats and bungalows. Within the affordable housing sector, the greatest requirement is for 3-bedroom houses, and affordable flats are also required.

- 10.26 As noted at paragraph 10.15 above, the proposal still includes a high proportion of 4-bedroom and detached dwellings, however there is now a greater number of smaller-sized dwellings proposed, which would help to meet the needs of a broader range of people and their households. Given these improvements to the proposed unit size mix, it is considered that this part of the council's previous reason for refusal has been satisfactorily addressed, and it is not recommended that planning permission be refused again on these grounds.

Unit sizes

- 10.27 The size of the proposed dwellings is 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. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Epidemic-related lockdowns in 2020/21 and increased working from home have further demonstrated the need for adequate living space.
- 10.28 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 Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, since April 2021, all permitted development residential conversions were required to be NDSS-compliant
- 10.29 On 20/10/2021 the applicant stated that all dwellings would be NDSS-compliant, and floorspace figures were provided on 01/12/2021 verifying this.

Affordable housing

- 10.30 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.31 20% of 287 dwellings is 57.4, therefore the 57 affordable dwellings proposed by the applicant is compliant with Local Plan policy LP11, as is the tenure split proposed by the applicant (31 affordable rent unit and 26 intermediate units).

10.32 All of the proposed affordable rent units would be of the 2-bedroom “Hadleigh” house type, and all of the proposed intermediate units would be of the 3-bedroom “Bamburgh” house type. As those two house types are also proposed within the development’s private (market) housing, as variations of those house types are proposed (some would be built of red brick, some of artificial stone, and a mix of affordable semi-detached and terraced dwellings are proposed), and as the proposals also include private semi-detached and terraced dwellings, it is considered that the development’s affordable housing element would not be visually distinguishable. The applicant has also confirmed the proposed locations of the affordable units – these would be sufficiently pepper-potted around the site.

Urban design issues

10.33 The proposed layout and most other aspects of proposed design have not significantly changed since the previous application (ref: 2019/93303) was considered, however the following changes are noted:

- Proposed built-up area extended closer to the south-eastern site boundary, and three dwellings added close to Nann Hall Beck (units 49, 50 and 51).
- The applicant has submitted missing and revised house type and electricity substation drawings and has confirmed that the Salcombe house type is no longer proposed.
- The applicant provided clarification regarding external materials and confirmed that buff brick is no longer proposed.
- Increased proportion of smaller dwellings (more terraced and semi-detached dwellings, and fewer detached dwellings, resulting in revised street scenes).
- Street trees added.

10.34 The minor changes to the proposed layout, and other design changes, are considered acceptable. The additional terraced and semi-detached dwellings, and reduced number of detached dwellings, would help vary the development’s street scenes, would add interest, and would help relieve some of the visual monotony of the previous proposal. The eleven proposed house types, and the proposed variations in their elevations and materials, would also bring interest and variety to the development’s street scenes. Subject to details of materials and boundary treatments, the proposed garages and two electricity substations are considered acceptable in design terms.

10.35 Regarding the grain of the proposed development, some of the recently added terraced and semi-detached dwellings are appropriately proposed adjacent to existing terraced properties on Kilroyd Avenue, which would help the proposed development reflect and respond to its context. All dwellings would have two-storeys, and no bungalows are proposed. Although bungalows would have been welcomed at this site (to reflect those of Kilroyd Drive and Mazebrook Crescent), there is no policy requirement for bungalows to be provided, and it is noted that the site’s context is not entirely defined by bungalows – Kilroyd Avenue and Links Avenue and streets to the southeast are dominated by two-storey dwellings. It is also noted that while relevant design guidance generally requires new development to respect its context, there is some allowance (at, for example, paragraph 59 of the National Design Guide) for larger new development to establish its own identity.

- 10.36 Regarding external materials, the applicant proposes red brick and red concrete roof tiles for approximately 170 of the 287 dwellings, and artificial stone and grey concrete roof tiles for the others. White UPVC windows, black painted front doors and garage doors, and black UPVC rainwater goods are also proposed. Subject to details and samples being provided at conditions stage, this palette of materials is considered acceptable for this site and its context.
- 10.37 The applicant was asked to review the proposed development in the context of the revised NPPF which was published in July 2021, and specifically paragraph 131 which states that planning decisions should ensure that new streets are tree-lined (unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate).
- 10.38 The applicant submitted a revised landscaping layout which provides additional trees across the site. Furthermore, the applicant has advised that where trees are to be provided within front gardens, these areas would fall under the responsibility of a management company. For this arrangement to be workable, the management company would either need to take full control for a section of each garden, or adequate covenants would need to be written into sale contracts. Of note, a similar covenant-related arrangement (regarding responsibility for trees) has previously been accepted at a site in Linthwaite (application ref: 2021/91571). It is recommended that details of these arrangements be secured by condition.
- 10.39 As the application is a resubmission of a previously refused scheme, and as the requirement to provide tree-lined streets within the NPPF post-dates the original proposal, it is recognised that it will be difficult to integrate additional tree planting without a redesign of the road layout which was previously deemed acceptable. The applicant has, however, proposed trees at many of the key junctions and at the terminus of some of the cul-de-sacs, and groups of trees are proposed within areas of open space. Individual trees to the front of some plots would be provided as described above, and other plots would incorporate shrub planting to their frontages. However, if some of these shrubs were replaced with trees it would help to give the development a more tree-lined feel, and it is accordingly recommended that such additional tree planting be secured through the condition relating to landscaping. Subject to further increases in the number of trees provided to the front of dwellings (to be secured by condition), on balance it is considered that the development would accord with paragraph 131 of the NPPF in this instance.

Residential amenity and quality

- 10.40 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.
- 10.41 Compared with the previous application (ref: 2019/93303), the proposal brings development closer to Brookfield Avenue, Brookfield Terrace and Brookfield View which lie to the southeast of the site. However, these properties would be separated from the new dwellings by an undeveloped buffer and the separation distances would all exceed those recommended within the Housebuilders Design Guide SPD. The three dwellings added close to Nann Hall Beck (units 49, 50 and 51) are not close to existing residential properties.

The layout now proposed would not bring development any closer to existing dwellings to the west and north of the site on Links Avenue, Kilroyd Avenue and Mazebrook Crescent. In the case of properties on Kilroyd Avenue, separation distances have increased slightly in some instances. Examples of distances to be maintained around the edges of the site are set out below:

- Between side elevation of unit 242 and front elevation of 30 Links Avenue – 16m.
- Between rear elevation of unit 268 and main rear elevation of 45 Kilroyd Avenue – 24m (20m would be maintained to rear extension).
- Between rear elevation of unit 275 and main rear elevation of 27 Kilroyd Avenue – 22m (19m would be maintained to rear extension).
- Between rear elevations of unit 286 and 1 Kilroyd Avenue – 24m.
- Between side elevations of unit 1 and 31 Kilroyd Drive – 11m.
- Between side elevation of unit 45 and rear elevation of extension at 49 Mazebrook Crescent – 24m.
- Between side elevations of unit 152 and 17 Brookfield Terrace – 10m.

10.42 Overall, it is considered that the proposed layout provides acceptable separation distances to neighbouring dwellings.

10.43 Significant open space provision is required for the proposed development, including a Local Area for Play (LAP), a Local Equipped Area for Play (LEAP) and a contribution towards a Multi-Use Games Area (MUGA). With the 287 dwellings now proposed, an open space contribution of £741,116 towards off-site provision would normally be required, however some of the applicant's welcomed proposed on-site provision can be taken into account.

10.44 With reference to the open space typologies set out in the council's Open Space SPD, the applicant proposes the following on-site provision (as detailed on drawing 122-AP-02 rev A):

- Natural and Semi-natural Greenspace – 1.4 hectares
- Amenity Greenspace – 0.41 hectares
- Provision for Children and Young People – 0.39 hectares
- Parks and Recreation – 0.58 hectares
- Allotments and Community Food Growing – 0.14 hectares

10.45 Taking into account some of what is shown on the submitted drawings (including the good detail of the proposed "allotments and community food growing" area), this figure is reduced to £419,324. A further reduction would be possible if the applicant were to provide more acceptable detail of what would be provided in the areas to be offered under other typologies. For example, the "parks and recreation" area shown in the northeast part of the site could be accepted as such if the applicant were to propose more than the mown grass, three benches and two paths currently shown. Similarly, the "children and young people" area could be accepted as such with a greater level of investment and detail. For the avoidance of doubt, the trim trail proposed at the south end of the site is welcomed, however it does not amount to a LEAP.

- 10.46 In response to Members' comments made on 21/10/2021, a clear plan of the proposed on-site open space will be included in the committee presentation. Of note, should planning permission for the current proposal be granted and implemented, any subsequent proposal to build on the currently proposed open space would require a further planning application. Such an application is considered unlikely, given that the open space would occupy sloped land or would be provided above drainage attenuation.

Important hedgerow

- 10.47 As noted in the committee report for the previous application (ref: 2019/93303), a double hedgerow to the southwest of Merchant Fields Farm is classed as "important" under the Hedgerow Regulations 1997. That application was refused due to concerns regarding the proposal to translocate the important hedgerow within the site, specifically because it had not been adequately demonstrated that this could be achieved without prejudicing its ability to survive.
- 10.48 As under the previous application, the applicant proposes to translocate the hedgerow to the southeast edge of the site, adjacent to public footpath SPE/41/10. Here, it would be laid out as a single hedgerow set within an area of open space.
- 10.49 With the current application, the applicant submitted additional supporting information in relation to the translocation of the hedgerow. The submitted Hedgerow Translocation Method Statement has been prepared by a company who have previously carried out similar work (including the translocation of 550m of hedgerows for UK Coal Ltd in the East Midlands and North East). The statement details the technical aspects of translocating the important hedgerow and demonstrates the expertise of the company to complete this work.
- 10.50 Retention of the hedgerow in its current location would pose a very significant constraint to the site layout, particularly to the road network within the site which is already influenced by topographical constraints.
- 10.51 Officers have considered the applicant's information and assessed whether the proposed translocation is suitable and achievable, having regard to the need to preserve the hedgerow's value, and the relative disbenefits of retaining the hedgerow in its current location within a site allocated for residential development. Both KC Trees and KC Ecology are satisfied that the proposed translocation is a viable option for the hedgerow, and officers from those teams provided commentary on the matter at the Strategic Planning Committee meeting of 21/10/2021. The examples of hedgerows being translocated elsewhere in the country serve to provide further comfort that this is a viable solution.
- 10.52 Furthermore, it is considered that there is a benefit to moving the hedgerow and setting it within an area of open space. The hedge in its current location would not be as valuable within a developed site and the wildlife value that it currently provides within this open field system would be significantly reduced if it were to be incorporated into the built environment. Its translocation to the edge of the site adjacent to planted open space and a stretch of public footpath (approximately 330m long) provides potential benefits in terms of wildlife

(habitat) connectivity and foraging opportunities. A much longer wildlife corridor would be created, and the proposal would allow the current hedgerow material and associated species mix to form a new valuable landscape feature. Additionally, new hedgerow planting would be provided parallel to a section of the translocated hedgerow, which would create a new double hedgerow feature within the site.

- 10.53 It is relevant to note that the hedgerow is deemed “important” due to its species mix, rather than any association with historic features specific to the location where it is currently growing. On that basis, moving the hedgerow (including its species composition and basal soil with its associate seed bank) to an alternative location is considered to be a good option to ensure that it can continue to offer a high degree of wildlife and public amenity value.

Other tree, biodiversity and landscaping issues

- 10.54 Trees to the southwest of Merchant Fields Farm (along the line of the important hedgerow, and within the application site) are the subject of Tree Preservation Order (TPO) SP2/70/g10. Another tree to the northeast of the farm is the subject of TPO SP2/70/t4. Trees to the northeast (on the opposite bank of Nann Hall Beck) are also protected. Land to the east is within the green belt. The majority of the application site is within a Biodiversity Opportunity Zone (Pennine Foothills), bats are present in the area, and Nann Hall Beck and its banks form part of the Wildlife Habitat Network.
- 10.55 A net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF.
- 10.56 The applicant’s Design and Access Statement confirms at page 24 that TPO-protected trees would be retained and would “have a strong presence within the centre of the site”. The proposed layout, however, shows the trees of TPO SP2/70/g10 at the rear of units 86 to 96. It is recommended that these trees be kept outside private curtilages, and that they be the responsibility of a residents’ management company.
- 10.57 As with the previous application (ref: 2019/93303), the proposal includes a scheme of biodiversity mitigation and enhancement measures including new hedgerow planting, new woodland planting and provision of wildflower rich grassland. Notwithstanding these measures, the development results in a net biodiversity loss on the site and to mitigate this and deliver an overall net gain to biodiversity, the applicant is required to provide a contribution towards off-site ecological enhancement. A contribution of circa £120,000 would be required – the precise amount would be determined by the detail of the on-site provisions, and further biodiversity metric calculations. The off-site contribution would fund ecological enhancement works that would be administered by the council and carried out at a location as close to the site as possible.

Highway issues

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

- 10.59 Paragraph 110 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 111 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.
- 10.60 Existing highway conditions must be noted. The site lies approximately 1.2km to the north of Cleckheaton Town Centre and is located to the east of Hunsworth Lane (the B6121). Beyond an intervening strip of land, the application site has a frontage to Hunsworth Lane approximately 100m long, where the road runs downhill from north to south. Footways exist on both sides of the carriageway, the road is lit, a 30mph speed restriction applies, and there are central double white lines prohibiting overtaking. “SLOW” road markings exist on the carriageway. On-street parking is restricted by double yellow lines along part of the application site’s Hunsworth Lane frontage, however on-street parking is allowed (and occurs) further to the north. A signalled junction exists to the north where Hunsworth Lane meets Whitehall Road (the A58).
- 10.61 At the site’s northern edge, access to the dwellings at Merchant Fields Farm is provided via an unadopted track at the end of Kilroyd Drive which passes through the application site.
- 10.62 Public footpath SPE/41/10 runs alongside the southwestern site boundary, and public footpath SPE/44/30 runs through the northeast corner of the site and continues alongside the site’s south-eastern boundary.
- 10.63 The proposed layout retains the two separate points of vehicular access which were proposed under the previous application (ref: 2019/93303). The proposed internal layout is largely as per the previous application.

Accessibility:

- 10.64 The site is allocated for housing in the Local Plan. The principle of its suitability for residential development and the relative accessibility of the site was assessed as part of this process and was found to be acceptable.

Access points:

- 10.65 A new vehicular access point is proposed on Hunsworth Lane. A second vehicular access point would be formed at the south end of Kilroyd Drive where a private lane currently provides access to Merchant Fields Farm.
- 10.66 The new access from Hunsworth Lane would take the form of a priority junction with a right-turn lane, which is considered acceptable in principle and appropriate for the scale of development proposed. On 01/12/2021 the applicant submitted a drawing (LTP/3836/P2/01.01 rev A) of the proposed junction – this is the same drawing that had been submitted with the previous application (ref: 2019/93303), but which had not been submitted with the current application. This drawing shows a 43m long visibility splay to the north

of the proposed junction. It is recommended that further information be secured at conditions stage regarding visibility and horizontal and vertical alignment, together with a stage 1 RSA and Designer's Response. Subject to these issues being satisfactorily addressed, the proposed Hunsworth Lane access is considered acceptable. It is recommended that this access point be used during the construction phase, and that it be rendered usable by residents of the proposed development prior to a proportion of the dwellings becoming occupied.

Traffic impact and network assessment:

- 10.67 The scope of the applicant's Transport Assessment (TA) was agreed during pre-application discussions and is based on current guidance and industry standard methodology. Traffic surveys have been undertaken which identify the local network peak hours as 07:30 to 08:30 and 16:45 to 17:45. For assessment purposes the TA is based on a residential development comprising 310 dwellings. The current proposal is for 287 dwellings and therefore the TA provides a robust assessment.
- 10.68 Traffic growth has been based by the applicant on TEMPro growth rates with a future design year of 2025. The industry standard TRICS database has been used by the applicant to determine trip rates – for robustness the assessment uses 85% percentile trip rates based on AM and PM peak hours of 08:00 to 09:00 and 17:00 to 18:00 respectively, which have higher traffic levels than the actual local network AM and PM peak hours of 07:30 to 08:30 and 16:45 to 17:45 respectively.
- 10.69 In terms of traffic generation, for a 287-dwelling development this would equate to 211 and 218 two-way trips respectively in the AM and PM peak periods. The table below provides full details.

	85 th Percentile Vehicular Trip Rates			Traffic Generations for 287 dwellings		
	Arrivals	Departures	Two-Way	Arrivals	Departures	Two-Way
08:00-09:00	0.243	0.491	0.734	70	141	211
17:00-18:00	0.463	0.296	0.759	133	85	218

Traffic distribution:

- 10.70 Traffic has been distributed (in the TA) on the highway network using origin and destination data from the 2011 Census' method of travel to work data set. The methodology has been reviewed and is considered to be acceptable.

Junction assessment:

- 10.71 The following junctions have been assessed using a base year of 2020 and a future design year of 2025.

Kilroyd Drive / A58 Whitehall Road (priority junction):

- 10.72 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing or capacity problems.

Hunsworth Lane / Proposed Site Access (priority junction):

- 10.73 Assessment indicates that the junction would operate within practical capacity in the future design year 2025 with base plus development traffic flows scenario, with no adverse queuing, capacity or vehicle delays.

A58 Whitehall Road / A651 Bradford Road (roundabout):

- 10.74 Assessment shows that in the 2025 base traffic (without development traffic) scenario, the A58 Whitehall Road East arm would operate beyond practical capacity in the AM and PM peak periods and the A651 Bradford Road South arm would operate beyond practical capacity in the AM peak period. The addition of development traffic (i.e. 2025 base plus development traffic scenario) would marginally worsen this situation, although in terms of rate of flow to capacity (RFC) values and queuing the addition of development traffic is considered to have a relatively minimal impact and would equate to an increase of approximately four queuing vehicles in the peak periods.
- 10.75 In the 2025 base plus development traffic scenario all arms except the A651 Bradford Road south arm would continue to operate within theoretical maximum capacity, and the Bradford Road south arm would operate marginally over maximum capacity in the AM peak period. The A651 Bradford Road North and A58 Whitehall Road West arms would continue to operate within practical capacity in all scenarios including the 2025 base plus development scenario.
- 10.76 It is considered that future network growth would be the main contributory factor towards certain arms of the roundabout operating over capacity and that the impact of development traffic would in relative terms be minimal.

A58 Whitehall Road / Hunsworth Lane (signalised junction):

- 10.77 This junction has been modelled by the applicant using LinSig modelling software, which has been reviewed by the council's Urban Traffic Control team.
- 10.78 Signalisation of this junction was undertaken in around 1999 and was introduced as an accident remediation scheme – the junction was effectively at capacity when commissioned, and this is still currently the case, with some arms of the junction operating at or slightly over capacity, with significant queues observed on Hunsworth Lane and the A58 Whitehall Road westbound during peak periods. During inter-peak periods the junction operates satisfactorily with spare capacity on all arms.
- 10.79 As the applicant has resubmitted the TA (ref: 10972/001/01, 11/09/2019) that was submitted with the previous application (ref: 2019/93303), it still includes suggestions of measures at this junction (intended to improve the operation of the junction), namely the introduction of a staggered pedestrian crossing on the Hunsworth Lane north arm of the junction and the removal of the pedestrian crossing facility on the A58 Whitehall Road west arm. As set out in the committee report for the previous application and the position statement for the current application, these are not supported by officers as they would be detrimental to pedestrian safety and movement. The suggested measures would provide some additional capacity at the junction, however by 2025 this

additional capacity is predicted to be exhausted, and for a marginal short-term betterment the measures are not considered worthwhile. These measures are only suggested in the applicant's TA, and do not affect land within the application site red line boundary, however for the avoidance of doubt an informative is recommended, confirming that the contentious suggested measures are not approved.

- 10.80 It is considered that there are no reasonable and meaningful physical mitigation measures that can be implemented at the Whitehall Road / Hunsworth Lane junction, within the constraints of the adopted highway. Highways officers have, however, noted that the existing signalling equipment at that junction is nearing the end of its serviceable life and is due for replacement within the next few years. In lieu of the mitigation measures suggested in the applicant's TA, it is considered that a contribution towards the replacement of signalling equipment at this junction (costing £50,000) would be appropriate. This would be secured via the recommended Section 106 agreement.

A638 Bradford Road / Hunsworth Lane / Whitechapel Road (signalised junction):

- 10.81 The junction has been modelled by the applicant using LinSig modelling software. Results show that in the 2025 with development scenario the signals would operate over capacity in the AM and PM peak periods. To mitigate this impact a contribution towards the installation of Bluetooth journey time monitoring equipment at the junction and its approaches is considered appropriate. The level of contribution proposed, to be secured via the recommended Section 106 Agreement, is £15,000.

Chain Bar Roundabout (M62 Junction 26):

- 10.82 In addition to the aforementioned junctions, under the previous application National Highways (when still Highways England) requested that, as part of the Strategic Road Network, Chain Bar roundabout (M62 Junction 26) should also be assessed to determine the impact of development traffic on the roundabout. The junction was assessed by the applicant using a LinSig model provided by National Highways. Following review of this assessment National Highways confirmed during the life of the previous application that subject to conditions they offer no objection to the proposal. A similar comment has been submitted by National Highways in respect of the current application.

Internal layout, servicing and refuse:

- 10.83 The internal layout of the proposed development is expected to be built to adoptable standards, as set out in the Kirklees Highway Design Guide SPD and Highways Guidance Note – Section 38 Agreements for Highway Adoptions March 2019 (version 1) and associated documents.
- 10.84 The proposed internal layout is very similar to that previously submitted and is generally considered acceptable. The council's Section 38 team have been consulted on the proposed development, and while their forthcoming detailed comments may result in minor layout changes, it is not considered necessary to delay determination of the current application while any such matters are being resolved.

- 10.85 Local residents have expressed concerns that the development may create a desirable cut-through for traffic travelling west on the A58 Whitehall Road West wishing to turn left at the Whitehall Road / Hunsworth Lane junction, thus avoiding the signals. This has been assessed, and it is accepted that use of the proposed development as a cut-through route would be undesirable, however it is considered that due to the length, alignment and nature of the route through the proposed development, this is unlikely to prove a popular or well-used cut-through. Should through-traffic prove to be an issue in the future a police-enforced “no motor vehicles except for access” Traffic Regulation Order (TRO) could be implemented.

Road safety:

- 10.86 The applicant’s review of personal injury accidents over a five-year period shows that in the agreed accident study area, which includes Chain Bar Roundabout (M62 Junction 26), there have been 14 incidents. 10 incidents were classified as slight, with four being classified as serious and no fatal incidents recorded. Of the four serious incidents, all of which occurred at different locations, three involved a motorcycle, which is perhaps more of a reflection on the lack of protection and vulnerability of motorcycle riders in collision situations. The fourth serious incident involved a single vehicle and was a loss of control incident with the vehicle leaving the road on a bend and hitting a lamp post, with a probable causation factor noted as travelling too fast. Of the remaining 10 slight incidents, there were no significant incident clusters, with probable contributory factors being recorded as failure to look properly, travelling too fast, poor turn manoeuvre and sudden braking, all of which can be classified generally as driver error and not as a result of any inherent highway design issue.
- 10.87 It is considered that there are no significant accident clusters or trends in terms of either type or location that would warrant further investigation or mitigation and that the proposed development is unlikely to materially worsen the current situation in terms of road safety.

Sustainable travel:

- 10.88 In response to the council’s consultation on the current application, the West Yorkshire Combined Authority (WYCA) have recommended that bus stops 16701 and 15500 on Bradford Road should be upgraded to include a real time passenger information display. The cost of this provision would be £20,000. WYCA have also commented that bus stop 15448 on Whitehall Road should be upgraded to include a real time information display, and that a “real time display enable pole” should be provided at stop 15449. The cost of this provision would be £20,000.
- 10.89 These recommendations differ to those made by WYCA in respect of the previous application (ref: 2019/93303), where it was recommended that bus stop number 15469 (Hunsworth Lane / Links Avenue) be upgraded to provide a real time information display, costing £10,000. As relevant site circumstances have not materially changed since that previous application was considered, and as the additional 20 dwellings would not significantly increase local public transport use (beyond that associated with the previously proposed 267 dwellings), it is recommended that relevant Section 106 Heads of Terms reflect the earlier advice from WYCA.

- 10.90 WYCA have advised that, to encourage the use of sustainable transport as a realistic alternative to the car, a sustainable travel fund should be secured, for use by residents of the proposed development to support the cost of sustainable travel such as an MCard or other incentives to use active travel such as cycle vouchers. For the purposes of establishing a cost, WYCA have advised that the MCard scheme for this site based on a bus-only ticket would be in the region of £145,000.
- 10.91 The proposed development includes good connections to public footpaths to the south and east, and the footways of the proposed estate road would connect to those of Hunsworth Lane. Further improvements to neighbourhood pedestrian connectivity could be provided via short footpaths between Links Avenue and the three adjacent cul-de-sacs proposed by the applicant, and between Mazebrook Avenue and the hammerhead adjacent to unit 46. An appropriate condition is recommended.
- 10.92 The applicant has submitted a draft Travel Plan, setting out proposed measures intended to influence the change in travel behaviour towards more sustainable methods of travel using a mixture of increased transportation opportunity, providing information, persuasion and incentive. A Section 106 planning obligation is necessary to ensure an acceptable final Travel Plan is submitted and implemented. A Travel Plan monitoring fee of £15,000 would also be necessary.

Conclusion regarding highway issues:

- 10.93 The proposal is for 287 dwellings and the submitted Transport Assessment (which relates to a 310-unit development) represents a robust assessment of the traffic impact of the proposed development. It is considered that the development would not have an unacceptable impact on highway safety, nor would the development's traffic have a severe impact on the operation of the local highway network. Off-site highway improvements are nevertheless considered necessary to help to mitigate the impact of the development, and appropriate Section 106 Heads of Terms are recommended. Conditions relevant to highway matters are also recommended.
- 10.94 Subject to satisfactorily addressing any issues raised by the council's Section 38 team regarding layout, and the submission of a Stage 1 RSA and Designer's Response covering the internal layout and any external highway works, the proposals are considered acceptable from a highway perspective.

Flood risk and drainage issues

- 10.95 Local Plan policies LP24, LP27 and LP28 are relevant to flood risk and drainage, as is chapter 14 of the NPPF.
- 10.96 Drainage attenuation tanks are proposed beneath the open spaces close to the southwestern edge and northeast corner of the site. From these, surface water would discharge to Nann Hall Beck to the east, and to Hunsworth Beck / the River Spen via an existing Yorkshire Water overflow drain under Hunsworth Lane. Foul water would discharge to existing sewers beneath the site and Hunsworth Lane.

- 10.97 The application site is in Flood Zone 1 and therefore is subject to the lowest risk of flooding. However, flood risk affects adjacent land and property, including in relation to Nann Hall Beck.
- 10.98 During the life of the application, the applicant submitted an amended (Rev D) Flood Risk Assessment (FRA) relating to the earlier 284-dwelling proposal. As this relates to a layout almost identical to the 287-dwelling proposal currently under consideration, it is not necessary for the applicant to submit a further update to the FRA.
- 10.99 In comments dated 29/11/2021, the Lead Local Flood Authority (LLFA) confirmed they had no objection to the proposed development, subject to conditions and to management and maintenance being secured via a Section 106 agreement.
- 10.100 In comments dated 21/10/2021 Yorkshire Water repeated an objection to the proposed site layout due to its impact upon existing public sewerage infrastructure in the southwest part of the site. On 01/12/2021 the applicant advised that the design team had been working off an easement for the wrong pipe, and that a solution was being worked on. Yorkshire Water will be consulted again once the relevant amended drawings are submitted.

Environmental and public health

- 10.101 Regarding air quality, the condition referred to by KC Environmental Health (requiring a revised Air Quality Assessment) is recommended, and it is noted that a financial contribution towards air quality mitigation will be required.
- 10.102 Regarding site contamination, four conditions are recommended, securing a revised Phase 2 report (including ground gas data), remediation details, implementation of remediation, and validation.
- 10.103 Regarding noise, the condition referred to by KC Environmental Health (securing a revised Noise Impact Assessment) is recommended.
- 10.104 The detailed comments of KC Public Health regarding affordable housing, physical activity, diet, inclusion and social cohesion, environmental quality, active travel, crime and safety, and access to social infrastructure have been relayed to the applicant team.

Coal mining legacy

- 10.105 Four coal mining features have been identified as posing a potential constraint to the development.
- 10.106 Three mine shafts have been located within the eastern part of the site and the applicant is proposing to remediate these and accommodate them within an area of open space. This is acceptable to the Coal Authority.
- 10.107 A fourth mine shaft was identified within the vicinity of the proposed new access off Hunsworth Lane. Previously, the Coal Authority was satisfied that this feature could be adequately addressed through a suitable planning condition requiring further investigation and remediation as may be necessary. However, the Coal Authority commented on the current application and advised that, since their previous comments were issued, it has come to their

attention that it may not be possible for the applicant to undertake a full search for this mine shaft. This is because such investigations may necessitate accessing third party land outside of the site boundary. As such, the Coal Authority has requested that the applicant provide clarification and additional information on this shaft before the application is determined.

- 10.108 The applicant has submitted an additional plan indicating the location of this fourth mine shaft and has proposed a no-build zone around it. The shaft is identified as lying within an area of the site that is proposed to be soft landscaped. As noted at paragraph 8.4 of this committee report, the Coal Authority is satisfied with the applicant's further information, and has no objection to the application, subject to conditions being applied.

Representations

- 10.109 To date, a total of 105 representations have been received in response to the council's consultation. The comments raised have been addressed in this report.

Planning obligations

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

- 1) Affordable housing – 57 affordable dwellings (31 affordable rent, 26 intermediate) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £419,324 to address shortfalls in specific open space typologies (with potential for significant reduction subject to the detailed design of the on-site provision, particularly with respect to the “parks and recreation” and “children and young people” open space typologies).
- 3) On-site open space inspection fee – £1,000.
- 4) Education – £1,159,213 contribution to be spent on upon priority admission area schools within the geographical vicinity of the site (vicinity to be determined).
- 5) Off-site highway works – £65,000 contribution (£50,000 towards new signal equipment at Whitehall Road / Hunsworth Lane junction, and £15,000 towards Bluetooth journey time monitoring equipment at Bradford Road / Hunsworth Lane / Whitechapel Road junction).
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including a £145,000 contribution towards sustainable travel measures, implementation of a Travel Plan, £15,000 towards Travel Plan monitoring, and a £10,000 contribution towards bus stop improvements.
- 7) Air quality mitigation – Contribution of circa £162,000.
- 8) Biodiversity – Contribution of circa £120,000 towards off-site measures to achieve biodiversity net gain.
- 9) Management and maintenance – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

- 10.111 The applicant submitted a financial viability appraisal (FVA) with the current application. This concluded that the 284-dwelling scheme was unable to viably deliver any level of on-site affordable housing in addition to the required Section 106 off-site payments. The applicant's FVA was, however,

independently assessed on behalf of the council by CP Viability (report dated 21/09/2021), who did not agree that there was a viability issue with the proposed development, and who considered that the scheme can provide policy-compliant Section 106 contributions and affordable housing, whilst delivering an acceptable developer profit. On 18/11/2021 the applicant withdrew the FVA.

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

Other planning matters

- 10.113 Regarding the social infrastructure currently provided and available in the area surrounding the application site (which is relevant to the sustainability of the proposed development), it is noted that local medical provision has been raised as a concern in representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed earlier in this report in relation to planning obligations.
- 10.114 The proposed development's impact upon property values is not a material planning consideration.
- 10.115 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree. Permitted development extensions could also affect longer views of the site from public vantagepoints.

11.0 CONCLUSION

- 11.1 The application site is allocated for residential development under site allocation HS96, and the principle of residential development at this site is considered acceptable.
- 11.2 The applicant has satisfactorily addressed the previous application's reasons for refusal. An improvement unit size mix is now proposed, and further information has been submitted regarding the proposed translocation of the site's important hedgerow.

- 11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or would be addressed at conditions stage.
- 11.4 Given the above assessment and having particular regard to the 287 homes that would be delivered by the proposed development, approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

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

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan, including a requirement to engage with local residents, details of any phasing, use of Hunsworth Lane for construction access, measures to address National Highways' request for a construction phase traffic management plan, and measures to minimise biodiversity impacts.
4. Submission of details of temporary drainage measures.
5. Submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development).
6. Provision of site entrance and visibility splays prior to works commencing.
7. Submission of full details of Hunsworth Lane site entrance.
8. Submission of details relating to internal adoptable roads.
9. Submission of details of highway structures.
10. Submission of details of additional pedestrian connections to adjacent streets.
11. Cycle parking provision to be provided within the site.
12. Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
13. Submission of a revised Air Quality Impact Assessment.
14. Provision of waste storage and collection.
15. Submission of full drainage details, including measures to control discharge from the site to a maximum of 17.5l/s to Nann Hall Beck and 3.5l/s to Yorkshire Water owned infrastructure leading to the River Spen.
16. Submission of details of the management of residual risk of blockage scenarios after constructing swales/ditches.
17. Restriction on planting and structures over Yorkshire Water easements.

18. Submission of an Intrusive Site Investigation Report (revised Phase II Report).
19. Submission of Remediation Strategy.
20. Implementation of Remediation Strategy.
21. Submission of Validation Report.
22. Coal legacy remediation works – implementation.
23. Coal legacy remediation works – validation.
24. Submission of a revised Air Quality Assessment.
25. Submission of a revised Noise Impact Assessment, and subsequently agreed measures to be implemented.
26. Submission of details of crime prevention measures.
27. Submission of details of electricity substations.
28. Submission of details and samples of external materials.
29. Submission of details of boundary treatments.
30. Submission of details of external lighting.
31. Submission of full details of open space and playspace.
32. Submission of full landscaping details, including details of tree planting, and details of arrangements for street tree retention.
33. Submission of an arboricultural method statement.
34. Implementation in accordance with Hedgerow Translocation Method Statement.
35. Biodiversity enhancement and net gain details, and management plan.
36. Submission and implementation of an Ecological Design Strategy.
37. Removal of permitted development rights.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f92801>

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